

**HOUSING AUTHORITY OF PRINCE GEORGE'S COUNTY**

**ADMINISTRATIVE PLAN**

**FOR THE**

**HOUSING CHOICE VOUCHER PROGRAM**

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**FOR THE**  
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**CHAPTER 1**  
**GENERAL POLICIES AND OBJECTIVES**

**A. INTRODUCTION**

This Housing Choice Voucher (HCV) Administrative Plan defines the Housing Authority of Prince George's County's (also referred to as HAPGC) policies for the operation of the Housing Choice Voucher Program (formally known as Section 8), incorporating Federal, State and local law. The administration of this housing program will also meet the requirements of the Department of Housing and Urban Development. Such requirements include any Public Housing Regulations, Handbooks, and applicable Notices. All applicable Federal, State and local laws, including Fair Housing Laws and regulations also apply. Changes in applicable federal laws or regulations shall supersede provisions in conflict with this policy. Federal regulations shall include those found in Volume 24 CFR, Part 982.54 (Administrative Plan).

**B. HOUSING HAPGC MISSION STATEMENT**

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

**C. LOCAL OBJECTIVES**

This HCV Program Administrative Plan is designed to demonstrate that HAPGC is managing its program in a manner that reflects its commitment to improving the quality of housing available to its public, and its capacity to manage housing in a manner that demonstrates its responsibility to the public trust. In addition, this Plan is designed to achieve the following objectives:

- To provide improved living conditions for very low and low income families while maintaining their rent payments at an affordable level.
- To operate a socially and financially sound public housing agency that provides decent, safe, and sanitary housing within a drug free, suitable living environment for tenants and their families.
- To avoid concentrations of economically and socially deprived families participating in the HAPGC HCV Program.
- To lawfully deny the admission of applicants or continued participation of families whose habits and practices violate program rules and create a danger to HAPGC employees and the neighborhood in which they live.
- To provide opportunities for upward mobility for families who desire to achieve self-

sufficiency.

- To ensure compliance with Title VI of the Civil Rights Act of 1964 and all other applicable Federal laws and regulations so that the admissions and continued occupancy are conducted without regard to race, color, religion, creed, sex, national origin, handicap or familial status.

#### **D. PURPOSE OF THE POLICY**

The purpose of this HCV Program Administrative Plan is to establish guidelines for HAPGC staff to follow in determining eligibility for admission and continued program participation. These guidelines are governed by the requirements of the Department of Housing and Urban Development (HUD) with latitude for local policies and procedures. These policies and procedures are binding upon applicants, HCV Program participants, and the HAPGC.

The HAPGC Board of Commissioners must approve the original policy and any changes. Required portions of this Plan will be provided to the U.S. Department of Housing and Urban Development (HUD).

#### **E. APPLICABLE REGULATIONS**

Applicable Code of Federal Regulations (CFR) governing this policy includes:

- **24 CFR 5:** Definition of Income, Income Limits, Rent, and Regular Re-examination of Family Income for the Section 8 Housing Assistance Payments Program and other Related Programs.
- **24 CFR 882:** Section 8 Moderate Rehabilitation Programs
- **24 CFR 982:** Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
- **24 CFR 984:** Section 8 and Public Housing Family Self-Sufficiency Program
- **24 CFR 985:** Section 8 Management Assessment Program (SEMAP)

#### **F. RECORD KEEPING**

The HAPGC will maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the HAPGC must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

#### **Record Retention**

The HAPGC will keep the Form HUD-50058 and all supporting documentation relating to a family's eligibility, tenancy, and termination during the term of each assisted lease, and for a period of at least four (4) years from the end of participation (EOP) date [24 CFR

908.101].

In addition, the HAPGC will keep the following records for at least four years:

1. An application from each ineligible family and notice that the applicant is not eligible
2. Lead-based paint records as required by 24 CFR 35, Subpart B
3. Documentation supporting the establishment of flat rents and the public housing maximum rent
4. Documentation supporting the establishment of utility allowances and surcharges
5. Documentation related to HAPGC
6. Accounts and other records supporting HAPGC budget and financial statements for the program
7. Other records as determined by the HAPGC or as required by HUD

If a hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Chapter 9.

### **Record Management**

All applicant and participant information will be kept in a secure location and access will be limited to authorized HAPGC staff.

HAPGC staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

### **Tenant Records**

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants will be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

### **Upfront Income Verification (UIV) Records**

When accessing data through HUD's Enterprise Income Verification system, HAPGC will follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper) as outlined in the *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification (UIV) Data*.

## **Criminal Records**

The HAPGC will maintain and process the criminal background records received for these residents or applicants in the manner prescribed by this policy. Such records will be used solely for the purpose of verifying criminal histories.

### ***Acquisition***

All criminal records or records of drug treatment or registered sex offender status will be sent only to the Public Housing or HCV Supervisor requesting the information. Only this individual will have access to the records received. They will discuss the records with other HAPGC employees only as required to make a housing decision.

### ***Maintenance***

The HAPGC will keep confidential all criminal records or records of drug treatment or sex offender status. These records will be used only to screen applicants for housing or to pursue evictions. The records will not be discussed, shared, or disclosed to any person, including HAPGC staff, or entity except for official use in the application process or in court proceedings.

Criminal records or records of drug treatment or registered sex offender status will be maintained in a file separate from other application or eviction information. These files will be maintained in a locked file cabinet in a secure location separate from applicant and tenant files. Only the housing department supervisors will have access to this cabinet and the records.

Under no circumstances will criminal background records be placed in an applicant's or current resident's files folder.

### ***Disposition***

Criminal background records will be destroyed once action is taken on the application for housing and any grievance hearing or court proceeding has been completed and the action is finalized. Records will be shredded upon completion of the process.

Public Housing and HCV Program supervisors will maintain a log with only the names of applicants or residents on which criminal background checks were performed, but not note any results of the inquiry.

## **G. REPORTING REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVELS**

The HAPGC will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

The HAPGC will provide written notice of each known case of a child with an

environmental intervention blood level to the HUD field office within 5 business days of receiving the information.

#### **H. Violence Against Women Act (VAWA)**

The HAPGC will post the following information regarding VAWA in its offices and on its Website. It will also make the information readily available to anyone who requests it.

- A summary of the rights and protections provided by VAWA to HCV Program applicants and participants who are or have been victims of domestic violence, dating violence, or stalking.
- The definitions of *domestic violence*, *dating violence*, *sexual assault*, and *stalking* provided in VAWA.
- An explanation of the documentation that the HAPGC may require from an individual who claims the protections provided by VAWA.
- A copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking
- A statement of the HAPGC's obligation to keep confidential any information that it receives from a victim unless (a) the HAPGC has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information.
- The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).
- Contact information for local victim advocacy groups or service providers.

In addition, The HAPGC will provide all applicants with information about VAWA at the time they request an application for housing assistance. The HAPGC will also include such information in all notices of denial of assistance.

The HAPGC will provide all tenants with information about VAWA at the time of admission and at annual reexamination. The HAPGC will also include such information in all lease termination notices.

The VAWA information provided to applicants and tenants will consist of a notice explaining the Act and a copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, and Stalking.

**CHAPTER 2**  
**FAIR HOUSING AND EQUAL OPPORTUNITY**

**A. FAIR HOUSING**

Federal laws require public housing authorities (PHAs) to treat all applicants and participants equally, providing the same quality of service, regardless of family characteristics and background. These laws prohibit discrimination against certain protected classes and are intended to Affirmatively Further Fair Housing. The HAPGC will comply fully with all federal, state and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment.

The HAPGC will not discriminate on the basis of familial status, race, sex, handicap, color, origin/nationality, religion, marital status, sexual orientation, gender identity, source of income, age, occupation, political opinion, or personal appearance or other protected classes under federal, state and local laws.

<b>Federally Protected Classes</b>	<b>Maryland State Protected Classes</b>	<b>Prince George’s County Protected Classes</b>
1) Familial Status 2) Race 3) Sex 4) Handicap 5) Color 6) Origin/Nationality 7) Religion	1) Familial Status 2) Race 3) Sex 4) Handicap 5) Color 6) Origin/Nationality 7) Religion 8) Marital status 9) Sexual orientation 10) Gender identity 11) Source of income	1) Familial Status 2) Race 3) Sex 4) Handicap 5) Color 6) Origin/Nationality 7) Religion 8) Marital status 9) Sexual orientation 10) Gender identity 11) Source of income 12) Age 13) Occupation 14) Political opinion 15) Personal appearance

### **Non-Discrimination and Accessibility**

It is the policy of the Housing Authority of Prince George County (HAPGC) to provide equal housing opportunities for all qualified residents and applicants. In the selection of families to HAPGC programs, services, or activities, it is unlawful to discriminate on the grounds of race, color, gender, gender identity, religion, national origin, citizenship status, familial status, marital status, partnership status, military status, lawful occupation, sexual orientation, disability, lawful source of income, or on the grounds that a person is a victim of domestic violence, dating violence, sexual assault or stalking. Under this policy, no qualified resident, participant, or applicant will be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under HAPGC's programs. This policy also prohibits retaliation.

All HAPGC properties must comply with this policy in accordance with the Fair Housing Act of 1968 (as amended by the Fair Housing Act of 1988), Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA) of 1990 (including the ADA Amendments Act of 2008), as well as Maryland State and Prince George County Office of Human Rights Laws, and the U. S. Department of Housing and Urban Development's (HUD) regulations governing Fair Housing and Equal Opportunity, as each may be amended. All terms, conditions and privileges must be offered equally to all prospective residents, applicants, current housing voucher recipients and current residents of all HAPGC programs.

HAPGC shall not discriminate, or have policies and practices that have a discriminatory impact, because of familial status, race, sex, handicap, color, origin/nationality, religion, marital status, sexual orientation, gender identity, source of income, age, occupation, political opinion, or personal appearance or other protected classes under federal, state and local laws in the leasing, rental, or other disposition of housing or related facilities, including land, that is part of any project or projects under HAPGC's jurisdiction covered by a contract for annual contributions under the United States Housing Act of 1937, as amended, or in the use or occupancy thereof.

HAPGC shall not, on account of familial status, race, sex, handicap, color, origin/nationality, religion, marital status, sexual orientation, gender identity, source of income, age, occupation, political opinion, or personal appearance or other protected classes under federal, state and local laws:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to lease housing suitable to its needs.
- Provide housing that is different from that provided to others;
- Subject a person to segregation or disparate treatment;
- Restrict a person's access to any benefit enjoyed by others in connection with the housing program;
- Treat a person differently in determining eligibility or other requirements for

admission; or

- Deny a person access to the same level of services.

In addition, HAPGC shall not automatically deny admission to a particular group or category of otherwise qualified applicants.

Applicants or voucher program participants who believe that they have been subject to unlawful discrimination by the HAPGC or a landlord may notify the HAPGC either orally or in writing. The HAPGC will attempt to remedy discrimination complaints made against the HAPGC. The HAPGC will also provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

See the Housing Authority of Prince George's County's Non-Discrimination & Accessibility Policy for additional detail.

## **B. PROVIDING INFORMATION TO FAMILIES AND LANDLORDS**

The HAPGC will ensure that families and landlords are fully aware of all applicable civil rights laws. As part of the briefing process, the HAPGC will provide information to applicant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods in compliance with 24 CFR 982.301

The Housing Assistance Payment (HAP) contract informs landlords of the requirement not to discriminate against any person because of race, color, sex, religion, familial status, disability, national origin, marital status, gender identity, source of income, or sexual orientation or other protected classes under federal, state and local laws in connection with the contract.

### **Discrimination Complaints**

HAPGC will provide all applicants and participants with information about how to file a discrimination complaint [24 CFR 982.304]. Applicants or participants who believe that they have been subject to unlawful discrimination may notify the HAPGC in writing or orally.

The HAPGC will attempt to remedy discrimination complaints made against the HAPGC.

The HAPGC will also provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO). Any resident, participant, or applicant may also contact any of the following Federal, State, or local human/civil rights agencies listed below to report housing discrimination or retaliation:

- Philadelphia Regional Office U.S. Department of Housing and Urban Development  
Mid-Atlantic Office 100 Penn Square East, 12th Floor Philadelphia, PA 19107 (215) 861-7643 Toll free: (888) 799-2085 Fax: (215) 656-3449

- Maryland Commission on Civil Rights William Donald Schaefer Tower 6 Saint Paul Street, Suite 900 Baltimore, MD 21202-1631 (410) 767-8600 Toll free: (800) 637-6247 TTY: (410) 333-1737 Fax: (410) 333-1841
- Prince George County Office of Human Rights 14741 Governor Oden Bowie Dr. Suite L105 Upper Marlboro, MD 20772 (310) 883-6170 Fax: (301) 780-8244

## **C. AFFIRMATIVE MARKETING**

### **Family Outreach**

The HAPGC publicizes and disseminates information, as needed, concerning the availability and nature of housing assistance for low-income families. Upon execution of an Annual Contributions Contract (ACC) for additional units, the HAPGC will make known to the public through publication in a newspaper of general circulation, ethnically targeted media, and other impactful means the availability and nature of housing assistance for Low Income families, unless application taking has been suspended according to HUD regulations or the waiting list is so large as to use all additional units. The Notice must:

1. Advise families that applications will be taken at the designated office;
2. Describe whether the office is accessible to persons with disabilities and describe that reasonable accommodations will be made for persons with disabilities, and translation services and translation of documents are available upon request.
3. Briefly describe the Housing Choice Voucher Program.

To reach persons who cannot read the newspapers; the HAPGC will distribute fact sheets to a wide variety of broadcasting media, especially those targeting ethnic populations and persons with disabilities. Personal contacts with the news media and with community service personnel, as well as public service announcements, will be made.

### **Landlord Outreach**

The HAPGC issues public invitations to landlords as needed to make dwelling units available for leasing by eligible families. On a continuing basis, the HAPGC will welcome the participation of landlords of decent, safe, and sanitary housing units.

- The Housing Staff of the HAPGC continues to make personal contact in the form of formal or informal discussions or meetings with private property owners, property managers, and real estate agencies where rents are possibly within reach of the Fair Market Rent and Payment Standards including exception Payment Standards. Program requirements are explained, and printed material is offered to acquaint the landlord/manager with the opportunities available under the program.
- The HAPGC will specifically target those property owners and managers who have rental units located outside areas of low income or minority concentration for personal contacts and invitations to any meetings encouraging landlord participation.

- The HAPGC maintains a list of interested landlords and their property available for the Housing Choice Voucher Program and updates this list as necessary. As inquiries from prospective new landlords are called in, program staff records the necessary information on units and makes it available to prospective participants upon request. HAPGC also maintains a list of available accessible units known to the HAPGC and will assist the family in locating an available accessible unit, if necessary.

#### **D. REASONABLE ACCOMMODATIONS**

It is the HAPGC's policy to provide reasonable accommodation in housing for applicants and HCV Program participants with disabilities' where reasonable accommodation is necessary to provide them with an equal opportunity to use and enjoy their housing.

This policy is in furtherance of the HAPGC's goal of providing affordable housing to low income persons regardless of disability and in compliance with applicable federal, state, and local laws. A reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces.

In determining whether accommodation would create an undue hardship, the following guidelines will apply:

- The nature and cost of the requested accommodation;
- The overall current financial resources of the facility or facilities involved in the provision of the reasonable accommodation; and
- The number of persons currently employed at such facility, the number of families likely currently to need such accommodation, the effect on expenses and resources, or the likely impact on the operation of the facility as a result of the accommodation.

Approval of a request for Reasonable Accommodations will be made on a case-by-case basis and processed in accordance with the HAPGC [Reasonable Accommodation Policy](#).

The HAPGC will ask all applicants and participants if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by the HAPGC, by including the following language:

“Please note that you can ask for a reasonable accommodation to use HAPGC’s housing or services. This can include auxiliary aids or services, materials in an alternative format, or help in completing paperwork or changes to your housing based on your disability. Contact the 504 Coordinator at (301)883-5576 or email [dhcd-504@co.pg.md.us](mailto:dhcd-504@co.pg.md.us) for assistance.”

#### **New Applicants for the HCV Program**

All prospective applicants for the Housing Choice Voucher (HCV) Program shall be

informed at the Applicant Information Briefing Session of their right to request a reasonable accommodation for a disability from HAPGC. A written Notice to Applicants with Disabilities Regarding Reasonable Accommodation shall also be provided by the HCV Program staff to each prospective applicant at that time. A copy of this Notice shall be posted conspicuously at all times in the HCV Administrative Office.

### **Types of Reasonable Accommodations**

If HAPGC determines that special accommodations are needed to provide equal access, the HAPGC will modify normal procedures to accommodate the needs of a person with disabilities. Examples of reasonable accommodations include:

- Conducting home visits
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the HAPGC range) if the HAPGC determines this is necessary to enable a person with disabilities to obtain a suitable housing unit
- May approve the leasing of a unit from a relative to provide reasonable accommodation for persons with disabilities. This provision does not apply to shared housing. *See* 24 CFR §§ 982.306(d), 982.615 (b)(3).
- 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 HAPGC staff
- Displaying posters and other housing information in locations throughout the HAPGC's office in such a manner as to be easily readable from a wheel chair.
- May approve a utility allowance that is higher than the applicable amount on the utility allowance scheduled. HAPGC will consider requests to approve a utility allowance because additional equipment that uses an allowable consumption verified by engineering studies and will allow up to twenty-percent (20%) over the published and approved utility allowance.
- Exception to rent reasonableness (up to 10% over rent reasonableness determination).

### **Request for Reasonable Accommodations**

The HAPGC will encourage applicants and current tenants to make its request in writing using a reasonable accommodation request form. If the individual with a disability is unable to submit their request in writing, the HAPGC will assist the individual in putting their request in written form. However, the HAPGC will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

Upon request made to the HCV Administrative Office, any applicant shall be provided with a Request for Reasonable Accommodation. A copy of the HAPGC [Reasonable Accommodation Policy](#) will also be made available upon request.

HAPGC employees may ask individuals requesting a reasonable accommodation to complete a *Reasonable Accommodation Request Form* and when needed a *Verification Form*. Copies of the Reasonable Accommodation Request Form and Verification Form shall be kept at HAPGC's main business offices and at management offices in its public housing developments. HAPGC shall also accept verbal requests for accommodations.

The family must identify the type of accommodation necessary for the person with the disability to fully access the HAPGC's programs and services. The requesting family must identify the relationship between the requested accommodation and the disability. A "nexus" or relationship between the requested accommodation and the individual's disability must be established in order for the HAPGC to approve the accommodation.

All requests received by HAPGC, either written or orally, shall be entered into HAPGC's centralized database for tracking reasonable accommodation requests promptly within receipt of the request. The Section 504 Coordinator, or designees, shall be responsible for ensuring that all reasonable accommodation requests received are entered into HAPGC's centralized database and are responded to in a timely manner.

HAPGC shall provide a receipt to every individual who makes a reasonable accommodation request, either by hand-delivery or first class mail. Such receipt should be sent no less than five business days after receiving the request. Each receipt shall include the time and date the request was made.

Further guidelines and the Reasonable Accommodation Policy can be found on the [HAPGC Website](#).

### **Verification of Reasonable Accommodation Requests**

In assessing requests for reasonable accommodation, HAPGC shall consider the factors set forth in its [Reasonable Accommodation Policy](#) making its determination of whether or not to grant the request. If at any stage in the assessment process HAPGC determines that it requires additional information from the applicant to make its determination, HAPGC shall so inform the applicant in writing.

HAPGC may request that an applicant provide additional documentation from a doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability to provide verification of a disability. HAPGC may include in its written communication to the applicant notice of a reasonable deadline for submission of the information to HAPGC.

Under no circumstances shall HAPGC deny a request for reasonable accommodation based on a lack of sufficient information without first informing the applicant of its need for additional information and affording the applicant a reasonable opportunity to provide it.

HAPGC will seek only the minimum information needed to determine if the accommodation sought would serve an individual's disability-related need, and HAPGC will only require documentation of a disability or a disability-related need if the requester's disability

and/or disability-related need is not apparent. Once a person's disability and disability-related need are known, HAPGC will not require additional verification, if the person requests additional Reasonable Accommodations that is reasonably related to the same disability.

### **Reasonable Accommodations Requests Decisions**

Decisions on requests for reasonable accommodation shall be made within thirty (30) days after the date on which the request is complete. A request shall be considered complete when HAPGC receives the request and any other information reasonably required by HAPGC to evaluate the request, such as verification of any aspects of the request. If HAPGC requests that an individual supply additional information that is reasonably necessary for HAPGC to make a decision on the individual's request for an accommodation, the individual should provide the requested information, or otherwise respond to HAPGC's request, within a reasonable time period.

If HAPGC approves the request, the approval notification will include a timeframe for the installation of the accommodation or a timeframe, if not immediate, for when the HAPGC will make the policy change or modification. Should this timeframe not be met, due to circumstances outside of HAPGC's control, HAPGC will send a notification with an explanation for the delay and an updated implementation timeframe.

If the HAPGC denies a request for an accommodation because it is not reasonable (i.e. it would impose an undue financial and administrative burden or fundamentally alter the nature of the HAPGC's operations), the HAPGC will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden. If an alternative accommodation will effectively meet the requester's disability-related needs and is reasonable, HAPGC will grant the accommodation.

If the HAPGC believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the HAPGC will notify the family, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the family. The notice will inform the family of the right to appeal the HAPGC's decision through an informal hearing (if applicable) or the tenant grievance process.

### **Occupancy of Accessible Units**

Accessible Units will be occupied according to the following priorities: (1) current tenants with disabilities in the same program (public housing, PBV, or Mod Rehab) who require the accessibility features, (2) tenants with disabilities in another HAPGC program who require the accessibility features, and (3) eligible qualified applicants with disabilities on HAPGC's waiting list who require the accessibility features. If there is no eligible current tenant or applicant in need of the Accessible Unit, HAPGC will conduct targeted outreach and

marketing to attempt to identify an individual in need of the Accessible Unit. If none of those steps are successful, the unit may be offered to an applicant or tenant who does not require the accessibility features provided that such applicant or tenant signs a Lease Addendum. See 24 C.F.R. § 8.27.

### **Lease Addendum**

Tenants without a disability who occupy an Accessible Unit or a Unit with Accessibility Features must sign a Lease Addendum stating that they will relocate to a vacant, non-accessible unit of comparable size at the same Development and at HAPGC's expense, within thirty (30) days of notice by HAPGC or the minimum amount of notice required by state law, if there is an eligible applicant or tenant with a disability who requires the accessibility features of the unit.

### **Section 504/ADA Transition Plan**

The Section 504/ADA Transition Plan (Transition Plan) refers to the requirement that HAPGC develop a plan to make the structural changes necessary to achieve program accessibility and address the needs described in the Physical Needs Assessment.

HAPGC will develop and maintain a Transition Plan to remain in compliance with the Fair Housing Requirements. HAPGC shall update the plan at least every 5 years as required and make available for public review.

### **Project Based Voucher Units**

See Chapter 18 for specific information on how HAPGC administers the Project-Based Voucher program. All PBV units must comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The HAPGC must ensure that the percentage of accessible dwelling units complies with the requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8.

### **Units with Some Accessible Features**

When HAPGC offers a PBV unit with some accessibility features as opposed to a unit that fully complies with the Uniform Federal Accessibility Standards (UFAS) to a tenant or applicant with disabilities, HAPGC will inform the tenant or applicant in writing that the unit is not a Designated Accessible Unit, but, instead contains certain accessibility features. The notice will list what features are accessible and allow the person to decline the unit if it does not meet the person's needs, without losing the person's place for the next available Accessible Unit. If HAPGC offers units with some accessibility features, it will maintain a list of those units that is separate from its list of Designated Accessible Units.

### **Reasonable Modification to Existing Premises (24 CFR 100.203)**

Reasonable modifications apply to private owners participating in the Housing Choice Voucher Programs or other tenant-based programs, as well as to PHA owners of existing public housing units. Under the Fair Housing Act, it is unlawful for an owner to refuse to

permit a person with a disability, at their own expense, to make reasonable modifications to existing premises.

### **E. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS – EFFECTIVE COMMUNICATION POLICY**

The HAPGC will take reasonable steps to ensure that persons with disabilities related to hearing and vision have reasonable access to HAPGC's programs and services in accordance with 24 CFR 8.6 – Communications.

At the initial point of contact with each applicant, the HAPGC shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

To meet the needs of persons with hearing impairments, HAPGC will list its TTD/TTY (text telephone display / teletype) and Maryland Relay telephone number on all its policies and documents that include its telephone number.

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with HAPGC staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication include, but are not limited to, sign language interpretation; having material explained orally by staff; or having a third party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings. When deciding which services to provide, HAPGC will give primary consideration to the requests of the Person with a Disability.

#### **Auxiliary Aids & Services**

The HAPGC's employees, agents, contractors and private management companies shall furnish appropriate auxiliary aids and services to afford individuals with disabilities an equal opportunity to participate in and enjoy the benefits HAPGC's programs and services upon request or if it is self-evident [28 CFR 35.160-35.164].

Auxiliary Aids and Services include, but are not limited to, qualified sign language and other interpreters, assistive listening devices, Braille materials, large print documents, audio recordings, and accessible web-based and email communications. In determining which Auxiliary Aids and Services to provide, HAPGC will give primary consideration to the requests of the Person with a Disability unless doing so would result in a fundamental alteration or an undue financial and administrative burden. If HAPGC refuses a requested accommodation because it imposes such an alteration or burden, HAPGC will engage in an interactive process with the requester to discuss alternative Auxiliary Aids and Services.

Individuals who are blind, have low vision, or have cognitive disabilities will receive forms, notices, and other information in alternative formats, as requested, including requests to regularly receive in a requested alternative format all print materials distributed, posted,

or made available to applicants and tenants.

All requests for auxiliary aids and services must be made and received by the Housing Authority's Section 504/ADA Coordinator ten (10) business days before the service is needed. The individual with a disability, or a HAPGC employee on behalf of the individual, will submit a request for auxiliary aids or services to the Housing Authority of Prince George's County's Section 504 Coordinator by delivering it to the address or Email listed below. All requests shall be dated and time-stamped upon receipt.

If in emergency circumstances an auxiliary aid or service is needed less than ten (10) business days prior to the date the service is needed, the Housing Authority will take reasonable steps to secure the auxiliary aid or service.

Section 504 Coordinator  
The Housing Authority of Prince George's County  
9200 Basil Court, Rm 500,  
(301)883-5576 (Telecommunications Relay Service by Calling 7-1-1)  
Email: DHCD-504@co.pg.md.us

In addition, the HAPGC may never require the applicant to provide, or pay for, his/her own sign language interpreter. Rather, it is always the HAPGC's responsibility to provide, upon request, a qualified sign language interpreter. However, the HAPGC's responsibility to provide a qualified sign language interpreter does not preclude an individual's right to have a friend, relative or advocate accompany him/her while conducting business with the HAPGC.

### **Features for Tenants with Communication-Related Disabilities**

Tenants with disabilities, including individuals who are deaf, blind, hard of hearing, or have low vision, can request accessibility features from HAPGC such as appliances in units and common areas with tactile markings and/or audio features; and entry systems to buildings, common areas, and units that do not rely on a tenant's or guest's ability to see or hear, such as visual doorbells and key or key fob entrances rather than touch screens.

## **F. PHYSICAL ACCESSIBILITY**

The HAPGC will comply with all provisions of the following rules and regulations to ensure all applicants and tenants have equal access to HAPGC facilities and dwelling units as required by;

- Notice PIH 2010-26
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

- The Joint Statement of the Department of Housing and Urban Development and the Department of Justice re: Reasonable Accommodations Under The Fair Housing Act
- The Joint Statement of the Department of Housing and Urban Development and the Department of Justice re: Reasonable Modifications Under The Fair Housing Act

The HAPGC's policies concerning physical accessibility must be readily available to applicants and participants. They can be found in two key documents:

- This section of the Administrative Plan describes the key policies that govern the HAPGC's responsibilities with regard to physical accessibility.
- Notice [PIH 2002-01\(HA\) Accessibility Notice](#) (which must be posted in the HCV offices in a conspicuous place) summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally funded housing programs.

The design, construction, or alteration of HAPGC facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Newly constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the HCV program.

When issuing a voucher to a family that includes an individual with disabilities, the HAPGC will provide a current list of available accessible units known to the HAPGC upon request and will assist the family in locating an available accessible unit, if necessary.

In general, owners must permit the family to make reasonable modifications to the unit. However, the owner is not required to pay for the modification and may require that the unit be restored to its original state at the end of the lease. If an individual with a disability requires an accommodation, such as an accessible feature added to a unit or an exception or modification to an HAPGC policy, HAPGC will provide the accommodation as long as it will not result in a fundamental alteration in the nature of the program or an undue financial burden to the Agency. In all situations, HAPGC staff will work with the participant family to discuss available options so that some, if not all, disability related accommodations are met for disabled individuals.

HAPGC will ensure that it has enough accessible units to meet the needs of tenants and applicants with disabilities in its programs. At a minimum, five (5) percent of the dwelling units in each program must be Designated Mobility Accessible Units, and two (2) percent must be Designated Sensory Accessible Units in compliance with the Accessibility Standards within five (5) years of the effective date. HAPGC will distribute these units across the Developments to the extent feasible and disperse them within the Developments. Each Development will have a maximum of fifteen (15) percent Designated Accessible Units (eleven (11) percent mobility and four (4) percent sensory), unless HAPGC has received permission from HUD to have a higher percentage at that Development.

## **G. ASSISTANCE AND SERVICE ANIMAL POLICY**

Under Section 31 of Title I of the United States Housing Act of 1937, residents of federal public housing may own and keep common household pets in accordance with applicable regulations. The HAPGC Pet Policy sets forth requirements related to residents who wish to keep common household pets such as dogs and cats in their PBV units.

This policy contains the standards on the assistance and service animals in any criteria or standards associated with this policy for HAPGC. The rules adopted are related to the legitimate business interests and operating needs of HAPGC to provide a decent, safe, and sanitary living environment for all tenants, to protect and preserve the physical condition of the property as well as financial interests of HAPGC.

Assistance animals that are needed as a reasonable accommodation for persons with disabilities are not considered pets, and thus, are not subject to the HAPGC Pet Policy. However, residents possessing assistance animals will be required to comply with specific rules related to the registration and maintenance of assistance animals as outlined in this policy. The resident shall furnish the housing authority information at each reexamination as to the status of the animal, the continued need for the animal, and other information outlined in this policy.

For additional information on HAPGC Pet Policy, please see the HAPGC Admissions and Continued Occupancy Policy (ACOP).

### **Assistance Animals for Residents with Disabilities**

HAPGC will permit a person with a disability to use and live with an assistance animal in accordance with Section 504 of the Rehabilitation Act and the Fair Housing Act. HAPGC and property managers will make reasonable accommodations for qualified persons with disabilities who are in need of an assistance animal. A qualified applicant or resident with a disability may request a reasonable accommodation to this policy at any time.

### **Assistance Animal Definition**

Assistance animals are animals that work, provide assistance, or perform tasks for the benefit of a person with a disability, or animals that provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals – often referred to as “service animals,” “assistive animals,” “support animals,” or “therapy animals” – perform many disability-related functions, including but not limited to the following:

- Guiding individuals who are blind or have low vision;
- Alerting individuals who are deaf or hearing impaired;
- Providing minimal protection or rescue assistance;
- Pulling a wheelchair;
- Fetching items;
- Alerting persons to impending seizures; or

- Providing emotional support to persons with disabilities who have a disability-related need for such support.

## **H. LANGUAGE ASSISTANCE**

The HAPGC 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 persons are 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 Housing Choice Voucher Administrative Plan, LEP persons are assistant housing applicants and HCV Program participants and household family members.

In order to determine the level of access needed by LEP persons, the HAPGC will conduct a four-factor analysis. The analysis will include:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the Housing Choice Voucher program;
2. The frequency with which LEP persons come into contact with the program;
3. The nature and importance of the program, activity, or service provided by the program to people's lives; and
4. The resources available to the HAPGC and costs.

Conducting this four factor analysis will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the HAPGC.

### **Oral Interpretation**

The HAPGC will utilize a language line for telephone interpreter services. Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by the HAPGC. For example, the interpreter may be a family member or friend.

The HAPGC will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible and possible, according to its language assistance plan (LAP), the HAPGC will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other housing authorities, and will standardize documents. Where feasible and possible, the HAPGC will encourage the use of qualified community volunteers.

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by the HAPGC. For example, the interpreter may be a family member or a friend.

## Written Translation

In order to comply with written-translation obligations, the HAPGC will take the following steps:

- The HAPGC will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or
- If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the HAPGC may not translate vital written materials, but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

These “safe harbor” provisions apply to the translation of written documents only. They do not affect the requirement to provide meaningful access to LEP persons through competent oral interpreters where oral language services are needed and reasonable.

HAPGC will use the written documents supplied by HUD, whenever possible. All documents will be clearly marked “For Informational Purposes Only”. All documents that will be executed for the files and program requirements will be in English.

## Implementation Plan

After completing the four-factor analysis and deciding what language assistance services are appropriate, the HAPGC shall determine whether it is necessary to develop a written implementation plan, or Language Access Plan (LAP), to address the identified needs of the LEP populations it serves. If the HAPGC determines that it is not necessary to develop a written LAP, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to the HAPGC’s HCV program and services.

The HAPGC will consider alternative ways to articulate in a reasonable manner, a plan for providing meaningful access. If HAPGC determines that it serves or is under-serving LEP persons because of language barriers and HAPGC has the available resources, the HAPGC will develop a LAP. HAPGC will use entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants. These entities will be contacted for input into the process.

## I. PRIVACY RIGHTS

All adult members of both applicant and participants at recertification are required to annually 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 program participant information will not be released unless there is a signed release of information request from the applicant or resident.

## **CHAPTER 3**

### **APPLICATION FOR ADMISSION**

The policy of the Housing Authority of Prince George’s County (HAPGC) is to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply and are treated in a fair and consistent manner. This Chapter describes the policies and procedures for completing an initial application for assistance, placement, and denial of placement on the waiting list, and limitations on who may apply.

The primary purpose of the intake function is to gather information about the family, but HAPGC will also utilize this process to provide information to the family so that an accurate and timely decision of eligibility can be made. Applicants will be placed on the waiting list in accordance with this Policy.

#### **A. APPLYING FOR ASSISTANCE**

Families may obtain applications from the HAPGC’s designated locations during designated dates and times. Locations, dates, and times will be published in local newspapers, posted at sight offices and on the HAPGC website:

<https://www.princegeorgescountymd.gov/1294/Application-Process>

As a reasonable accommodation, disabled families may also request – by telephone or by mail – that an application be sent to the family via first class mail.

HAPGC accepts applications only from families whose head or spouse is at least 18 years of age or emancipated minors under State law. To be eligible for participation, an applicant must meet HUD criteria, as well as any permissible additional criteria established by the HAPGC. Residency preference is for families who live, work, or are hired to work in Prince George’s County. Reasonable accommodations will be made for applicants with disabilities or language barriers.

#### **B. PROCESSING APPLICATIONS**

Depending upon the length of time that applicants may need to wait to receive assistance, HAPGC will use either the one-step or the three-step process.

A one-step process will be used:

- When it is expected that a family will be selected from the waiting list within 60 days of the date of application. At application, the family must provide all of the information necessary to establish family eligibility and level of assistance.
- For applications for families Displaced by Government Action, for referrals for families for the Family Unification Program (FUP), and referrals for the Veterans Administration Supportive Housing (VASH) vouchers.

The Three-Step process will be used to accept applications for the Housing Choice Voucher (HCV) Program, Project Based Voucher Program, and Moderate Rehabilitation Programs,

when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application.

**Step One**

- When the waiting list is opened to place families in the lottery, the family may obtain preliminary applications online only. Families are allowed to submit only one preliminary application, submitting duplicates will cause the family to be disqualified for placement in the lottery.

**Step Two**

- All families who were entered in the lottery will be able to view their status online at the HAPGC website.
- Families chosen in the lottery must complete a preliminary application in order to make an initial assessment of the family's eligibility and to determine the family's placement on the waiting list.

**Step Three**

- Families reaching the top of the waiting list will be required to provide the necessary documentation to determine eligibility and proof of the preference being claimed.

**C. ACCESSIBILITY OF THE APPLICATION PROCESS**

**Elderly and Disabled Populations [24 CFR 8 and HCV GB, pp. 4-11 – 4-13]**

HAPGC is required to make the application process accessible to elderly and disabled populations. The HAPGC's application site must be accessible, unless making it accessible would result in an undue financial or administrative burden. If the application site cannot be made accessible, the HAPGC must offer a reasonable accommodation that provides full access to the application process. If the method chosen does not accommodate the elderly or disabled populations, the HAPGC must make available an alternative application process for these populations.

**Limited English Proficiency**

The HAPGC is required to take reasonable steps to ensure meaningful access to their programs and activities by persons with limited English proficiency (LEP). This chapter will provide a plan and description for policies and fair housing requirements for LEP.

**D. PLACEMENT OF THE WAITING LIST**

The HAPGC must review and assess eligibility for each application they receive. If the waiting list is open, HAPGC will accept applications from eligible families unless there is good cause for not accepting the application, such as denial of assistance because of action or inaction by members of the family for the grounds stated in the "Denial or Termination of Assistance" chapter of this Administrative Plan. [24 CFR 982.206(b)(2)].

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list [24 CFR 982.202(c)]. Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. Applicants will be placed on the waiting list according to any preference(s) for which they qualify, the date and time, and their lottery number as assigned.

HAPGC will place complete applications on the waiting list according to time and date stamp. However, if an application is not completed it will be removed from the waiting list if there is no response after a ten (10) day notification letter is sent requesting the appropriate documentation.

**E. INELIGIBILITY FOR PLACEMENT ON THE WAITING LIST**

If HAPGC can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, the PHA will send written notification of the ineligibility determination as soon as all of the lottery winners are reviewed.

The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal review and explain the process for doing so.

If the reason for ineligibility is for a prior program violation or for unpaid monies owed to the PHA and the family was offered an informal hearing/review at the time the violation occurred or the debt was incurred a second informal hearing/review will not be offered.

**F. SPECIAL CATEGORY: PLACEMENT ON THE WAITING LIST BY EXECUTIVE DIRECTOR**

The Executive Director of HAPGC is authorized to create special categories of applicants and/or program participants who apply for a voucher to meet special circumstances (e.g., relocation, consent decree requirements, legal opinions, reasonable accommodations requiring an immediate transfer who cannot otherwise be accommodated by a unit in HAPGC's existing portfolio, etc.), and to develop and implement specific rules for accepting and processing applications from individuals identified as members of these special categories.

Vouchers or other assistance provided to Special Category participants may be restricted in their use **based upon funding availability**.

## **CHAPTER 4**

### **Waiting List Management and Applicant Selection**

#### **INTRODUCTION**

Families wishing to receive Housing Choice Voucher (“HCV”) assistance must submit an application and information to determine eligibility. HUD then requires HAPGC to create a waiting list for the families, and select families from this waiting list in accordance with HUD and HAPGC policies.

The HAPGC is required to adopt a clear plan for accepting applications, placing and selecting families from the waiting list, and must follow this approach consistently. The order by which families are selected must be in accordance with HUD regulations and HAPGC policy as well as following any preferences. Funding earmarked exclusively for families with particular characteristics may also alter the order in which families are served.

HUD regulations require all families have an equal opportunity to apply for and receive housing assistance, and that the HAPGC affirmatively further fair housing goals in the administration of the program [24 CFR 982.53, HCV GB p. 4-1]. The HAPGC must follow the fair housing requirements as described in Chapter 2 and remain in compliance with the selection policies as described throughout the Administrative Plan.

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

Part I: The Application Process. This provides an overview of the application process; How applicants can obtain and submit applications; and How the HAPGC will manage applications.

Part II: Managing the Waiting List. This presents policies that govern, waiting list structure, opening and closing of the waiting list, community outreach and updating of the waiting list.

Part III: Selection for HCV Assistance. This describes family selection from the waiting list and interviewing families to determine final eligibility.

## **PART I: THE APPLICATION PROCESS**

### **4-I.A. OVERVIEW**

This is a description of the HAPGC policies for the application process, preliminary determinations of eligibility and preferences. This part will also describe fair housing requirements and the HAPGC obligation for application accessibility for elderly, disabled and people with limited English proficiency (LEP).

### **4-I.B. APPLYING FOR ASSISTANCE [HCV GB, pp. 4-11 – 4-16]**

All families must first apply for assistance before admission into the HCV program. The HAPGC must accept applications from families for whom the waiting list is open. Even when it is apparent to staff that a particular family may be found ineligible, any family requesting an application when the list is open must be allowed to apply.

#### HAPGC Policy

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

A one-step process will be used when it is expected that a family will be selected from the waiting list within 60 days of the date of application. At application, the family must provide all of the information necessary to establish family eligibility and level of assistance.

A one-step process will be used for applications for families Displaced by Government Action, for referrals for families for the Family Unification Program (FUP), Emergency Housing Vouchers and referrals for the Veterans Administration Supportive Housing (VASH) vouchers.

The waiting list for families Displaced by Government Action is continually opened to accept applications and referrals as long as there are vouchers available.

The waiting list for Family Unification is continually open for referrals from Prince George's County Department of Social Services as long as there are FUP vouchers available.

A three-step process will be used when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application. Under the three-step application process, the PHA initially will require families to provide only the information needed to enter the family on a waiting list. The second step will

require the families pulled from the top of a waiting list to complete a preliminary application in order make an initial assessment of the family's eligibility and to determine the family's placement on the waiting list. The third step will require the family to provide all the information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list and provide detailed information via a waitlist survey. The waitlist survey provides visibility via HAPGC's Voluntary Compliance Agreement. It provides the selected Applicants the ability to provide unit and accommodation needs prior to lease up and unit selection.

The three- step process will be used to accept applications for the Housing Choice Voucher (HCV) Program(s) as well as the waiting lists for the Project Based Voucher Program and the Moderate Rehabilitation Programs.

**First Step**

When the waiting list is opened the family may obtain preliminary applications online only or in an alternative format upon request as a reasonable accommodation based upon disability or elderly status. Families are allowed to submit only one preliminary application.

**Second Step**

Once a voucher, MOD unit or PBV unit is available, all families who will be able to view their status online at our designated web site.

**Third Step**

When the family reaches the top of a waiting list, they will be required to provide the necessary documentation to determine eligibility and proof of the preference being claimed.

**4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS**

**Elderly and Disabled Populations [24 CFR 8 and HCV GB, pp. 4-11 – 4-13]**

HAPGC is required to make the application process accessible to elderly and disabled populations. The HAPGC's application site must be accessible, unless making it accessible would result in an undue financial or administrative burden. If the application site cannot be made accessible, the HAPGC must offer a reasonable accommodation that provides full access to the application process. If the method chosen does not accommodate the elderly or disabled populations, the HAPGC must make available an alternative application process for these populations.

**Limited English Proficiency**

The HAPGC is required to take reasonable steps to ensure meaningful access to their programs and activities by persons with limited English proficiency (LEP). This

chapter will provide and plan and description for policies and fair housing requirements for (LEP).

#### **4-I.D. PLACEMENT ON THE WAITING LIST**

The HAPGC must review and assess eligibility for each application they receive. If the waiting list is open, HAPGC will accept applications from eligible families unless there is good cause for not accepting the application, such as denial of assistance because of action or inaction by members of the family for the grounds stated in the "Denial or Termination of Assistance" chapter of this Administrative Plan. [24 CFR 982.206(b)(2)].

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list [24 CFR 982.202(c)].

#### **Ineligible for Placement on the Waiting List**

Only eligible applicants will be placed on the waiting list. If the PHA can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, the PHA will send written notification of the ineligibility determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review and explain the process for doing so (see Chapter 16), with the following exception: If the reason for ineligibility is for a prior program violation or for unpaid monies owed to the PHA and the family was offered an informal hearing/review at the time the violation occurred or the debt was incurred, a second informal hearing/review will not be offered.

#### **Eligible for Placement on the Waiting List**

The PHA will send written notification of the preliminary eligibility determination.

#### **HAPGC Policy**

The HAPGC will place complete applications on the waiting list. However, if an application is not completed it will be removed from the waiting list if there is no response after a ten (10) day notification letter is sent requesting the appropriate documentation.

Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance

Applicants will be placed on the waiting list according to any preference(s) for which they qualify.

## **PART II: MANAGING THE WAITING LIST**

### **4-II.A. OVERVIEW**

As per HUD requirements, the HAPGC has designed policies for organizing and managing the waiting list. The policies will cover opening and closing of the list, marketing and community outreach, updating of the waiting list and purging ineligible or non-interested families from the waiting list. These policies also aim at keeping a proper number of families on the waiting list to ensure sufficient occupancy levels.

In the case of disputes on eligibility/ineligibility criteria that are pending the outcome of legal proceedings (i.e., currently under appeal in a court of law), the HAPGC will determine the family to be ineligible at that time. If the legal decision is rendered that the person did meet the eligible factors, the HAPGC shall restore the application to the original date and time of application, and reinstate the applicant to any other preference factors that the HAPGC has adopted. If the legal decision is rendered that the person did not meet the eligibility factors, the HAPGC shall only provide the applicant with access to the grievance process in accordance with applicable requirements.

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

The HAPGC must maintain information that permits the HAPGC to select participants from the waiting list in accordance with the HAPGC admission policies. The waiting list must contain the following information for each applicant listed:

- Change in preference status
- Changes in family size and composition
- Change of address
- Withdrawal from the waiting list
- Determination of ineligibility

The HAPGC HCV waiting list must be organized in such a manner to allow the HAPGC to accurately identify and select families for assistance in the proper order, according to the admissions policies described in this plan.

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

1. Applicant name;
2. Family unit size;
3. Date and time of application;
4. Qualification for any local preference;
5. Racial or ethnic designation of the head of household

### HAPGC Policy

The HAPGC will maintain a single tenant based waiting list for the HCV Tenant-based Voucher Program. The HAPGC will maintain one waiting list for these applicants.

The HAPGC will place families on the waiting list for any public housing, project-based voucher or moderate rehabilitation programs upon the families request and approval if:

- The waiting lists are open, and;
- Family is eligible for the program and available unit sizes

A family's decision to apply for, receive or refuse other types of assisted housing, with the exception of **4-III.B**, will not affect their placement on any HCV waiting list or any preferences for which they may qualify.

The HAPGC will maintain the following other waiting list(s):

- Moderate Rehabilitation
- PBV Waiting List (formerly called Central Gardens); and
- PBV UFAS Accessible Waiting

List Families can be on more than one waiting list.

### HAPGC Policy

The HAPGC will not merge the HCV waiting list with any other waiting lists for assisted housing

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

### **Closing the Waiting List**

The HAPGC should consider closing its waiting list when it has insufficient funds available to assist all applicants on the waiting list over a reasonable period of time. The HAPGC may choose to close only a portion of its waiting list instead of the entire waiting list. For example, the HAPGC may continue to receive applications from families qualifying for a specific local preference category, i.e. homeless families, while closing its waiting list to all other groups.

### HAPGC Policy

The HAPGC will close the waiting list when the wait reaches forty-eight (48) months of applicants. The HAPGC may open the waiting list for families that have a specific local preference or designation

Where the PHA has particular preferences or funding criteria that require

a specific category of family, the PHA may elect to continue to accept applications from these applicants while closing the waiting list to others.

Applications meeting the criteria adopted by the PHA, and approved under a current MOU between PHA and participating agency or organization, for the following special programs will be accepted on a referral basis provided there is funding available:

- Violence Against Women Act (VAWA)
- Mental Illness and Disabilities (MIAD)
- Homeless Families in Crisis (HFIC)
- Veteran Housing Assistance Program (VET)
- Veterans Administration Supportive Housing (VASH)
- Family Unification Program (FUP)
- Homeless Voucher (HV)
- Money Follows the Person (MFP)
- Emergency Transfer vouchers within HAPGC programs
- Emergency Housing Vouchers (PIH Notice 2021-15)

**For the Project-Based Voucher Programs:**

**VAWA Transfers:** If another Project-Based Voucher unit is available for which the current PBV participant qualifies, the participant will be presented with an offer to transfer. If a participant reasonably believes a proposed transfer on the same site would not be safe, the participant may request a transfer to a different site; if available. If a unit is available, the transferring participant must agree to abide by the terms and conditions that govern occupancy in the new unit. The participant may notify their current Landlord of their need to move and provide them with written request certifying that they meet the criteria for an emergency transfer under VAWA before the transfer/move is approved.

**Project Based Voucher-Assisted for one (1) year or more:** If there are not any Project Based units available, the participant will be issued a Housing Choice Voucher, if they have been on the PBV program for at least one (1) year as long as funding is available. If the participant would like to move prior to a voucher becoming available the HAPGC will refer the participant to one of our partnering Agency's using the Prince George's County Continuum of Care, The HAPGC may be unable to transfer a participant to a particular unit or program if the participant has not or cannot establish eligibility for that unit or program.

- The HAPGC will also provide the victim with a list of providers in the community who serve victims of domestic violence, dating violence, sexual assault, and stalking.

### **Project Based Voucher-Assisted less than one (1) year**

- If there are not any Project Based units available, the participant will be placed on the Housing Choice Voucher(s) & Public Housing Waitlist by time and date they were approved for an emergency transfer. If the participant would like to move prior to a voucher or Public Housing unit coming available, the HAPGC will refer the participant to one of our partnering agency's using the Prince George's County Continuum of Care. The HAPGC may be unable to transfer a participant to a particular unit or program if the participant has not or cannot establish eligibility for that unit or program or the program lacks availability.
- The HAPGC will also provide the victim with a list of providers in the community who serve victims of domestic violence, dating violence, sexual assault, and stalking.

**For the Moderate Rehabilitation:** If another Moderate Rehabilitation unit is available for which the participant qualifies, the participant will be presented with an offer to transfer. If a participant reasonably believes a proposed transfer would not be safe, the participant may request a transfer to a different unit. If a unit is available, the transferring participant must agree to abide by the terms and conditions that govern occupancy in the new unit. HAPGC may be unable to transfer a participant to a particular unit if the participant has not or cannot establish eligibility for that unit. If there are not any Moderate Rehabilitation units available, the participant will be placed on the Public Housing Waitlist by time and date they were approved for an emergency transfer. If the participant would like to move prior to a Public Housing unit being available, the HAPGC will refer the participant to one of our partnering Agency's using the Prince George's County Continuum of Care. The HAPGC may be unable to transfer a participant to a particular unit or program if the participant has not or cannot establish eligibility for that unit or program. The participant must notify their current Landlord of their need to move and provide them with written request certifying that they meet the criteria for an emergency transfer under VAWA before the transfer/move is approved.

- The HAPGC will also provide the victim with a list of housing providers in the community for which the PHA has collaborated to serve victims of domestic violence, dating violence, sexual assault, and stalking.

Once a transfer has been completed, the person (s) that committed and act (s) of domestic violence, dating violence, sexual assault, or stalking against the tenant will not be approved to be added to the household in the future.

### **Reopening the Waiting List**

If newspapers of general circulation, minority media, HAPGC's website and other suitable media outlets. The notice must comply with.

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

The HAPGC will give public notice by publishing the relevant information including HUD fair housing requirements and must specify who may apply, and where and when applications will be received in suitable media outlets including, but not limited to:

- Housing Authority web site at [www.princegeorgescountyha.org](http://www.princegeorgescountyha.org)
- The Washington Post | 1150 15th St., N.W. Washington, DC 20071 202-334-6000
- The Prince George's Post | 15207 Marlboro Pike, Upper Marlboro, MD 20772301-627-0900
- The Gazette | 9030 Comprint Court Gaithersburg, MD 20877 301-670-2620
- El Pregonero | P O Box 4464 Washington, DC 20017 202-281-2440

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

There are many approaches to informing the public about an upcoming application period. The goal of the outreach must be to make the information available to every eligible family. Basic outreach objectives for the HAPGC include:

- Stimulate and sustain interest in the program; and
- Provide helpful information to potential participants
- Ensure the waiting list has sufficient number of applicant families

### **Fair Housing Requirements [HCV GB, pp. 4-2]**

All outreach, advertising and public notices announcing the opening or closing of a waiting list must include efforts to ensure that the information will reach those populations that are considered to be "least likely to apply" for assistance under all Housing Choice Voucher program(s) including Mod-Rehab & Project Based Vouchers.

Outreach must also include efforts to reach persons with disabilities. All advertising and outreach literature must include the equal housing opportunity logo and non-discrimination in the advertising message.

#### HAPGC Policy

All HAPGC outreach efforts will comply with the Fair Housing guidelines

#### **Extremely Low Income (ELI)**

At least seventy-five (75) percent of the families who are admitted to a PHA's Housing Choice Voucher program during the PHA fiscal year must be extremely low-income. Extremely low-income families are those with incomes at or below 30 percent of the area median income. Income limits are posted on the internet through HUDUSER. The annual gross income of the applicant family is used for income-targeting purposes. Annual income must have been verified within the sixty (60) days prior to issuance of the voucher. The HAPGC must meet its income targeting requirement over the course of the HAPGC's fiscal year. In other words, deviations from the seventy-five (75) percent extremely low-income target are allowed during the year as long as the target is met by the year's end.

HAPGC outreach efforts must comply with fair housing requirements. This includes:

- Analyzing housing market area and populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

HAPGC outreach efforts must be designed to inform qualified families about the availability of assistance under the program. These efforts may include, as needed, any of the following activities:

- Submit press release to local newspapers, including minority newspapers.
- Write and submit a human-interest story with photographs to a local newspaper.
- Distribute flyers or applications through schools, community agencies, welfare offices, employers, union offices, neighborhood groups, hospitals, commercial establishments (supermarkets, discount stores, and laundromats), libraries, and churches.
- Print mail-in applications in local newspapers, including minority papers.
- Request community service announcements through local television and radio.

- Purchase advertising on subways and buses.
- Purchase advertising in local newspapers, including minority papers.
- Ask supportive service organizations to participate in the outreach effort.
- Solicit referrals from agencies working with families least likely to apply.
- Ask current participants to inform friends, family, and neighbors.

The HAPGC will monitor the populations being served or underserved. If it is found populations are underserved a targeted outreach effort will be conducted.

#### **4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES**

##### HAPGC Policy

Families must immediately report in writing any change of contact information to the HAPGC. These changes include:

- Contact information
- Mailing Address
- Telephone number

The changes must be submitted in writing.

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

As per HUD requirements the HAPGC has established policies in regards to purging and updating of the waiting list.

##### **Purging the Waiting List**

The HAPGC decision to withdraw from the waiting list the name of an applicant family that includes a person with disabilities is subject to reasonable accommodation in accordance with 24CFR part 8. If the applicant did not respond to the HAPGC's request for information or updates because of the family member's disability, the HAPGC will reinstate the applicant in the family's former position on the waiting list. [24 CFR 982.204(c)(2)].

##### HAPGC Policy

The HAPGC waiting list(s) will be updated **annually**.

To complete the update, the HAPGC will send a letter via first class mail to the applicants' family last address. The letter will provide the proper forms and

deadlines the family must comply. HAPGC may also send update information electronically.

If the family does not respond within ten (10) business days either in writing, fax, or in person, the family will be removed from the waiting list.

HAPGC letters returned with no forwarding address will result in a family's removal from the waiting list.

Letters returned to the HAPGC with a forwarding address will be resent with another ten (10) days for the family to respond.

HAPGC may reinstate applicants if it determined the family's unresponsiveness was due to HAPGC's error or due to extenuating circumstances. Removal from the Waiting List

### HAPGC Policy

If a family is determined ineligible, they will be removed from the waiting list.

The HAPGC must give an applicant prompt written notice of a decision denying admission to the program (including a decision that the applicant is not eligible or denying assistance for other reasons). The notice must give a brief statement of the reasons for the decision. The notice must also state that the applicant may request an informal review of the decision, and state how to arrange for the informal review. [24 CFR 982.201(f)].

## **PART III Selection for HCV Part 4-111.**

### **A. OVERVIEW**

Families determined eligible will be selected for assistance in accordance with HAPGC's policies, preferences, and procedures.

The order in which families receive assistance from the waiting list depends on the selection method chosen by the HAPGC and is impacted by preferences and date and time of application. The source of HCV funding also may affect the order in which families are selected from the waiting list.

The HAPGC must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the HAPGC selection policies [24 CFR 982.204(b) and 982.207(e)].

## **4-III.B. SELECTION AND HCV FUNDING SOURCES**

### **Special Admissions [24 CFR 982.203]**

If HUD awards the HAPGC program funding that is targeted for families living in specified units, the HAPGC must use the assistance for the families in these units and the

HAPGC may admit a family that is not on the HAPGC tenant-based waiting list, or without considering the family's waiting list position. The HAPGC must maintain records showing that the family was admitted with HUD-targeted assistance.

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

- A family displaced because of demolition or disposition of a public housing project;
- A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;
- A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term;
- Mainstream Vouchers
- Foster Youth Initiative or Family Unification Program Vouchers
- Emergency Housing Vouchers
- Veterans Assistance of Supportive Housing (VASH)
- A non-purchasing family residing in a HOPE 1 or HOPE 2 project. and
- For housing covered by the Low Income Housing Preservation and Resident Homeownership Act of 1990 (41 U.S.C. 4101 et seq.):
  - A non-purchasing family residing in a project subject to a homeownership program (under 24 CFR 248.173); or
  - A family displaced because of mortgage prepayment or voluntary termination of a mortgage insurance contract (as provided in 24 CFR 248.165);

**Other Special Admissions to relocate residents for demolition, consolidation, rehabilitation, renovation, modernization, court order, or required conversion to tenant-based assistance**

At the discretion of the HAPGC's Executive Director or designee, as an approved reasonable accommodation by the HAPGC's ADA/504 Coordinator, families or individuals currently residing in public housing that need UFAS accessible units when there are no available UFAS accessible units available in the inventory may be placed at the household's option on the list of the HAPGC PBV UFAS Accessible Waiting List based upon date and time of entry on that list or may receive the next available voucher (if available) within the HCV tenant-based waiting list and is deemed eligible to be issued a tenant-based voucher.

At the discretion of the HAPGC's Executive Director or designee, as an approved reasonable accommodation by the HAPGC's ADA/504 Coordinator, families or individuals who rise to the top of the public housing waitlist and are offered public housing but need UFAS accessible units and there are no available UFAS accessible units available in the inventory may be offered and placed at the household's option on the list of the HAPGC PBV UFAS Accessible Waiting List based upon date and time of entry on that list or may receive the next available voucher (if available) within the HCV

tenant based waiting list and is deemed eligible to be issued a tenant- based voucher. All admissions under this special admission preference are subject to the family meeting all of theeligibility determination criteria of the applicable HCV program and subject to funding availability.HAPGC will consider these families as targeted special admission for purposes of being issued a voucher off of the tenant-based waiting list.

If the family is issued a voucher under the above special admission requirement and was previously on the HCV waiting list for a tenant-based voucher, once a voucher is issued the family will be removed from the HCV tenant-based voucher and PBV waiting list, but not the PBV UFAS Accessible Waiting List.

If a disabled resident of Public Housing transfers to the HCV program under this special preference,the HAPGC will pay the initial: reasonable security deposits, holding fees, application fees and the reasonable moving costs of the family to include, but not limited to, packing, moving, and thecosts of connecting, or disconnecting and reconnecting, the same level of services for any utility,telephone and cable television fees as the family had in Public Housing. HAPGC obligation to pay these costs does not extend to subsequent moves.

Families may apply to have the reasonable security deposit and application fees paid directly by HAPGC upon presentation of supporting documentation. Any security deposit paid by HAPGC isreturnable to HAPGC and not the Family at the end of the tenancy. Loss of the security deposit caused by tenant damages or debts due landlord shall be a debt owed by the tenant to HAPGC. HAPGC will establish a procedure to handle debts owed due to security deposits.

Additionally, Families may apply for reimbursement to HAPGC for reasonable moving costs upon presentation of supporting documentation; and

Families may request HAPGC advance reasonable moving costs if paying those costs would impose a financial hardship on the family and the family provides a reasonable quote or estimateof the moving costs and a reasonable justification for a hardship exception to HAPGC's reimbursement process set forth above. Advance payment may be conditioned upon the vendoror other party accepting payment in the form tendered by HAPGC.

### **Targeted Funding [24 CFR 982.204(e)] (Not Applicable)**

The HAPGC administers the following types of targeted funding:

- Family Unification Program
- Foster Youth Initiative (awaiting award) Emergency Housing Vouchers
- Veterans Administration Supportive Housing (VASH) HUD RAD (where applicable)
- HUD Section 18 (where applicable)

- Funding may be used to assist any eligible families on the waiting list in accordance with HUD rules and HAPGC policies in Section.

#### **4-III.C. OTHER ADMISSIONS TO HAPGC/SUPPORTIVE SERVICES VOUCHERS**

HAPGC does not have special allocations for supportive service vouchers.

HAPGC participating agencies (through HUD designation or MOU) are responsible for referring families to HAPGC for FUP, FUPFC, FYI, Emergency Housing Vouchers and HUD VASH.

##### ***Family Unification Program***

The Family Unification Program (FUP) provides Housing Choice Voucher rental assistance to reunite families when children are placed in foster care or when parents are in imminent danger of separation from their children due to a lack of adequate housing. Clients are accepted on a referral basis from the Department of Social Services.

##### ***Family Unification Program Foster Care Program (FUPFC)***

The FUP Foster Care Program is a HUD Housing Choice Voucher Program. This Program provides housing for youth who are leaving foster care and are between the ages of 18 to 21 years old. The Program provides 18 months of rental assistance as they transition to living independently. Clients are accepted on a referral basis from the Department of Social Services.

The Housing Authority will adopt the *Family Unification Program Foster Care Program* “Opening Door Demonstration”

**Eligible Youth:** FUP eligibility requires a dual-agency determination. The PCWA (Department of Social Services) certifies at the time of application for FUP that the youth is at least 18 years old and not more than 21 years old (has not reached 22nd birthday) who left foster care at age 16 or older and who does not have adequate housing. HAPGC determines eligibility for voucher assistance. Age eligibility (i.e. determining that a youth is between the ages of 18-21) is only performed at the time of admission. Youth can continue their assistance on the FUP-youth program until the time limit of the voucher is reached, even if the youth is older than 21 at that time.

**FUP Demonstration Outline:** Program participants with a FUP youth voucher who agree to sign an FSS Contract of Participation (Form HUD-52650) will maintain their housing assistance for a period not exceeding the length of the FSS Contract of Participation. In most cases, this limit will be no more than 5 years; however, if the FSS Contract of Participation is extended, in accordance with 24 CFR 984.303(d), the FUP youth voucher can be extended for the entire length of the FSS Contract of Participation. Families cannot be required to participate in the FSS program as a condition of receipt of assistance under the HCV program, including receipt of a FUP voucher. See Chapter 2 for

a discussion of Reasonable Accommodations procedures.

**Termination:** If a FUP youth participating in this demonstration fails to comply with the terms and conditions of the FSS Contract of Participation without good cause and is terminated from the FSS program, the FUP youth is no longer considered a participant in this demonstration. With FSS termination, the FUP youth is subject to the statutory time limit of 18 months, beginning from the time the first HAP contract assigned. If the FUP youth has been assisted for more than 18 months, HAPGC shall terminate assistance to the FUP youth household. See Chapter 16 for a discussion of informal hearing procedures.

#### **4-III.D. SELECTION METHOD**

The HAPGC must admit applicants for participation in accordance with HUD regulations and other requirements, and with HAPGC policies stated in the HAPGC administrative plan and the HAPGC plan. The HAPGC admission policy must state the system of admission preferences that HAPGC uses to select applicants from the waiting list, including any residency preference or other local preference. [24 CFR 982.202(d)].

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

##### HAPGC Policy

The HAPGC will use the following local preferences.

The HAPGC preferences are as follows. An applicant may qualify for more than one preference, but will only be awarded the highest applicable preference plus the residency preference.

These preferences are not applicable to the occupancy of PBV UFAS Accessible Units or PBV Units with Accessible Features, which units will be first leased to a family on the Waitlist with a household member requiring the accessible features of the unit. An "Accessible Unit" is a housing unit that is on an accessible route and meets the specific accessibility requirements in the **Uniform Federal Accessibility Standards (UFAS) at Section 4.34** for persons with disabilities who use wheelchairs. "Unit with Accessible Features" includes units designed to comply with the Fair Housing Act Accessible Guidelines.

Except as provided by Special Admissions set forth elsewhere in this Plan, Families or individuals shall be pulled from the HCV waiting list, by date and time of application, in the hierarchy of the local preferences below:

#### **Involuntary Displaced/Substandard Housing Preference**

This preference applies to applicants who are:

- (a) Victims of a natural disaster that has been declared by a local, state,

- or federal government entity;
- (b) Subjected to a documented action by a local, state, or federal government entity related to code enforcement;
- (c) Participant in State or federal Witness Protection Program;
- (d) A victim of Domestic Violence dating violence, sexual assault, or stalking as defined in the Violence Against Women Act.
- (e) Substandard Housing. The substandard preference is divided into the following major ranking factors as further defined and is implemented in the following priority order.
  - (i) Homeless;
  - (ii) Applicants residing in units that have been declared unfit for habitation; and
  - (iii) Applicants currently residing in units, which contain one or more Housing Quality Standard or local housing code violations that cannot be corrected in a reasonable period of time.
  - (iv) Families referred to the HCV tenant-based waiting list from the HAPGC's ADA/504 Coordinator or other HAPGC authorized personnel either from the Public Housing waiting list where there is no immediate adequate housing to suit the family documented disability needs OR from the existing Public Housing program where there is no adequate housing to suit the family documented disability needs. Families referred in this category take priority regardless of date and time of application within this preference for the next available tenant-based voucher. However, families with this preference are selected based upon their date and time of placement such that they are selected in order of placement on this list with this preference.
- (f) Any resident of a HAPGC Public Housing or other affordable property that is being relocated due to a RAD Conversion or other demolition or disposition activity **will be considered an involuntary displacement and given priority** preference points to receive a tenant-based voucher to facilitate the relocation from the development that is subject pending redevelopment. This preference has priority over all other preferences and only applies to applicants who reside in the affected HAPGC-owned and or managed properties

### **Residency Preference**

This preference applies to applicants who, at the time of application live, work, or are hired to work in Prince Georges County on a permanent basis in fulltime employment of at least thirty (30) hours per week. They must show evidence of this preference at the time of voucher issuance to remain eligible for the preference.

### **Working Family Preference**

This preference applies to applicants where

- (a) The head, spouse, co-head or sole member is employed fulltime at least thirty (30) hours per week; OR

(b) The head, spouse, co-head or sole member is a person age 62 or older or is a person with disabilities is employed in a part-time or full-time capacity.

They must show evidence of this preference at the time of voucher issuance to remain eligible for the preference.

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**Disabled Family Member Preference**

This preference applies to applicants where any member of the household is verified by a medical or other qualified professional as disabled. They must show evidence of this preference at the time of voucher issuance to remain eligible for the preference.

**Veteran Preference**

This preference applies where the head, spouse, co-head or sole member was discharged from any branch of United States military service.

**Transitional Housing Program Preference**

This preference applies to the head, spouse, co-head or sole member that has successfully completed a transitional housing program under the Prince George's County Continuum of Care Program.

**Educational/ Training Preference**

This preference applies where the head, spouse, co-head or sole member is currently a student enrolled in or a graduate in the last six (6) months of a school/training program designed to prepare enrollees for the job market. They must show evidence of this preference at the time of voucher issuance to remain eligible for the preference.

\*For the purposes of the above local preferences, only a spouse or significant other is considered to be the Co-head.

**Income Targeting Requirement [24 CFR 982.201(b)(2), HCV GB pp. 4-19]**

At least seventy-five percent (75%) of the families who are admitted to HAPGC's housing choice voucher program during the PHA fiscal year must be extremely low-income. Extremely low-income families are those with incomes at or below thirty percent (30%) of the area median income. The HAPGC may skip non-ELI families for an ELI family to satisfy this requirement.

**Eligibility Requirement**

To be income eligible the families must fall under the following categories:

- Considered a "Very-low Income" Family
- A low-income family that meets additional eligibility criteria specified in the HAPGC administrative plan. Such additional HAPGC criteria must be consistent with the HAPGC plan and with the consolidated plans for local governments in the HAPGC jurisdiction;

- Low-income family that is “continuously assisted” under the 1937 Housing Act;
- Low-income or moderate-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing as defined in (§248.101);
- Low-income family that qualifies for voucher assistance as a non-purchasing family residing in a project subject to a resident homeownership program under §248.173 of this title; or
- Low-income family that is eligible under the student rule provisions

The HAPGC will monitor applicants throughout the year to meet the HUD ELI requirements. If it is found that the HAPGC needs to assist more ELI families, these families will be selected over a non-ELI family on the waiting list. If the waiting list does not have enough ELI families, the HAPGC will conduct a marketing outreach to meet HUD requirements.

#### **Order of Selection [HCV GB 4-12]**

Families will be selected from the waiting list based on their preference and date and time of application.

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

### **4-III.E. NOTIFICATION OF SELECTION**

#### HAPGC Policy

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

- Date, time, and location of the scheduled application interview,
- Procedures for rescheduling the interview;
- Who is required to attend the interview;
- Documents that must be provided at the interview to document the legal identity of household members, including information

about what constitutes acceptable documentation; and

- Other documents and information that should be brought to the interview.

Notification letters returned to the HAPGC with no forwarding address will result in the family's removal from the waiting list. A notice of denial (see Chapter 3) will be sent to the family's address of record, as well as to any known alternate address or contact.

#### **4-III.F. THE APPLICATION INTERVIEW**

HUD recommends the full application is best taken in a private interview situation. The interview is to help the HAPGC determine eligibility and does not mean the applicant has been admitted to the program.

A reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability.

##### HAPGC Policy

- Families selected from the waiting list are required to attend an eligibility interview.
- All adult members must attend the interview.
- The head of household, spouse and/or co-head must provide identity. (see Chapter 7 about proper documentation of legal identity). If the family is unable to provide documentation of legal identity the interview will be rescheduled.
- Families must provide necessary information to the HAPGC as to eligibility requirements, complete all of the necessary forms, including any signatures. The HAPGC will have a list of everything the families need to submit before assistance can be rendered.
- Families must provide any documentation or information within ten (10) business days of the interview. Families may request an extension, if the family cannot provide the information within the given timeframes a notice of denial will be sent.
- The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, as well as completing required forms, providing required signatures, and submitting required documentation. If any materials are missing, the HAPGC will provide the family with a written list of items that must be submitted.

- Any required documents or information that the family is unable to provide at the interview must be provided within ten (10) business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial.
- An advocate, interpreter, or other assistant may assist the family with the application and the interview process. The HAPGC will provide the HUD form informing the family of the right to have assistance.
- Interviews will be conducted in English. For limited English proficient (LEP) applicants, the HAPGC will provide translation services in accordance with the HAPGC policy.
- Families should contact the HAPGC if they need to reschedule an interview. If a family misses a scheduled appointment the HAPGC will send a letter with a new interview time.
- Applicants failing to attend two scheduled interviews without HAPGC approval
- Applicants who fail to attend two scheduled interviews without HAPGC approval will be denied assistance based on the family's failure to supply information needed to determine eligibility. A notice of denial will be issued in accordance with policies contained in this Administrative Plan.

#### **4-III.G. COMPLETING THE APPLICATION PROCESS**

##### HAPGC Policy

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

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

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

## **12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS**

### **Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]**

HUD requires the HAPGC to establish policies that permit the HAPGC to terminate assistance if the HAPGC determines that:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member has violated the family's obligation not to engage in any drug-related criminal activity
- Any household member has violated the family's obligation not to engage in violent criminal activity
- For the purpose of determining a violation, HAPGC will not consider a family to be engaged in violent criminal activity if the family member is a victim in accordance with the Violence Against Women Act (VAWA). However, nothing should be considered to limit the termination of the person who engages in the criminal act or any other program obligations.

### **Use of Illegal Drugs and Alcohol Abuse**

#### **HAPGC Policy**

The HAPGC will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The HAPGC will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents. Currently engaged in is defined as any use of illegal drugs during the previous three-year period.

The HAPGC will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

In making its decision to terminate assistance, the HAPGC will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the HAPGC may, on a case-by-case basis,

choose not to terminate assistance. In line with PIH Notice 2015-19, although a record of arrest(s) may not be used to deny a housing opportunity, PHAs and owners may make an adverse housing decision based on the conduct underlying an arrest if the conduct indicates that the individual is not suitable for tenancy and the PHA or owner has sufficient evidence other than the fact of arrest that the individual engaged in the conduct. The conduct, not the arrest, is what is relevant for admissions and tenancy decisions.

***Drug-Related and Violent Criminal Activity [24 CFR 5.100]***

*Drug* means a controlled substance as defined in section 102 of the ControlledSubstances Act (21 U.S.C. 802).

*Drug-related criminal activity* is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

*Violent criminal activity* means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

HAPGC Policy

The HAPGC will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program. The HAPGC will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

In making its decision to terminate assistance, the HAPGC will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the HAPGC may, on a case-by-case basis, choose not to terminate assistance.

In line with PIH Notice-2015-19, although a record of arrest(s) may not be used to deny a housing opportunity, HAPGC may make an adverse housing decision based on the conduct underlying an arrest if the conduct indicates that the individual is not suitable for tenancy and the HAPGC has sufficient evidence other than the fact of arrest that the individual engaged in the conduct. The conduct, not the arrest, is what is relevant for admissions and tenancy decisions.

**CHAPTER 5**  
**ELIGIBILITY AND SCREENING**

**Overview**

This Chapter defines both HUD's and the HAPGC's criteria for eligibility determination to screening for the HCV Program. The policy of the Housing Authority of Prince George's County is to strive for objectivity and consistency in applying these criteria to evaluate the qualifications of families who apply. HAPGC staff will review all information provided by the family carefully and without regard to factors other than those defined in this Chapter.

Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by HAPGC pertaining to their eligibility.

In the case of disputes on eligibility/ineligibility criteria that are pending the outcome of legal proceedings (i.e., currently under appeal in a court of law), the HAPGC will determine the family to be ineligible at that time. If the legal decision is rendered that the person did meet the eligible factors, the HAPGC shall restore the application to the original date and time and reinstate the applicant to any other preference factors that the HAPGC has adopted. If the legal decision is rendered that the person did not meet the eligibility factors, the HAPGC shall only provide the applicant with access to the grievance process in accordance with applicable requirements.

**A. ELIGIBILITY FOR ADMISSION**

It is HAPGC's policy to admit qualified applicants only. To be eligible for admission to the HCVP the applicant family must:

- Qualify as a "family" as defined by HUD and HAPGC.
- Have an annual household income within the appropriate Income Limits as established annually by HUD.
- Furnish Social Security Numbers for all family members as required.
- Consent to the HAPGC's collection and use of family information as provided for in HAPGC-provided consent forms.
- Qualify on the basis citizenship or the eligible immigrant status of family members.
- Must have not been evicted from public housing, Section 23 or any Housing Choice Voucher Program for drug-related or criminal activity within five years from the date of application. (Chapter 15: Termination of Assistance)
- No family member is subject to a lifetime registration requirement under a state sex offender registration program.

- No family member is currently engaging in illegal use of a drug.
- Must not be ineligible for assistance in accordance with the restrictions on assistance to students enrolled in an institution of higher education status (24 CFR 5.612)

### **A.1. Family Composition**

#### **Definition of a Family**

An applicant must qualify as a Family. A Family may be a single person or a group of persons. Discrimination on the basis of familial status is prohibited, and a group of persons may not be denied solely on the basis that they are not related by blood, marriage, or operation of law. For occupancy standards purposes, the applicant may claim a spousal relationship.

The term "Family" also includes, but is not limited to, regardless of actual or perceived sexual orientation (heterosexual, homosexual, bi-sexual), gender characteristics, gender identity, or marital status:

1. A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or
2. A group of persons residing together and such group includes, but is not limited to:
  - a. A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
  - 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

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

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

#### **Head of Household [24 CFR 5.504(b)]**

The head of household is the adult member of the household who is designated by the family as head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease under State/local law. Emancipated minors who qualify under State law will be recognized as head of household if there is a court order recognizing them

as an emancipated minor.

### **Spouse or Other Adult**

An individual in the household who is equally responsible for the lease with the Head of Household. A household may have a spouse.

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

### **Dependents [24 CFR 5.603]**

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, foster children/adults and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 9.

### **Joint Custody of Dependents**

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

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

### **A.2. Student Status - Full-Time Student [24 CFR 5.603, HVC GB p. 5-29]**

A *full-time student* (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to be full-time is defined by the educational institution.

Identifying each FTS is important because (1) each family member that is an FTS, other than the head, spouse, qualifies the family for a dependent deduction and (2) the earned income of such an FTS is treated differently from the earned income of other family members.

### **A.3. Students Enrolled in Institution of Higher Education**

A student enrolled at an institution of higher education under the age of 24 is not eligible for the Housing Choice Voucher assistance if the student in accordance with 24 CFR 5.612:

- Is not a veteran;
- Is unmarried;
- Has no dependent child; or
- Is individually ineligible for Housing Choice Voucher assistance, or the student's parents are, individually or jointly, ineligible for assistance.

Unless the student is determined independent from his or her parents, the eligibility of a student seeking Housing Choice Voucher assistance will be based on both the student and the parents being determined income eligible for Housing Choice Voucher assistance.

This does not apply to a student residing in a Housing Choice Voucher assisted unit with his or her parent(s), or who resides with his/her parent(s) who are applying to receive Housing Choice Voucher assistance.

Financial assistance in excess of tuition assistance received by the student will be included in annual income for determination of eligibility for Housing Choice Voucher assistance unless the student is over the age of 23 with dependent children. Financial assistance does not include loan proceeds for the purpose of determining income.

#### **A.4. Persons with Disabilities and Disabled Families [24 CFR 5.403]**

##### **Persons with Disabilities**

Under the HCV program, special rules apply to persons with disabilities and to any family whose head or spouse, is a person with disabilities. The technical definitions of individual with disabilities are provided below. These definitions are used for a number of purposes and may include ensuring that persons with disabilities are not discriminated against based upon disability.

As discussed in Chapter 2, the HAPGC must make all aspects of the HCV program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

##### **Disabled Family**

A *disabled family* is one in which the head or spouse is a person with disabilities as defined by the occupancy criteria. Identifying disabled families is important because these families qualify for special deductions from income as described in Chapter 7.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent the HAPGC from denying assistance for reasons related to alcohol and drug abuse following policies found in Part B of this chapter, or from terminating assistance following the policies in Chapter 15.

#### **A.5. Family Break-Up and Remaining Family Members**

### **Family Break-Up [24 CFR 982.315]**

The HAPGC has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up. However, if a court determines the disposition of property between members of the assisted family in a divorce or separation decree, the HAPGC is bound by the court's determination of which family members continue to receive assistance, unless contrary to federal regulations

### **Family Break-Up Prior to Eligibility**

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

If a family breaks up into two otherwise eligible families while living in public housing, only one of the new families will retain occupancy of the unit.

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

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

### **Remaining Member of a Tenant Family [24 CFR 5.403 and PIH 2010-50]**

The HUD definition of family includes the *remaining member of a tenant family*, which is a member of a resident 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.

If dependents are the only “remaining members of a tenant family” and there is no family member able to assume the responsibilities of the head of household see the policy on “Caretakers for a Child” in Part A.6.

### **Live-in Aides**

If a single member head-of-household (HOH) dies or abandons a unit and the remaining household member is a live-in aide, HAPGC is required to discontinue HAP to the owner no later than the first of the following month after the month in which the death occurred. HAPGC is required to immediately terminate program assistance for deceased single

member households which will result in termination of the HAP contract and HAP to the owner in accordance with the aforementioned provisions. The owner is not entitled to HAP for any month following the month in which the death occurred. There are no exceptions to this policy.

When the head-of-household dies or abandons a unit and the only remaining household member is the live-in aide, the live-in aide is not entitled or eligible for any rental assistance or continued occupancy in a subsidized unit.

By definition, the live-in aide would not be living in the subsidized unit except to provide the necessary supportive services on behalf of the elderly or disabled head-of-household. The HAPGC may not designate the live-in aide as the new HOH or change the relation code (line item 3h on the form HUD-50058) of the live-in aide to make him or her an eligible household member (eligible for assistance) nor pay HAP on behalf of the live-in aide for any month after the month in which the HOH died.

### **Minors as Household Members**

If the head-of-household dies or abandons the unit during tenancy and remaining household members are minors HAPGC will allow a temporary adult guardian to reside in the unit until a court-appointed guardian is established. In accordance with its screening policies, the HAPGC may add the new guardian as the new head-of household and will to work with the local Department of Social Services to ensure that the best interests of the residuals are addressed.

### **A.6. Caretakers for a Child**

The approval of a caretaker is at the HAPGC's discretion and subject to the HAPGC's screening criteria. If neither a parent nor a designated guardian remains in a household, the HAPGC will take the following actions.

If a responsible agency has determined that another adult is to be brought into the unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.

If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the HAPGC will extend the caretaker's status as an eligible visitor.

At any time that custody or guardianship legally has been awarded to a caretaker, the lease will be transferred to the caretaker, as head of household.

During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions

from income.

#### **A.7. Foster Children and Foster Adults**

*Foster adults* are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609].

The term *foster child* applies to children who are in the legal guardianship or custody of a State, county, or private adoption or foster care agency, yet are cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

Foster children or foster adults may be allowed to reside in the unit if their presence does not result in a violation of HQS space standards according to 24 CFR 982.401. With the prior written consent of the HAPGC, a foster child may be added to the Housing Choice Voucher participant family. The factors considered by the HAPGC in determining whether or not consent is granted may include:

1. Whether the addition of a new occupant may require the issuance of a new voucher, and whether such voucher subsidy is available.
2. The Housing Choice Voucher landlord's written approval of the additional persons being added to the lease.
3. Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section A.8 below.

#### **A.8. Absent Family Members**

Individuals may be absent from the family, either temporarily or permanently, for a variety of reasons including educational activities, placement in foster care, employment, illness, incarceration, and court order.

##### **Temporarily Absent**

HAPGC considers an individual who is or is expected to be absent from the assisted unit for three consecutive months or 90 calendar days in a 12-month period or less is temporarily absent and continues to be considered a family member.

##### **Permanently Absent**

HAPGC considers family members who are expected to be absent from the assisted unit for more than three consecutive months or 90 calendar days in a 12-month period a permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

##### **Absent Students**

Family members attending school away from home are considered a family member unless information becomes available to the HAPGC 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 [24 CFR 5.403]**

A child or children removed from the home by a social service agency, the agency will be contacted to determine the approximate length of time the children are expected to be away from the home.

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

If the agency indicates that the child/children are expected to return to the home at some point, the child/children will remain a part of the family composition and will be counted toward the family's subsidy standard but will not be counted as dependents until returned to the home.

If the child/children are not ever expected to be returned to the home, the child/children will be removed from the family composition and the family's subsidy standard will be reduced accordingly at the next annual review.

If HAPGC indicates that it is unknown if the child/children will be returned to the home, the children will remain a part of the family composition. Failure, by the family, to report the absence of the children may result in termination from the program.

### **Absent Head or Spouse**

An employed head or spouse absent from the unit more than 90 consecutive days due to employment will continue to be considered a family member.

When a single parent is absent from the household for an extended period (30 days) as a result of imprisonment, etc. and another adult moves into the home to care for the remaining members, the rental assistance may be terminated. In extenuating cases where the HAPGC approves the temporary absence, the family composition may be modified to include the name of the temporary guardian as temporary head of household. The HAPGC shall screen the guardian under the same criteria that it screens a live-in aide.

The temporary guardian's income will not be included in the family income. The single parent's name as head of household shall be temporarily removed and the file documented to explain the circumstances.

When the single parent returns to the unit, the guardian will vacate the unit, unless further documentation of need is verified. If the guardian remains after the return of the head of household and does not become a live-in aide, his/her income will be included in the calculation of family income. In addition to all the above, the guardian will be responsible for obtaining the owner's/landlord's approval before occupying the unit.

HAPGC will review the reason why the head of household is no longer present and may make a determination to cancel the assistance. If all members of the household are absent for thirty (30) cumulative days during a calendar year, but have not moved from the unit, assistance will be terminated. In order to determine if the family is absent from the unit, HAPGC may secure various forms of verification including but not limited to: notice and letters to the family at the unit, telephone the family at the unit, interview the owner/landlord and neighbors, and/or verify if utilities are in service. In cases where the family has moved from the unit, assistance will be terminated in accordance with the procedures set forth further in this plan.

When the family consists of only one member and that person vacates the unit to go into a hospital or nursing home for a period of more than two (2) months, the assistance will be terminated, if the person will not be returning within 60 days. If a medical source documents that the person is expected to return to the unit in 180 days or less, the person shall continue to receive assistance. If the person is not back in the unit within 180 days, assistance will be terminated.

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

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

The HAPGC will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent and the income of the person will be included. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member and be removed from the lease.

#### **Return of Permanently Absent Family Members**

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

### **A.9. Live-In Attendants**

A Family may include a live-in aide provided that such live-in aide:

- Is determined by HAPGC to be essential to the care and wellbeing of an elderly person, a near-elderly person, or a person with disabilities;
- Is not obligated for the support of the person(s); and
- Would not be living in the unit except to provide care for the person(s).

A live-in aide is considered as a household, not family member and has no rights or benefits under the program:

- Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.
- Live-in aides are not subject to Noncitizen Rule requirements.
- Live-in aides may not be considered as a remaining member of the tenant family.
- The income of the live-in aide is not counted in determining the annual income of the family.

A family's request for a live-in aide must be made in writing. The HAPGC will verify the need for a live-in aide with a reliable, knowledgeable professional as provided by the family, such as a doctor, social worker, or case worker. For continued approval, the family must submit a new, written request—subject to HAPGC verification—at each annual reexamination.

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

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

1. Commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
2. Has as a history of drug-related criminal activity or violent criminal activity; or
3. The person currently owes rent or other amounts to the HAPGC or to another HAPGC in connection with Housing Choice Voucher 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 HAPGC will notify the family of its decision in writing.

### **A.10. GUESTS [24 CFR 5.100]**

A guest can remain in the assisted unit no longer than five (5) consecutive days or a total of fourteen (14) cumulative calendar days during any 12-month period.

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

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

## **B. SCREENING FOR ELIGIBILITY**

### **Using Income Limits for Targeting [24 CFR 982.201]**

At least 75% of the families admitted to the HAPGC's program during a HAPGC fiscal year must be extremely low-income families. HUD may approve exceptions to this requirement if the HAPGC demonstrates that it has made all required efforts but has been unable to attract an adequate number of qualified extremely low-income families.

Families continuously assisted under the 1937 Housing Act and families living in eligible low-income housing that are displaced as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not subject to the 75% restriction.

### **Citizenship/Eligible Immigration Status**

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration status. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance. Eligible immigrants are persons who are in one of the six immigrant categories as specified by HUD.

HAPGC will notify all applicants of the requirement to submit evidence of their citizenship status for each family member when applying for housing. Where feasible, the notice must be in a language that is understood by the applicants not proficient in English.

In general, citizens and nationals are required to submit only a signed declaration that claims their status. However, HUD regulations permit the HAPGC to request additional documentation of their status, such as a passport or birth certificate. Family members who declare citizenship or national status will be required to provide additional documentation such as a birth certificate or other legal document.

### **Eligible Non-Citizens**

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with HAPGC efforts to verify their immigration status as described in Chapter 6. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

### **Mixed Families**

A family must have at least one member who is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "mixed." These applicant families will be given notice that their assistance will be pro-rated and that they may request a hearing if they contest this determination.

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

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

The HAPGC will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible noncitizen.

If it is determined that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 10 business days of the determination.

The notice will explain the reasons for the denial of assistance and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with the HAPGC.

The informal hearing with the HAPGC may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

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

For new occupants joining the assisted family citizenship status will be verified at the time they are added to the household.

If an individual qualifies for a time extension for the submission of required documents, the HAPGC must grant such an extension for no more than 30 days [24 CFR 5.508(h)]. Each family member is required to submit evidence of eligible status only one time during continuous occupancy, provided the verification on file is not one for temporary status to be in the country. The HAPGC will verify the status of applicants at the time other eligibility factors are determined.

### **Mandatory Social Security Numbers and Birth Certificates**

Families are required to provide verification of Social Security Numbers for all family members prior to admission. This requirement also applies to persons joining the family after admission to the program.

The HAPGC must request the applicant and participant (including each member of the household), who are not exempt under **SSN Disclosure**, to provide documentation of each disclosed SSN. Acceptable evidence of the SSN consists of:

- An original SSA-issued document, which contains the name and SSN of the individual; or
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual.

All family members must disclose all Social Security numbers assigned to them by the Social Security Administration and a certified birth certificate. This includes any numbers assigned to applicant/participant family members under any other names. Verification of these numbers must be provided.

New family members added after admission are required to disclose Social Security number and birth certificate at the time of screening.

Failure to disclose all birth certificates and Social Security numbers as required is cause for denial of admission or termination of assistance, subject to the family's right to an informal hearing.

### **Penalties for Failure to Disclose and/or Provide Documentation of the SSN**

In accordance with 24 CFR 5.218, the following penalties apply for noncompliance with the SSN disclosure and documentation requirements:

### **Applicants**

The HAPGC must deny the eligibility of an assistance applicant if they (including each member of the household required to disclose their SSN) do not disclose an SSN and/or provide documentation of such SSN. However, if the family is otherwise eligible to participate in the program, the family may maintain their position on the waiting list for a period of time as determined by the HAPGC.

The HAPGC should prescribe in its policies, the maximum time the family may remain on

the waiting list, pending disclosure of requested information. If all household members have not disclosed their SSN at the time a unit becomes available, the HAPGC must offer the available unit to the next eligible applicant family on the waiting list.

### **Participants**

The HAPGC must terminate the assistance of Housing Choice Voucher program participants (the entire household) if they (including each member of the household required to disclose they SSN) do not disclose their SSN and provide the required documentation.

However, if the family is otherwise eligible for continued assistance or tenancy in the program, the HAPGC, at its discretion, may defer the family's termination and provide the family an opportunity to comply with the requirement within a period **not to exceed 90** calendar days from the date the HAPGC determined the family noncompliant with the SSN disclosure and documentation requirement, if the PHA determines:

1. The failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside the control of the family.
2. There is a reasonable likelihood that the family will be able to disclose the SSN and provide such documentation of the SSN by the deadline.

If the family is unable to comply with the requirements by the specified deadline, the PHA must terminate the tenancy or assistance, or both of the entire family.

### **Authorization for the Release of Information/Privacy Act Notice and the Enterprise Income Verification [24 CFR 5.230,HCV GB, p. 5-13]**

Each member of the applicant family who is 18 years of age or older, must sign an Authorization for the Release of Information/Privacy Act form (HUD-9886 or HUD 9887 and 9887/A) authorizing HUD and HAPGC to request information from specified sources necessary to verify the household's income, prior to being accepted and every year thereafter.

The HAPGC must deny admission to the program if any adult member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR 5, Subparts B and F [24 CFR 982.552(b)(3)].

### **Screening for Suitability**

HAPGC may take into consideration any of the grounds for denial of admission identified in this Chapter but will not otherwise screen for factors which relate to the suitability of the applicant family as participants.

It is the responsibility of the owner to screen the applicant as to their suitability for tenancy. The HAPGC will inform owners of their responsibility to screen prospective tenants and will provide owners with the required known name and address information, at the time of the initial HQS inspection or before. The HAPGC will not provide any

additional information to the owner, such as tenancy history, criminal history, etc.

### **Screening for Drug Related and Other Criminal Activity**

HAPGC will screen all household members 18 years and older for criminal or drug related activity prior to program admission. If any household member is currently engaged in or has engaged in any of the following criminal activities, within the past three (3) years, the family will be denied admission.

The PHA will perform criminal background checks through local law enforcement for all adult household members. The PHA will also use the Dru Sjodin National Sex Offender database to screen applicants for admission.

If the results of the criminal background check indicate there may have been past criminal activity, but the results are inconclusive, HAPGC will request a fingerprint card and will request information from the National Crime Information Center (NCIC).

All household members will be screened for:

- Drug-related criminal activity, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug [24 CFR 5.100].
- Violent criminal activity, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].
- Criminal activity that may threaten the health, safety, or welfare of other tenants [24 CFR 960.203(c)(3)].
- Criminal activity that may threaten the health or safety of PHA staff, contractors, subcontractors, or agents.
- Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse.

Evidence of such criminal activity includes, but is not limited to any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past three (3) years. A conviction for such activity will be given more weight than an arrest or an eviction.

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

### **Lifetime Ban**

HUD requires that HAPGC establish lifetime bans on the admission to assisted housing

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programs for:

- Individuals found to have manufactured or produced methamphetamine on the premises of federally assisted housing (24 CFR 960.204, 24 CFR 982.553); and
- Sex offenders subject to a lifetime registration requirement under a State sex offender registration program (24 CFR 960.204, 24 CFR 982.553)

### **C. NOTICE OF ELIGIBILITY OR DENIAL**

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, the HAPGC will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 10 business days to dispute the accuracy and relevance of the information.

The HAPGC will consider the following factors prior to making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents.
- The effects that denial of assistance may have on other members of the family who were not involved in the action or failure.
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future.

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

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

If the family does not contact the PHA to dispute the information within that 10 day period, the HAPGC will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal hearing process.

#### **Removal of a Family Member's Name from the Application [24 CFR 82.552(c)(2)(ii)]**

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

The HAPGC may terminate assistance or an owner/manager may bifurcate the lease to terminate assistance to remove a lawful occupant or tenant who engages in criminal acts of violence to family members or others without terminating assistance/evicting victimized lawful occupants.

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

#### **D. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING**

The Violence against Women Act of 2013 (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibits HAPGC from denying admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

The HAPGC will provide all program participants with information about VAWA at the time of admission and at annual reexamination. The PHA will also include such information in all lease termination notices.

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

If the HAPGC decides to deny admission to an applicant family, HAPGC will include in its notice of denial, information about the protection against denial provided by VAWA in accordance with the provisions of the Act as well as including a copy of the form HUD-50066. HAPGC will request that an applicant wishing to claim this protection notify HAPGC within 10 business days.

#### **Perpetrator Documentation**

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

- A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the public housing unit
- Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest, under penalty of perjury, to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

### **Third Party Documentation**

The HAPGC may not require third-party documentation in addition to form HUD 50066, except as specified below under “Conflicting Documentation,” nor may it require certification in addition to third-party documentation [VAWA final rule].

Any request for documentation of domestic violence, dating violence, sexual assault, or stalking will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The HAPGC may, in its discretion, extend the deadline for 10 business days. Any extension granted by the PHA will be in writing.

### **Conflicting Documentation**

If presented with conflicting certification documents (two or more forms HUD-50066) from members of the same household, the HAPGC will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(b)(2) or (3) and by following any HUD guidance on how such determinations should be made.

### **HAPGC Confidentiality Requirements**

All information provided to HAPGC regarding domestic violence, dating violence, sexual assault or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

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

If the family indicates the behavior of a family member with a disability is the reason for the proposed denial of assistance, the HAPGC will determine whether the behavior is related to the disability. If so, upon the family’s request, the HAPGC will determine whether alternative measures are appropriate as a reasonable accommodation.

The HAPGC will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of assistance. See Chapter 2 for a discussion of reasonable accommodation.

## CHAPTER 6

### VERIFICATION REQUIREMENTS

**[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230]**

The HAPGC must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The HAPGC must not pass on the cost of verification to the family. The HAPGC will follow the verification guidance provided by HUD in PIH Notice 2004-01, PIH 2010-3, and PIH 2010-19 Verification Guidance and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary HAPGC policies.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the HAPGC.

#### **A. RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230]**

Families must supply any information that the HAPGC or HUD determines is necessary to the administration of the program and must consent to HAPGC verification of that information [24 CFR 982.551].

#### **Consent Forms**

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the HAPGC may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). All adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

#### **Penalties for Failing to Consent [24 CFR 5.232]**

If any family member who is required to sign a consent form fails to do so, the HAPGC will deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with HAPGC procedures.

## **B. VERIFICATIONS METHODS AND PRIORITIES**

The HAPGC will begin with the highest level of verification techniques. The HAPGC is required to access the EIV system and obtain an Income Report for each household. The HAPGC is required to maintain the Income Report in the tenant file along with the form HUD-50058 and other supporting documentation to support income and rent determinations for all mandatory annual reexaminations of family income and composition.

If the Income Report does not contain any employment and income information for the family, the HAPGC will attempt the next lower level verification technique, as noted in the below chart.

### **Level of Verification Ranking**

This verification hierarchy above applies to income determinations for applicants and participants. However, EIV is not always available for verifying income of applicants. The HAPGC is still required to use EIV for applicants to determine other factors as relates to eligibility and maintain a copy of the record in the file.

## **C. ACCEPTABLE FORM DOCUMENTS**

Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 calendar days of the date they are provided to the HAPGC. The documents must not be damaged, altered or in any way illegible. Printouts from web pages are considered original documents.

Level	Verification Technique	Ranking
6	<b>Upfront Income Verification (UIV)</b> using HUD’s Enterprise Income Verification (EIV) system (not available for income verifications of applicants)	Highest (Mandatory)
5	<b>Upfront Income Verification (UIV)</b> using non-HUD system	Highest (Optional)
4	<b>Written third Party Verification</b>	<b>High</b> (Mandatory to supplement EIV-reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV- reported employment and income information <b>and</b> is unable to provide acceptable documentation to support dispute)
3	<b>Written Third Party Verification Form</b>	<b>Medium-Low</b> (Mandatory if written third party verification documents are not available or rejected by the PHA; and when the applicant or tenant is unable to provide acceptable documentation) <b>Low</b> (Mandatory if written third party verification is not available)
2	<b>Oral Third Party Verification</b>	<b>Low</b> (Mandatory if written third party verification is not available)
1	<b>Tenant Declaration</b>	<b>Low</b> (Use as a last resort when unable to obtain any type of third party verification)

The HAPGC will accept documents dated up to 6 months before the effective date of the family's reexamination if the document represents the most recent scheduled report from a source. For example, if the holder of a pension annuity provides semi-annual reports, the HAPGC would accept the most recent report.

HAPGC staff members who view the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.

Any family self-certifications must be made in a format acceptable to the HAPGC and must be signed in the presence of a HAPGC representative or HAPGC notary public.

The HAPGC will document, in the HCV Program participant's file, the following:

- Personal Declaration Form
- Reported family annual income
- Value of assets
- Expenses related to deductions from annual income
- Other factors influencing the adjusted income or income-based rent determination

#### **D. UPFRONT INCOME VERIFICATION (UIV)**

The HAPGC will inform all applicants and participants of its use of HUD's Enterprise Income Verification (EIV) System as the UIV resource during the admission and reexamination process.

All family data collected using the EIV will be done in accordance with the HUD Enterprise Income Verification (EIV 9.5 and revisions thereof) System User Manual for Public Housing and Voucher Program Users.

#### **Enterprise Income Verification (EIV)**

The HAPGC will use the HUD's Enterprise Income Verification system as a tool to determine HCV Program eligibility by collecting data on an applicant/program participant relative to:

- W-4 data, wages and unemployment benefits.
- Social Security/Supplemental Social Security income and disability benefits from the Social Security Administration.
- Information on the new hires, identity verification, immigration status, deceased tenants and on tenants receiving multiple subsidies.
- Information on the debts owed to HAPGC's and terminations.

All data will be processed and handled in accordance with the HUD Enterprise Income Verification (EIV 9.5 and revisions thereof) System User Manual for Public Housing and Voucher Program Users.

All HAPGC staff (including HAPGC-hired management agents), who have a need to access the EIV system, are required to complete and submit the EIV Access Authorization Form & Rules of Behavior and User Agreement to their designated EIV Coordinator in the local HUD office. The form is available online at:

<http://www.hud.gov/offices/pih/programs/ph/rhiip/uivsystem.cfm>.

The user's access must be approved by the HAPGC Executive Director or designee for the local HUD office to process all EIV access requests. Individuals who will not directly access the EIV system, but will have access to the EIV data in printed or electronic form are also required to complete the EIV Access Authorization Form & Rules of Behavior and User Agreement and maintain on file (do not submit the form to the local HUD office).

### **E. THIRD-PARTY WRITTEN AND ORAL VERIFICATION**

The HAPGC will diligently seek third-party verification using a combination of written and oral requests to verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.

The HAPGC may mail, fax, e-mail, or hand deliver third-party written verification requests and will accept third-party responses using any of these methods.

The HAPGC will send a written request for verification to each required source within 5 business days of securing a family's authorization for the release of the information and give the source 10 business days to respond in writing. If a response has not been received by the 11<sup>th</sup> business day, the HAPGC will request third-party oral verification.

The HAPGC will make a minimum of two attempts, one of which may be oral, to obtain third-party verification. A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source will be documented in the file.

Regarding third-party oral verification, HAPGC staff will record, in the family's file, the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification the HAPGC will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

If a third party agrees to confirm in writing the information provided orally, the HAPGC will wait no more than 5 business days for the information to be provided. If the information is not provided by the 6<sup>th</sup> business day, the HAPGC will use any information provided orally in combination with reviewing family-provided documents.

When third-party verification has been requested and the timeframes for submission have been exceeded, the HAPGC will use the information from documents on a provisional basis. If the HAPGC later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, the HAPGC will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of the HAPGC's interim reexamination policy.

#### **Information Not Requiring Third-Party Verification**

The HAPGC will use review of documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than \$500 annually *and* the family has original documents that support the declared amount.

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

provide the necessary information.

If the family cannot provide original documents, the HAPGC will pay the service charge required to obtain third-party verification, unless it is not cost effective. In this case, a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost.

The HAPGC will document in the family file the reason that the third-party verification was not available and will place a photocopy of the original document(s) in the family file. [VG, p. 15]

### **Applicant/Participant Provided Documents**

If the HAPGC has determined that third-party verification is not available or not required, the HAPGC will use documents provided by the family as verification.

The HAPGC may also review documents when necessary to help clarify information provided by third parties. In such cases the HAPGC will document in the file how the HAPGC arrived at a final conclusion about the income or expense to include in its calculations.

## **F. SELF-CERTIFICATION**

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the HAPGC.

The HAPGC may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the HAPGC and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a HAPGC representative or HAPGC notary public.

## **G. INFORMATION REQUIRING VERIFICATION**

The HAPGC requires applicants and participants to provide the following information to verify eligibility for housing assistance:

- All income not specifically excluded by the regulations.
- Zero-income status of household.
- Full-time student status including high school students who are 18 or over.

- Current assets, including assets disposed of for less than fair market value in the preceding two years.
- Child care expense when child care allows an adult family member to be employed, to seek employment, or to further his/her education.
- Total medical expenses of all family members in households whose head or spouse is elderly or disabled.
- Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus that allow an adult family member to be employed.
- U.S. citizenship or eligible immigrant status.
- Social Security numbers for all family members who have been issued a number.
- Qualification of preferences.
- Familial/marital status when needed for head or spouse definition.
- Disability status for determination of preferences, allowances, or deductions.
- Pregnancy of a woman who applies to live alone as a family.
- Documentation for need of live-in aide.
- Insurance/ownership/RE taxes/water and sewerage/tax form ID of property owner.
- Medical requests.
- Any other information required to ensure program compliance.

All above documents are subject to HUD regulations and will be revised to comply with HUD regulations.

## **H. VERIFICATION OF INCOME**

### **Earned Income**

Acceptable methods for verifying earned income include, in this order:

- Employment verification form completed by the employer or completed by HAPGC staff via telephone conversation with employer when staff initiates the call.
- Check stubs or earning statements indicating the employee's gross pay, frequency of pay, or year-to-date earnings.
- W-2 forms plus income tax return forms.
- Income tax returns signed by the family for verification of self-employment income or income from tips and other gratuities.
- Employers must specify the following on the verification forms:
  - Dates of employment.

- Amount and frequency of pay.
- Date of the last pay increase.
- Likelihood of change of employment status and effective date of any known salary increase during the next 12 months.
- Year to date earnings; and
- Estimated income from overtime, tips, and bonus pay expected during next 12 months.
- When doubt regarding income exists, applicants and program participants may be requested to sign an authorization for release of information from the Internal Revenue Service for further verification of income. Referrals to the IRS for confirmation will be made on a case-by-case basis.

### **Social Security, Pensions, Supplementary Security Income (SSI) and Disability Income**

Acceptable methods of verification include, in this order:

- HAPGC will obtain verification through the HUD EIV system.
- Benefit verification form completed by the agency providing the benefits. Once an applicant has received a verification letter, they will be required to provide it to HAPGC
- Award or benefit notification letters provided by the providing agency.

### **Unemployment Compensation**

Acceptable methods of verification include, in this order:

- Verification form completed by the unemployment compensation agency.
- Computer printouts from unemployment office stating payment dates and amounts.

### **TANF or General Assistance Payments**

Acceptable methods of verification include, in this order:

- HAPGC verification form with computer printout completed by payment provider.
- Written statement from payment provider indicating the amount of grant/payment, start date of payments, and anticipated changes in payment in the next 12 months.
- Computer-generated Notice of Action.

### **Alimony or Child Support Payments**

Acceptable methods of verification include, in this order:

- If payments are made through a state or local entity, the HAPGC will request a record of payments for the past 12 months and request that the entity disclose any known

information about the likelihood of future payments.

- Third-party verification form from the state or local child support enforcement agency.
- Third-party verification from the person paying the support.
- Copy of separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.
- Copy of latest check and/or payment stub from a court trustee. The HAPGC must record the date, amount, and number of the check.
- Family's self-certification of amount received, and the likelihood of support payments being received in the future, or self-certification that support payments are not being received.
- If payments are irregular, copy of separation or settlement agreement or divorce decree stating the amount and type of support and payment schedules *and* one of the following:
  - Statement from agency responsible for enforcing payments demonstrating that the family has filed for enforcement;
  - Welfare notice of action showing amounts received by the welfare agency for child support; or
  - Written statement from an attorney certifying that a collection or enforcement action has been filed.

Note: Families are not required to undertake independent enforcement action.

### **Business and Self-Employment Income**

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

- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted, and the business owner or self-employed person must certify to its accuracy.
- All schedules completed for filing federal and local taxes in the preceding year.

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

The HAPGC will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the HAPGC may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

### **Retirement Accounts**

When third-party verification is not available the type of original document that will be accepted depends upon the family member's retirement status.

- *Before* retirement, the HAPGC will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.
- *Upon* retirement, the HAPGC will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.
- *After* retirement, the HAPGC will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

### **Income from Excluded Sources**

The HAPGC will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family share (as is the case with the earned income disallowance). In all other cases, the HAPGC will report the amount to be excluded as indicated on documents provided by the family.

### **Zero Income Status**

The HAPGC will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc., are not being received by families claiming to have zero annual income. In addition, the family will be required to complete a "Zero Income Checklist".

When the HAPGC determines through EIV system reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 17, Program Integrity.

### **Student Financial Assistance**

For a student subject to having a portion of his/her student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), the HAPGC will request third-party written verification of both the source and the amount from the educational institution attended by the student as well as from any other person or entity providing such assistance, as reported by the student.

In addition, the HAPGC will request written verification from the institution of higher education regarding the student's tuition amount.

If the HAPGC is unable to obtain third-party written verification of the requested information, the HAPGC will pursue other forms of verification following the verification hierarchy in Part B of this Chapter.

### **Parental Income of Students Subject to Eligibility Restrictions**

If the HAPGC is required to determine the income eligibility of a student's parents, the HAPGC will request an income declaration and certification of income from the appropriate parent(s). The HAPGC will send the request directly to the parents, who will be required to certify to their income under penalty of perjury.

The parents will be required to submit the information directly to the HAPGC. The required information must be submitted (postmarked) within 10 business days of the date of HAPGC's request or within any extended timeframe approved by the HAPGC.

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

## **I. INCOME FROM ASSETS**

### **Checking/Savings Accounts and Investments**

Checking and Savings Account Interest Income and Dividends may be verified through:

- HAPGC verification forms completed by the financial institution.
- Account statements, passbooks, certificates of deposit.
- Broker's statements showing value of stocks or bonds and the earnings credited the family. Earnings can be obtained from current newspaper quotations or oral broker's verification. IRS Form 1099 from the financial institution, provided that the HAPGC adjusts the information to project earnings expected for the next 12 months.

### **Income from Rental Properties**

The family must provide:

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

## **J. VERIFICATION OF ASSETS**

The HAPGC will require the necessary information to determine the current cash value of the asset. (The current cash value is the net amount the family would receive if the asset were converted to cash.)

### **Family Assets**

Family assets may be verified using:

- Verification forms, letters, or documents from a financial institution or broker.
- Passbooks, checking account statements, certificates of deposit bonds, or financial statements completed by a financial institution or broker.
- Quotes from a stock broker or realty agent as to net amount family would receive if they liquidated securities or real estate.
- Real estate tax statements if the approximate current market value can be reduced from assessment.
- Financial statements for business assets.
- Copies of closing documents showing the selling price and the distribution of the sales proceeds.
- Appraisals of personal property held as an investment.
- Family's self-certification describing assets or cash held at the family's home or in safe deposit boxes.

### **Assets Disposed of for Less than Fair Market Value**

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The HAPGC needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

The HAPGC will verify the value of assets disposed of only if:

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

Example 1: An elderly participant reported a \$10,000 certificate of deposit at the last annual reexamination and the HAPGC verified this amount. Now the person reports that she has given this \$10,000 to her son. The HAPGC has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately \$5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the HAPGC will verify the value of this asset.

## **K. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME**

### **Child Care Expenses**

Child care expenses are eligible as income deduction only if the HAPGC can verify that the family member(s) is using child care services to seek work, pursue education, or be gainfully employed, and are actually pursuing those activities. Verification of child care expenses should include:

- Written verification from the person who receives the payments. If the child care provider is an individual, a statement of the amount the individual is charging the family for the service.
- Verifications must specify the name of the child care provider, address, telephone number, Social Security number, names of children cared for, number of hours cared for and the specific hours of care, rate of pay, and typical yearly amount paid, including school and vacation periods.
- Family certification as to whether any of the child care payments have been or will be paid or reimbursed by outside sources.
- The child care provider and family will be asked to certify that, to the best of the provider's knowledge, the child care expenses are not paid by or reimbursed to the family from any source.

#### *Eligible Child*

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The HAPGC will verify that the child being cared for (including foster children) is under the age of 13.

Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.

Payments for child care to relatives who do not live in the unit are eligible

#### *Pursuing and Eligible Activity*

The HAPGC must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

### *Ineligible Child Care Expenses*

- For school-age children under 13 years of age, costs attributable to public or private school activities during standard school hours are not considered.
- The costs of general housekeeping and personal services are not eligible.
- Child care expenses paid to a family member who lives in the family's unit are not eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the HAPGC will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. However, if the family has an adult that is working, they may be eligible for a disability expense deduction. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

### *Reasonableness of Expenses*

Only reasonable child care costs can be deducted for seeking employment or furthering education.

The actual costs the family incurs will be compared with the HAPGC's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable. HAPGC will use local welfare agency guidelines.

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

The HAPGC shall use the local HHS determinations as the limit on what is reasonable for the area.

### **Medical Expenses**

Families who claim medical expenses or expenses to assist a person(s) with a disability or handicap will be required to submit a certification as to whether or not any expense payments have been, or will be, reimbursed by an outside source. All expense claims will be verified by one or more of the methods listed below:

- EIV;
- Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist of:
  - The anticipated medical costs to be incurred by the family and regular payments due on medical bills;

- The extent to which those expenses will be reimbursed by insurance or a government agency.
- Written confirmation by the insurance company or employer of health insurance premiums to be paid by the family.
- Written confirmation from the Social Security Administration indicating the amount of Medicare premiums to be paid by the family over the next 12 months. A computer printout will be accepted.
- If third-party is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case the HAPGC will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The HAPGC will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months;
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.
- In addition, the HAPGC must verify that:
  - The household is eligible for the deduction.
  - The costs to be deducted are qualified medical expenses.
  - The expenses are not paid for or reimbursed by any other source.
  - Costs incurred in past years are counted only once.

### **Attendant Care**

The HAPGC will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Third-party professional's certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.
- The attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or paycheck stubs from the agency providing the services.
- Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next 12 months.
- Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of the next 12 months.
- Receipts or other record of medical expenses incurred during the past 12 months that can be used to anticipate future medical expenses. HAPGC may use this approach for

“general medical expenses” such as non-prescription drugs and regular visits to doctors or dentists, but not for one-time, nonrecurring expenses from the previous year.

**Medical Auxiliary Apparatus and Equipment**

Expenses for auxiliary apparatus will be verified through:

- Third-party verification of purchase costs of auxiliary apparatus, billing statements for purchase of auxiliary apparatus.
- Other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.
- If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.
- In addition, the HAPGC must verify that:
  - The family member for whom the expense is incurred is a person with disabilities (as described above).
  - The expense permits a family member, or members to work.
  - The expense is not reimbursed from another source.

**L. DOCUMENTATION OF IDENTITY AND OTHER NON-FINANCIAL QUALIFYING FACTORS**

**Verification of Legal Identity**

HAPGC requires families to furnish verification of legal identity for each household member using one or more of the following:

- Current, valid Driver’s License (Photo Only)
- Department of Motor Vehicles Identification Card (Photo only)
- Certificate of Birth, naturalization papers
- U.S. military discharge (DD 214)
- U.S. passport
- Church-issued baptismal certificate
- Voter’s registration
- Adoption papers
- Custody agreement
- School records
- Health and Human services ID

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at HAPGC’s discretion, a third party who knows the person may attest to the person’s identity. The certification must be provided in a format acceptable to the HAPGC and be signed in the presence of a HAPGC representative or HAPGC notary public.

Legal identity will be verified on an as needed basis.

### **Social Security Numbers**

The HAPGC will also accept the following documents as evidence if the SSN is provided on the document until the family obtains a duplicate Social Security card from the SSA:

- Driver's license (photo only)
- Other identification card issued by a federal, state, or local agency, a medical insurance company or provider, or employer or trade union
- Payroll stubs
- Benefit award letters from government agencies; retirement benefit letters; life insurance policies
- Court records (real estate, tax notices, marriage and divorce, judgment or bankruptcy records)

Documentation of a valid social security number (SSN) must be provided for every household member age 6 or older, of a self-certification stating that no SSN has been issued. The self-certification must be executed personally by any family member 18 or older, or by a parent or guardian for a minor.

The HAPGC requires documentation of the SSN within 30 calendar days from the date of the family member's self-certification mentioned above. If the family is an applicant, assistance cannot be provided until proper documentation of the SSN is provided.

The HAPGC will instruct the family to obtain a duplicate card from the local Social Security Administration (SSA) office.

For individuals who are at least 62 years of age and are unable to submit the required documentation of their SSN within the initial 30-day period, the HAPGC will grant an additional 30 calendar days to provide documentation.

Social security numbers must be verified only once during continuous HCV Program assistance.

If any family member obtains an SSN after admission to the program, the new SSN must be disclosed at the next regularly scheduled reexamination. In addition, if a child reaches the age of 6 and has no SSN, the parent or guardian must execute a self-certification stating that the child has no SSN at the next regularly scheduled reexamination.

The social security numbers of household members, such as live-in aids, must be verified for the purpose of conducting criminal background checks.

### **Documentation of Age**

The HAPGC will document the age of all new applicants and new additions to an existing program participant's family. A birth certificate or an official record of birth is the only

acceptable documentation of verification of age. Elderly family members may provide evidence of social security retirement benefits as an acceptable record of birth if an official birth certificate is not available.

Age must be verified only once during continuous HCV Program assistance.

### **Family Relations**

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

- **Marriage** - The HAPGC requires the family to document the marriage. A marriage certificate is required to verify that a couple is married.
- **Separation or Divorce** - Certification by the head of household is normally sufficient verification. If the HAPGC has reasonable doubts about a separation or divorce, the HAPGC will require the family to document the divorce, or separation. A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced. A copy of a court-ordered maintenance or other court record is required to document a separation. If no court document is available, documentation from a community-based agency will be accepted.
- **Absence of Adult Member** - If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).
- **Foster Children and Foster Adults** - Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

### **Verification of Student Status**

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

- The family reports full-time student status for an adult other than the head, spouse, or co-head.
- The family reports child care expenses to enable a family member to further his or her education.
- The family claims an income exclusion because the student is receiving earned income and only the first \$480 is included as income

If the HAPGC cannot obtain third-party verification, it will be documented in the family file the reason that the third-party verification was not available and will place a photocopy of the original document(s) in the family file.

### **Restrictions on Assistance to Students Enrolled in Institutions of Higher Education**

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

In accordance with the verification hierarchy described in Section B of this Chapter, the HAPGC will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965.
- The student is at least 24 years old.
- The student is a veteran.
- The student is married.
- The student has at least one dependent child.

If the HAPGC cannot verify at least one of these exemption criteria, the HAPGC will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, the HAPGC will then proceed to verify either the student's parents' income eligibility (see section below).

### **Independent Student**

The HAPGC will verify a student's independence from his/her parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

- Reviewing and verifying previous address information to determine whether the student has established a household separate from his/her parents for at least one year or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student*.
- Reviewing prior year income tax returns to verify whether a parent has claimed the student as a dependent
- Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is \$0.

### **Documentation of Disability**

For family members claiming disability who receive disability benefits from the SSA, the HAPGC will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System or TASS is not available, the HAPGC will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status.

If the family is unable to provide the document(s), the HAPGC will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the applicant or participant receives the benefit verification letter, they will be required to provide it to the HAPGC.

For family members who receive disability benefits from other than the SSA such as veterans' benefits, Worker's Compensation, etc., a knowledgeable professional or issuing agency must provide third-party verification that the family member meets the HUD definition of disability.

### **Citizenship or Eligible Immigrant Status**

To be eligible for assistance, individuals must be U.S. citizens or eligible immigrants. Individuals who are neither may elect not to contend their status. Eligible immigrants must fall into one of the categories below specified by the regulations and must have their status verified by Immigration and Naturalization Service (INS).

Each family member must declare his/her status once. Assistance cannot be delayed, denied, or terminated while verification of status is pending except that assistance to applicants may be delayed while the HAPGC hearing is pending.

- Citizens or Nationals of the United States: Signed declaration under penalty of perjury. HAPGC will not require citizens to provide documentation of citizenship.
- Eligible Immigrants who were HCV Program participants and 62 or over on June 19, 1995 are required to sign a declaration of eligible immigration status and proof of age.
- Non-citizens with eligible immigration status: Signed declaration of status and verification consent form and submission of original immigration documents to the HAPGC, which are to be copied and returned to the family. The HAPGC verifies the status through the INS SAVE system. If this primary verification fails to verify status, the HAPGC must request within ten days that the INS conduct a manual search.

## CHAPTER 7

### INCOME, SUBSIDY DETERMINATION AND SUBSIDY STANDARDS

#### A. DETERMINATION OF HOUSEHOLD INCOME

The HAPGC will use the methods described in this Chapter of the Administrative Plan to verify and determine that family income at admission and reexamination is correct. The accurate calculation of Annual Income and Adjusted Income will ensure that families are not paying more or less money for rent than their obligation under the regulations.

#### **Income**

All amounts, cash, or non-cash benefits, which are received on behalf of the family. For the purposes of calculating Total Tenant Payment (TTP), HAPGC defines what is to be included and what is to be excluded as income in accordance with Federal Regulations. In accordance with this definition, all income that is not specifically excluded in the regulations is counted.

#### **Annual Income [24 CFR 5.609(b)(1)].**

The gross amount of income anticipated to be received by the family during the 12 months after certification or recertification. Annual income is the amount of income prior to any HUD allowable expenses or deductions and does not include income that has been excluded by HUD. Annual income is used to determine whether or not applicants are within the applicable income limits.

Annual income includes, but is not limited to:

1. **Earned Income.** The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.

For persons who regularly receive bonuses or commissions, the HAPGC will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the HAPGC will use the prior year amounts. In either case the family may provide, and the HAPGC will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the HAPGC will count only the amount estimated by the employer. The file will be documented appropriately.

2. **Business Income.** The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness are not used as deductions in determining net income.

An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or

profession is included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

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

- 3. *Interest/Dividends/Assets.*** The HAPGC will generally use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the HAPGC to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the HAPGC believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income, but the property is currently vacant, the HAPGC can take into consideration past rental income along with the prospects of obtaining a new tenant.

Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness are not used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations.

Any withdrawal of cash or assets from an investment is included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income includes the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.

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

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the HAPGC will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners. If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the HAPGC will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the HAPGC will prorate the asset evenly among all owners.

4. ***Social Security/Annuity/Retirement.*** The full number of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount. (However, deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts are excluded.)
5. ***Unemployment/Workers Comp/Severance.*** Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay. (However, lump sum additions such as insurance payments from worker's compensation are excluded.)
6. ***Welfare assistance.*** Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].
7. ***Alimony and Child Support.*** Court-awarded amounts for alimony and child support unless the HAPGC verifies that: (1) the payments are not being made, and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47]. Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.
8. ***Regular Contributions and Gifts.*** The HAPGC will count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted family. Temporary, nonrecurring, or sporadic income and gifts are not counted. Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis. Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by the HAPGC. For contributions that may vary from month to month (e.g., utility payments), the HAPGC will include an average amount based upon past history.
9. ***Military Pay.*** All regular pay, special pay, and allowances of a member of the Armed Forces. (Special pay to a member exposed to hostile fire is excluded.)

### **Variable Income**

When Annual Income cannot be anticipated for a full twelve months, the HAPGC may:

1. Average known sources of income to compute an annual income; or
2. Annualize current income.

The method used depends on the regularity, source, and type of income. If there are

bonuses or overtime pay which the employer cannot anticipate for the next 12 months, bonuses and overtime received the previous year will be used unless the employer certifies that these payments are expected to be different in the coming year.

If, by averaging, an estimate can be made for those families whose income fluctuates from month to month, then the estimate will be used to reduce the number of interim adjustments.

When a delayed-start payment is received and reported during the period in which the HAPGC is processing an annual reexamination, the HAPGC will adjust the family share and HAPGC subsidy retroactively for the period the payment was intended to cover if HAP would have changed under the interim policy. The family may pay in full any amount due or request to enter into a repayment agreement with the HAPGC.

## **B. EXCLUSIONS FROM ANNUAL INCOME**

HAPGC does not include the following as Annual Income:

1. Income from employment of children (including foster children) under the age of 18 years;
2. 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);
3. 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;
4. Amounts received by the family that is specifically for, or in reimbursement of, the cost of medical expenses for any family member;
5. Income of a live-in aide;
6. The full amount of student financial assistance paid directly to the student or to the educational institution;
7. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
8. The amounts received from the following programs:
  - Amounts received under training programs funded by HUD;
  - Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
  - Amounts received by a participant in other publicly assisted employment training

programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and that are made solely to allow participation in a specific program;

- 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 HAPGC 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;
  - 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; and
  - Temporary, nonrecurring, or sporadic income (including gifts) defined as happening in irregular intervals in time and isolated, as a single instance; being or occurring apart from others.
9. Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);
  10. Adoption assistance payments in excess of \$480 per adopted child;
  11. Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts;
  12. 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;
  13. 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
  14. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits. These exclusions include:
    - The value of the allotment of food stamps;
    - Payments to volunteers under the Domestic Volunteer Services Act of 1973;
    - Payments received under the Alaska Native Claims Settlement Act;

- Income from submarginal land of the U.S. that is held in trust for certain Indian tribes;
- Payments made under HHS's Low-Income Energy Assistance Program;
- Payments received under the Job Training Partnership Act;
- Income from the disposition of funds of the Grand River Band of Ottawa Indians;
- The first \$2,000 per capita received from judgment funds awarded for certain Indian claims;
- Amount of scholarships awarded under Title IV including Work-Study;
- Payments received under Title V the Older Americans Act of 1965.
- Payments from Agent Orange Settlement;
- Earned income tax credit refund payments;
- Payments for living expenses under the AmeriCorps Program;
- Temporary income payments from the U. S. Census Bureau, defined as Employment lasting no longer than 180 days and not culminating in permanent employment.

### C. ADJUSTED INCOME

Adjusted Income is defined as Annual Income minus any HUD allowable deductions. HAPGC uses the five (5) HUD allowable deductions from Annual Income:

1. **Dependent allowance:** \$480 each for family members who are minors (other than the head or spouse or co-head) and for family members who are 18 years or older and full-time students or disabled.
2. **Reasonable Child Care Expenses:** Deducted for the care of children under 13 when child care is necessary to allow an adult member to work, attend school, or actively seek employment.
3. **Elderly/disabled allowance:** \$400 per family for families whose head or spouse is 62 or over or disabled.
4. **Allowable medical expenses:** Unreimbursed medical expenses which exceed three percent (3%) of Annual Income may be deducted for all family members of an eligible elderly/disabled family.
5. **Allowable Disability Assistance Expenses:** Unreimbursed medical expenses which exceed three percent (3%) of Annual Income which are for attendant care or auxiliary apparatus for persons with disabilities (including assisted animal care), may be

deducted when the expenditure enables the individual or an adult family member to work. If a family has both Disability Assistance and Medical Expenses, the three percent of Annual Income is applied only once and always to the Disability Assistance expense first.

6. **Medical Expenses.** The medical expense deduction is permitted only for families in which the head, spouse, or co-head is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted. HAPGC will refer to IRS Publication 502 as a guide below. To be considered by the HAPGC for the purpose of determining a deduction from income, the expenses claimed must be verifiable.

<b>Summary of Allowable Medical Expenses from IRS Publication 502</b>	
<p>Services of medical professionals</p> <p>Surgery and medical procedures that are necessary, legal, non-cosmetic</p> <p>Services of medical facilities</p> <p>Hospitalization, long-term care, and in-home nursing services</p> <p>Prescription medicines and insulin, but <u>not</u> nonprescription medicines even if recommended by a doctor</p> <p>Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)</p>	<p>Substance abuse treatment programs</p> <p>Psychiatric treatment</p> <p>Ambulance services and some costs of transportation related to medical expenses</p> <p>The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth)</p> <p>Cost and continuing care of necessary service animals</p> <p>Medical insurance premiums or the cost of a health maintenance organization (HMO)</p>
<p><b>Note:</b> This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.</p>	

7. **Child Care Expenses.** Reasonable child care expenses for children less than 13 years of age may be deducted from annual income if they enable an adult to work, attend school full time, or actively seek employment. In the case of a child attending private school, only after-hours care can be counted as childcare expenses. The maximum childcare expense allowed is based on the following guidelines:

- Child care to work: Child care expenses allowed must be less than the amount earned by the person enabled to work. The person enabled to work will be the adult member of the household who earns the least amount of income from working.

- Child care for school: The number of hours claimed for child care may not exceed the number of hours the family member is attending school (including one hour travel time to and from school).

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household. However, childcare expenses for foster children that are living in the assisted family's household are included when determining the family's childcare expenses [HCV GB, p. 5-29].

#### **D. TENANT RENT AND SUBSIDY CALCULATION**

##### **Total Tenant Payment Formula [24 CFR 5.628]**

HAPGC will use the HUD regulatory formula for calculating total tenant payment (TTP) assisted families are required to pay toward the rent of a unit. TTP is the highest of the following amounts, rounded to the nearest dollar:

1. 10% of monthly gross income;
2. 30% of monthly adjusted income; or
3. Minimum Rent.

##### **Family Share [24 CFR 982.305(a)(5)]**

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the HAPGC's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the HAPGC may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. The income used for this determination must have been verified no earlier than 60 days before the family's voucher was issued.

##### **HAPGC Subsidy [24 CFR 982.505(b)]**

The HAPGC will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

##### **Minimum Rent**

The HAPGC has set the minimum rent as \$50.00 per month.

##### **Financial Hardship Affecting Minimum Rent**

A hardship will be considered to exist only if:

- The loss of eligibility has an impact on the family's ability to pay the minimum rent;
- Family would be evicted as a result of imposing the minimum rent requirement;
- Family's income has decreased because of changed circumstances including the loss

of employment; or

- There has been a death in the family.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following: (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent. The HAPGC will make the determination of hardship within 30 calendar days

If a family requests a minimum rent hardship exception, the HAPGC will suspend the minimum rent charge and adjust the HAP payment effective the beginning of the month following the family's hardship request until the HAPGC determines whether there is a qualifying hardship and whether such hardship is temporary or long term.

The HAPGC may request documentation of the hardship and will determine promptly whether a hardship exists and whether it is temporary or long term. If the HAPGC determines that no hardship exists, the minimum rent will be imposed retroactively to the time of suspension.

If the hardship is determined to be temporary, the minimum rent will not be imposed for a period of 90 days beginning the month following the date of the family's request. At the end of that period, the minimum rent will be imposed retroactively to the time of suspension. A reasonable repayment agreement to cover minimum rent charges accumulated during the suspension will be offered.

If the HAPGC determines the hardship to be of long-term duration, the family will receive an exemption until the hardship no longer exists.

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

- At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
- For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a \$60/month child support payment, the hardship will continue to exist until the family receives at least \$60/month in income from another source or once again begins to receive the child support.
- For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

## **E. PAYMENT STANDARDS [24 CFR 982.505]**

The HAPGC's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the HAPGC's payment standards. The establishment and revision of the HAPGC's payment standard schedule are covered in Chapter 11.

The payment standard for a family is the lower of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the HAPGC's subsidy standards [24 CFR 982.4(b)], or (2) the payment standard for the size of the dwelling unit rented by the family.

If the HAPGC has established an exception payment standard for a designated part of an FMR area and a family's unit is located in the exception area, the HAPGC must use the appropriate payment standard for the exception area.

The HAPGC is required to pay a monthly housing assistance payment (HAP) for a family that is the lower of (1) the payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

### **Changes in Payments Standards**

When the HAPGC revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations.

**Decreases.** If the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard generally will be used beginning at the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard. The HAPGC will determine the payment standard for the family as follows:

**Step 1:** At the first regular reexamination following the decrease in the payment standard, the HAPGC will determine the payment standard for the family using the lower of the payment standard for the family unit size or the size of the dwelling unit rented by the family.

**Step 2:** The HAPGC will compare the payment standard from step 1 to the payment standard last used to calculate the monthly housing assistance payment for the family. The payment standard used by the HAPGC at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. The HAPGC will advise the family that the application of the lower payment standard will be deferred until the second regular reexamination following the effective date of the decrease in the payment standard.

**Step 3:** At the second regular reexamination following the decrease in the payment standard, the lower payment standard will be used to calculate the monthly housing assistance payment for the family unless the HAPGC has subsequently increased the

payment standard, in which case the payment standard will be determined in accordance with procedures for increases in payment standards described below.

**Increases.** If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7-8].

## **F. UTILITY ALLOWANCE**

The HAPGC will maintain an up-to-date utility allowance schedule. The Utility Allowance is intended to help defray the cost of utilities not included in the rent and is subtracted from the Total Tenant Payment to establish the family's rent to the landlord. The allowance is 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 and is updated annually by HUD. Allowances are not based on the individual family's actual energy consumption.

The revised utility allowances will be applied in a participant family's rent calculation at the next reexamination. The approved utility allowance schedule is given to families at each briefing. The utility allowance is based on the actual unit size selected.

### **Utility Reimbursement**

When the housing subsidy for a family exceeds the rent to owner, HAPGC will make utility reimbursements to the family. The HAPGC may make utility reimbursement payments quarterly, rather than monthly, if the total quarterly reimbursement payment due to a family is equal to or less than \$45 per quarter.

The HAPGC will permit a family to request a hardship exemption, in accordance with 24 CFR 5.630(b) (2). If a family receives a hardship exemption, then the HAPGC may either reimburse the family on a monthly basis or it may make *prospective* payments to the family, on a quarterly basis.

## **G. PRORATED ASSISTANCE FOR MIXED FAMILIES**

HAPGC will offer prorated assistance 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" that were participants on June 19, 1995, and that 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 member are entitled to prorated assistance.

Pro-rated assistance is calculated by determining the amount of assistance payable if all family members were eligible and multiplying by the percent of the family members who actually are eligible. Total Tenant Payment (TTP) is the gross rent minus the prorated assistance. For example, if the HAPGC subsidy for a family is calculated at \$500 and two of four family members are ineligible, the HAPGC subsidy would be reduced to \$250.

## **H. SUBSIDY STANDARDS**

The HAPGC must establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions. This section presents the policies that will be used to determine the family unit size (also known as the voucher size) a particular family should receive, and the policies that govern making exceptions to those standards. The HAPGC also must establish policies related to the issuance of the voucher, to the voucher term, and to any extensions or suspensions of that term.

### **Determining Family Unit (Voucher) Size [24 CFR 982.402]**

For each family, the HAPGC determines the appropriate number of bedrooms under the HAPGC subsidy standards and enters the family unit size on the voucher that is issued to the family. The family unit size does not dictate the size of unit the family must actually lease, nor does it determine who within a household will share a bedroom/sleeping room. The following requirements apply when the HAPGC determines family unit size:

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the housing quality standards.
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- A family that consists of a pregnant woman (with no other persons) may be treated as a two-person family.
- Any live-in aide (approved by the HAPGC to reside in the unit to care for a family member who is disabled) must be counted in determining the family unit size; Upon HAPGC approval of a request for the addition of a live-in aide, HAPGC shall notify participants that they have been approved for a live-in aide and that they must submit the name, and any other required information of their selection for screening. If the live-in aide is disapproved or the participant does not submit an approvable live-in aide, or the approvable live-in aide does not live in the dwelling unit, then the voucher size shall be decreased to the proper voucher size with a proper change notice of 30 additional days.
- Unless a live-in aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as

determined under the HAPGC subsidy standards.

- HAPGC will not issue a larger voucher due to additions to the household of family members other than by birth, adoption, marriage, or court-awarded custody. HAPGC will not increase the bedroom size for a participant when an adult (18 years old and older) is being added to the household, including if the adult to be added is a child of the head of household or co-head, unless it is as a reasonable accommodation to add an adult child that is disabled.

**Voucher Bedroom Size**

The HAPGC will assign one bedroom for the head of household and one bedroom for each two persons thereafter, within the household, except in the following circumstances:

- Live-in aides will be allocated a separate bedroom. No additional bedrooms are provided for the live-in aide’s family.
- Single person families will be allocated one bedroom.

The HAPGC will reference the following chart in determining the appropriate voucher size for a family:

Voucher Size	Persons in Household	
	Minimum	Maximum
1 Bedroom	1	2
2 Bedrooms	2	4
3 Bedrooms	3	6
4 Bedrooms	4	8
5 Bedrooms	6	10

HAPGC shall assign 1 bedroom for each head of household and/or Spouse/Partner and 1 bedroom for each 2 persons within the approved household with the following exceptions;

- Minors/Children of opposite sex shall be assigned a separate bedroom once one of the minor/children turn the age of five (5)
- Minors/Children of the same sex shall assigned 1 bedroom
- Adult household members shall not be assigned a single bedroom with a minor/child

A participant may select a smaller size unit than the size listed on their Housing Choice Voucher, however, the payment standard for the smaller size unit shall be utilized. If HAPGC errs in the bedroom size designation, the family will be issued a voucher of the appropriate size.

**Exceptions to Subsidy Standards and Revisions [24 CFR 982.402(b)(8)]**

The HAPGC will consider granting an exception for any of the reasons specified in the regulation: the age, sex, health, handicap, or relationship of family members or other personal circumstances.

The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a larger family unit size and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source unless the disability and the disability-related request for accommodation is readily apparent or otherwise known.

The HAPGC will notify the family of its determination within 10 business days of receiving the family's request and upon receipt of any documentation requested to verify the request. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

### **Reasonable Accommodations Regarding Live-In Aides [24 CFR Section 982.316]**

The HAPGC must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR part 8 to make the program accessible to and usable by a family member with a disability. The HAPGC may disapprove a particular person as a live-in aide if they have: (1) committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program; (2) committed drug-related criminal activity or violent criminal activity; or (3) currently owe rent or other amounts to the HAPGC or to another HAPGC in connection with Housing Choice Voucher or public housing assistance under the 1937 Act or for other reasons as determined by the HAPGC. Consequently, the HAPGC may not approve an unidentified live-in aide, nor a larger unit than the family qualifies for under HAPGC's subsidy standards for an unidentified live-in aide.

Occasional, intermittent, multiple, or rotating care givers typically do not reside in the unit and would not qualify as live-in aides. Therefore, an additional bedroom should not be approved for a live-in aide under these circumstances.

Although HAPGC may approve an additional bedroom for medical equipment or other reasons if the need is documented by a health care provider, the actual equipment or need in the extra bedroom should be verified by the HAPGC during the annual inspection of the unit. If the extra bedroom is not being used for the intended purpose, the HAPGC must reduce the subsidy standard and corresponding payment standard at the family's next annual recertification. However, the HAPGC may take further action, if it believes any family obligations under 24 CFR Section 982.551 were violated.

### **Changes in Family Composition and Voucher Size**

The additional cause of over subsidization was the failure of the HAPGC to change the voucher unit size after changes in family composition. Although families are not required to move from an assisted unit when the number of bedrooms in the unit exceeds the number of bedrooms for which the family is eligible, the payment standard must conform to the HAPGC's subsidy standards at the family's next annual recertification after the change in family composition.

**CHAPTER 8**  
**BRIEFINGS AND VOUCHER ISSUANCE**

**A. BRIEFINGS [24 CFR 982.301]**

The Housing Authority of Prince George's County (HAPGC) is required by HUD Regulations to conduct an oral briefing and provide families with a briefing packet with information about the HCV Program prior to issuing a housing voucher.

Briefings will be conducted in group meetings, individual briefings, by other non-contact remote methods such as video or telephone conference, when deemed necessary and in the best interest of HAPGC staff and the family. Generally, the head of household is required to attend the briefing. If the head of household is unable to attend, the HAPGC may approve another adult family member to attend the briefing.

Families that attend group briefings in-person or remotely and still need individual assistance will be referred to an appropriate HAPGC staff person.

Briefings will be conducted in English. For limited English proficient (LEP) applicants, the HAPGC will provide translation services in accordance with the HAPGC LEP plan (See Chapter 2.).

Persons requiring reasonable accommodations to attend the Briefing must call HAPGC in advance to arrangement can be made.

**Notification of Attendance**

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

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

Applicants who fail to attend a scheduled briefing will automatically be scheduled for another briefing. The HAPGC will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without HAPGC approval, will be denied assistance (see Chapter 4).

**Information Provided at the Oral Briefing [24 CFR 982.301(a)]**

The HAPGC staff person conducting the oral briefing will describe how the HCV Program works and the relationship between the family and the owner, the family and the HAPGC, and the HAPGC and the owner. The briefing interview presentation emphasizes:

- How the Housing Choice Voucher Program works.
- Family and owner responsibilities.
- Where a family may lease a unit inside and outside of the HAPGC's jurisdiction.
- How portability works for families eligible to exercise the portability option.
- Advantages to moving to area with low concentration of low-income families if the family is living in a high poverty census tract in the HAPGC's jurisdiction.
- How to choose an apartment carefully.
- Self-Sufficiency initiatives including Welfare to Work, Family Self-Sufficiency, etc.
- Information regarding the Violence Against Women Act (VAWA) and provisions applied to the HCVP.

**HAPGC Owned Units.** When HAPGC-owned units are available for lease, the HAPGC will inform the family during the oral briefing that the family has the right to select any eligible unit available for lease, and is not obligated to choose a HAPGC-owned unit

### **The Briefing Packet [24 CFR 982.301(b)]**

The documents and information provided in the briefing packets will comply with all HUD requirements. HAPGC also includes other information and/or materials not required by HUD. The family is provided with the following information and materials:

- The term of the voucher, and the HAPGC's policies on any extensions or suspensions of the term. If the HAPGC allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how the HAPGC determines the payment standard for a family, how the HAPGC determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how the HAPGC determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit and maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction.
- For a family that qualifies to lease a unit outside the HAPGC jurisdiction under portability procedures, the information must include an explanation of how portability works including a list of portability contact persons for neighboring HAPGCs including names, addresses, and telephone numbers.

- Information about the characteristics of these areas including job opportunities, schools, transportation, and other services.
- The HUD-required tenancy addendum, which must be included in the lease.
- The form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy.
- A statement of the HAPGC policy on providing information about families to prospective owners.
- The HAPGC subsidy standards including when and how exceptions are made.
- The HUD brochure on how to select a unit.
- The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home*.
- Information on federal, state, and local equal opportunity laws and a copy of the housing discrimination complaint form.
- A list of landlords or other parties willing to lease to assisted families or help families find units, especially outside areas of poverty or minority concentration.
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the HAPGC.
- The family obligations under the program, including any obligations of a welfare-to-work family.
- The grounds on which the HAPGC may terminate assistance for a participant family because of family action or failure to act.
- HAPGC informal hearing procedures including when the HAPGC is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
- Information on how to fill out and file a housing discrimination complaint form.
- The publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.
- Tenant Code of Conduct to be executed during the briefing/certification appointment.

- A check list requiring the head-of-household's signature acknowledging that they received and understands all of the required information regarding the HCV Program issued during the briefing session.

**B. HOUSING CHOICE VOUCHER HOLDER'S PACKET**

Prior to issuing a Voucher, at the Orientation session, the HAPGC shall give the applicant family a Housing Choice Voucher Holder's Packet, which includes the following information and/or documents. (24 CFR 982.301):

- General Information
- Certifying Family Eligibility
- Criminal Background Check
- FRAUD
- Verifications
- Issuing a Voucher & Requesting an extension beyond the initial sixty days
- Family Obligations under the Voucher
- Subsidy Standards
- Requesting Lease Approval
- Finding a Dwelling Unit
- Questions to Ask the Prospective Landlord
- HUD Housing Quality Standards Inspection
- Deposits, Pets, and Utilities
- Utility Allowances
- Rent Calculation
- Portability
- Housing Discrimination
- Moving In
- Annual Activities & Requirements
- One Strike and You're Out Policy
- Informal Hearing/Review Procedures
- Lead Based Paint Warning
- Housing Choice Voucher Visitors Policy
- Booklet: "A Good Place to Live"

- Violence Against Women Act (VAWA) Notice of Occupancy Rights' and
- Certification Form
- Advantages of Moving to Areas with Low Concentration of Low-Income Families

**C. FAMILY OBLIGATIONS [24 CFR 982.551]**

HAPGC will also advise families during the briefing of their obligations under the HCV Program, which include but are not limited to:

- The family must supply any information that the HAPGC or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the HAPGC or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.
- Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence. The composition of the assisted family residing in the unit must be approved by the HAPGC. The family must promptly notify the HAPGC in writing of the birth, adoption, or court-awarded custody of a child. The family must request HAPGC approval to add any other family member as an occupant of the unit.
- The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The HAPGC will determine eligibility of the new member in accordance with the policies in Chapter 5.
- The family must promptly notify the HAPGC in writing if any family member no longer lives in the unit.
- If the HAPGC has given approval, a foster child or a live-in aide may reside in the unit. The HAPGC has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when HAPGC consent may be given or denied.
- The family must not sublease the unit, assign the lease, or transfer the unit.
- Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- The family must supply any information requested by the HAPGC to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the HAPGC when the family is absent from the unit. Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the HAPGC at the start of the extended absence.
- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 17 for additional information).
- Family members must not engage in 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 and persons residing in the immediate vicinity of the premises.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state, or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless the HAPGC has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher].
- All other obligations for continued participation in the HCV Program.

#### **D. VOUCHER ISSUANCE**

When HAPGC selects a family from the waiting list (or as a special admission as described in Chapter 4), or when a participant family wants to move to another unit, the HAPGC issues a Housing Choice Voucher, form HUD-52646.

When an applicant family has been determined eligible, and all factors of eligibility, income, and family composition have been verified, and has attended an orientation session, a voucher of the appropriate subsidy size will be issued. Upon issuance of the voucher, the family will be given a request for lease approval packet, which includes:

- A copy of Housing Choice Voucher, form HUD-52646
- Request for Approval of Tenancy
- Housing Choice Voucher Landlord Certification
- IRS Form W-9
- Rent Reasonableness Comparable
- Housing Choice Voucher tenancy addendum and HAP Contract (sample)
- Disclosure of Information on Lead-Based Paint and/or Lead Based Paint Hazards
- Inspection Checklist (TO BE COMPLETED BY THE PARTICIPANT)

A voucher can be issued to an applicant family only after the HAPGC has determined that the family is eligible for the program based on information received within the 60 days prior to issuance and after the family has attended a mandatory oral briefing.

Prior to issuing any vouchers, the HAPGC will determine whether it has sufficient funding. If the HAPGC determines that there is insufficient funding after a voucher has been issued, the HAPGC may rescind the voucher and place the affected family back on the waiting list.

### **Initial Voucher Term**

The Voucher is good for a period of 60 calendar days from the date of issuance. The family must submit a Request for Tenancy Approval within the 60 day period. Upon receipt of a Request for Tenancy Approval, unit search time will be suspended.

When the HAPGC denies a request for tenancy, the family will be notified immediately that the clock on the voucher term has restarted. This notice will include the new expiration date of the voucher.

If the Voucher expires and is not extended by the HAPGC, or expires after an extension, the family will be denied assistance. The family will not be entitled to a review or hearing. (If the family is currently assisted, it may remain as a participant in the unit if there is an assisted lease/contract in effect.)

### **Extensions for Unit Search**

Generally, the HAPGC will not approve additional extensions to the term of the voucher. The HAPGC will approve extensions only in the following circumstances:

1. It is necessary as a reasonable accommodation for a person with disabilities.

2. It is necessary due to reasons beyond the family's control, as determined by the HAPGC. Following is a list of extenuating circumstances that the HAPGC may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:

- Serious illness or death in the family.
- Other family emergency
- Obstacles due to employment
- Whether the family has already submitted requests for tenancy approval that were not approved by the HAPGC
- Whether family size or other special requirements make finding a unit difficult

Any request for an additional extension must include the reason(s) an additional extension is necessary. The HAPGC may require the family to provide documentation to support the request.

All requests for extensions to the voucher term must be made in writing and submitted to the HAPGC prior to the expiration date of the voucher (or extended term of the voucher).

The HAPGC will decide whether to approve or deny an extension request within 10 business days of the date the request is received and will immediately provide the family written notice of its decision.

The HAPGC may grant one or more extensions of the term, but the initial term plus any extensions will not exceed 120 calendar days from the initial date of issuance without an extraordinary reason.

Families porting into the HAPGC will receive vouchers for the time granted by the initial HAPGC. No extensions are granted to portability families.

### **Expiration of Voucher**

If an applicant family's voucher term or extension expires before the family has submitted a Request for Tenancy Approval (RFTA) the HAPGC will require the family to reapply for assistance. If an RFTA that was submitted prior to the expiration date of the voucher is subsequently disapproved by the HAPGC (after the voucher term has expired), the family will be required to reapply for assistance.

Within 10 business days after the expiration of the voucher term or any extension, the HAPGC will notify the family in writing that the voucher term has expired and that the family must reapply in order to be placed on the waiting list.

**CHAPTER 9**  
**GENERAL LEASING POLICIES**

**A. REQUEST FOR TENANCY APPROVAL (RFTA)**

After the family is issued a voucher, the family must locate an eligible unit with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request the HAPGC to approve the assisted tenancy in the selected unit.

The RFTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the HAPGC to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless HAPGC has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

**Requesting Tenancy Approval [Form HUD-52517]**

The owner and the family must submit two documents to the HAPGC:

- Completed Request for Tenancy Approval (RFTA) – Form HUD-52517
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A'

The HAPGC will review the RFTA and Lease, completing the following tasks:

- Note approvability of the contract rent and security deposit amounts;
- Discuss any inconsistencies or omissions with the family and the owner;
- Check that there are no conflicts of interest;
- Negotiate the rent and security deposit amounts, if applicable; and
- Schedule an HQS inspection of the unit.

The RFTA must be signed by both the family and the owner. The owner may submit the RFTA on behalf of the family. Completed RFTA (including the proposed dwelling lease) must be submitted as hard copies, in-person, by mail, or by fax. Both the RFTA and the lease must be submitted no later than the expiration date stated on the voucher.

The family may not submit, and HAPGC will not process, more than one (1) RFTA at a time. When the family submits the RFTA the HAPGC will review the RTA for completeness.

When the family submits the RFTA, the HAPGC will review it for completeness. If the RFTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RFTA, the HAPGC will notify the family and the owner of the deficiencies. Missing information and/or missing documents will only be accepted as hard copies, in-person, by mail, or by fax. The HAPGC will not accept missing information over the phone.

When the family submits the RFTA and proposed lease, the HAPGC will also review the terms of the RFTA for consistency with the terms of the proposed lease.

If the terms of the RFTA are not consistent with the terms of the proposed lease, the HAPGC will notify the family and the owner of the discrepancies.

Corrections to the terms of the RFTA and/or the proposed lease will only be accepted as hard copies, in-person, by mail or by fax. The HAPGC will not accept corrections by phone.

Because of the time sensitive nature of the tenancy approval process, the HAPGC will attempt to communicate with the owner and family by phone, fax, or email. The HAPGC will use mail when the parties can't be reached by phone, fax, or email.

### **RFTA Review and Approval**

After receiving the family's RFTA, with proposed dwelling lease, the HAPGC must promptly notify the family and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, the HAPGC must ensure that all required actions and determinations have been completed. These actions include ensuring:

- The unit is eligible;
- The lease offered by the owner is approvable and includes the required tenancy addendum;
- The rent to be charged by the owner for the unit is reasonable;
- Where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of the rent to be paid by the family does not exceed 40% of the family's monthly adjusted income;
- The owner is an eligible owner, not disapproved by the HAPGC, with no conflicts of

interest; and

- the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information.

The HAPGC will not pay assistance on behalf of a family to any owner prior to the effective date of a lease and contract, executed by all parties.

If the lease is approved, final computations of Total Tenant Payment, Tenant Rent, Utility Reimbursement Payment, and Housing Assistance Payments will be completed. The Housing Assistance (HAP) Contract will be prepared for execution.

Upon completion of the documents, the family and the owner will execute the lease agreement and tenancy addendum and the owner and the HAPGC will execute the HAP Contract.

Copies of the documents will be furnished to the parties who signed the respective documents.

The HAPGC will complete its determination within 10 business days of receiving all required information.

If the terms of the RFTA/proposed lease are changed for any reason, including but not limited to negotiation with the HAPGC, the HAPGC will obtain corrected copies of the RFTA and proposed lease, signed by the family and the owner.

Corrections to the RFTA/proposed lease will only be accepted as hard copies, in-person, by mail, or by fax. The HAPGC will not accept corrections over the phone.

If it is determined that the tenancy cannot be approved for any reason, the owner and the family will be notified in writing and given the opportunity to address any reasons for disapproval prior to a specific date provided by the HAPGC. The HAPGC will instruct the owner and family of the steps that are necessary to approve the tenancy.

Where the tenancy is not approvable because the unit fails HQS or other program standards, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability (including rent burden and rent reasonableness), the HAPGC will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

## **B. OWNER PARTICIPATION**

The HAPGC does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the HAPGC may deny approval of an

assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

See Chapter 12: Owner Participation and HAP Contracts for a full discussion of owner qualification to participate in the HCV program.

### **C. ELIGIBLE UNITS**

A family may choose any available rental dwelling unit on the market in HAPGC's jurisdiction. This includes the dwelling unit they are currently occupying as long as the unit meets occupancy standards, passes the HQS inspection, and the landlord is eligible to participate in the HCV Program.

#### **Ineligible Units [24 CFR 982.352(a)]**

The following types of housing will not be assisted by the HAPGC in the tenant-based Housing Choice Voucher programs:

1. A public housing or Indian housing unit;
2. A unit currently receiving project-based assistance under Section 8 of the 1937 Act;
3. Nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services;
4. College or other school dormitories;
5. Units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions;
6. A unit occupied by its owner or by a person with any interest in the unit; or
7. A unit where the owner is not eligible to participate in the program.

#### **HAPGC Owned Units [24 CFR 982.352(b)] (Not Applicable)**

Currently, the HAPGC **does not have** eligible HAPGC-owned units available for leasing under the voucher program.

#### **Special Housing Types [24 CFR 982 Subpart M]**

With the exception of the HCV Homeownership Program, families will not be permitted to use any special housing types, unless use is needed as a reasonable accommodation so the program is readily accessible to a person with disabilities.

HAPGC is required to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

These special housing types include:

- Single Room Occupancy (SRO housing)
- Congregate Housing
- Group Home
- Shared Housing
- Manufactured Home Space
- Cooperative Housing
- Homeownership Options

### **Housing Quality Standards [24 CFR 982.305 and 24 CFR 982.401]**

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. See Chapter 10 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.

### **Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]**

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 11 for a full discussion of rent reasonableness and the rent reasonableness determination process.

### **Rent Burden [24 CFR 982.508]**

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the dwelling unit rent must be at a level where the family's share of rent does not exceed 40 percent of the family's monthly adjusted income. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

### **Duplicative Assistance [24 CFR 982.352(c)]**

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance;
- Other Housing Choice Voucher assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;

- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

### **Unit Size**

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. HAPGC will allow a family to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements.

HAPGC will also allow a family to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family. See Chapter 7 for a full discussion of subsidy standards.

### **D. TENANT LEASE AND ADDENDUM [24 CFR 982.308(A)]**

The family and the owner must execute and enter into a written dwelling lease for the assisted unit. This written lease is a contract between the tenant family and the owner. The HAPGC is not a party to this contract.

The HAPGC also does not provide a model or standard dwelling lease for owners to use with the HCV Program. HAPGC will not review the owner's lease for compliance with state/local law.

However, HAPGC will review the lease to determine all required information is written into the lease inclusive of:

- The names of the owner and the tenant
- The unit rented (address, apartment number, and any other information needed to identify the contract unit)
- The term of the lease (initial term and any provisions for renewal)
- The amount of the monthly rent to owner
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family.

If the dwelling lease is incomplete or incorrect, the HAPGC will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by mail, or by fax. The HAPGC will not accept missing and corrected information over the phone

Because the initial leasing process is time-sensitive, the HAPGC will attempt to communicate with the owner and family by phone, fax, or email. The HAPGC will use mail when the parties can't be reached by phone, fax, or email.

### **Separate Non-Lease Agreements between the Owner and Tenant**

The HAPGC permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

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

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

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

### **Security Deposit**

The owner may collect a security deposit from the tenant. The HAPGC will allow the owner to collect the same security deposit they charge to other non-assisted renters as long as it does not exceed two months contract rent as stated in Maryland state law.

**E. TERM OF TENANCY**

The initial term of the assisted dwelling lease must be for at least one year. The initial lease term is also stated in the HAP contract. The HAPGC will not approve an initial lease term of less than one (1) year.

The HAPGC may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC.

**F. HOUSING ASSISTANCE PAYMENT (HAP) CONTRACT EXECUTION**

If the HAPGC has given approval for the family of the assisted tenancy, the owner and the HAPGC execute the HAP contract.

The HAPGC is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

The HAPGC must make a best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

The HAPGC may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the HAPGC will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60-day period is void, and the HAPGC may not pay any housing assistance payment to the owner.

All new owners to the HCV program are also required to sign up for direct deposit and have the HAP portion electronically deposited into an account of their choice. Payments will not be initiated until the direct deposit is in place.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the HAPGC prior to the execution of the HAP Contract. The HAPGC will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The HAPGC will not execute the HAP contract until the owner has submitted IRS form W-9. The HAPGC will ensure that the owner receives a copy of the executed HAP contract.

See Chapter 12 for a discussion of the HAP contract and owner responsibilities.

## **G. CHANGES IN LEASE OR RENT**

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the HAPGC a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, HAPGC approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, voucher assistance in the unit shall not be continued unless the HAPGC has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances
- Changes in lease provisions governing the term of the lease
- The family moves to a new unit, even if the unit is in the same building or complex

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RFTA) along with a new dwelling lease containing the altered terms. A new tenancy must then be approved in accordance with this chapter.

Where the owner is requesting a rent increase, the HAPGC 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.

Rent increases can only be approved on the contract renewal date. Requests received less than 60 days prior to the renewal date will not be considered.

Owner responsibly changes for utilities will only be approved on the contract renewal date.

## CHAPTER 10

### HOUSING QUALITY STANDARDS (HQS) INSPECTIONS

Housing Quality Standards (HQS) are the HUD minimum quality standards for the Housing Choice Voucher (Section 8) Program. HQS standards are required both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, as well as to the unit. Newly leased units must pass the HQS inspection before the beginning date of the assisted lease and the HAP Contract.

The HAPGC will inspect each unit under Contract at least biennially in accordance with the HUD HQS Inspection Manual, HCV Program Inspection Checklist (form HUD 53580), the HCV Guidebook and all revisions thereto.

#### **A. TYPE OF INSPECTIONS [24 CFR 982.405]**

The HAPGC conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow:

*Initial Inspections.* The HAPGC conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection before the effective date of the HAP Contract.

*Biennial Inspections.* HUD requires the HAPGC to inspect each unit under lease at least biennially to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's reexamination but also may be conducted separately.

*Special Inspections.* A special inspection may be requested by the owner, the family, HAPGC, or a third party as a result of problems identified with a unit between biennial inspections.

*Quality Control Inspections.* HUD requires that a sample of units be re-inspected by a supervisor or another qualified individual to ensure that HQS are being enforced correctly and uniformly by all inspectors. Quality Control Inspections will be independently conducted on the initial, biennial, and special inspections.

#### **B. INSPECTION OF HAPGC-OWNED UNITS [24 CFR 982.352(B)]**

The HAPGC must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a HAPGC-owned unit. A HAPGC-owned unit is defined as a unit that is owned by the HAPGC that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the HAPGC). The independent agency must communicate the results of each inspection to the family and the HAPGC. The independent agency must be approved by HUD and may be the unit of general local government for the HAPGC jurisdiction (unless the HAPGC is itself the unit of general local government or an agency of such government).

#### **Inspection Costs**

The HAPGC may not charge the family for unit inspections [24 CFR 982.405(e)]. In the case of inspections of HAPGC-owned units, the HAPGC may compensate the independent agency from ongoing administrative fee for inspections performed. The HAPGC and the

independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

**C. INITIAL HQS INSPECTION [24 CFR 982.401(A)]**

The HAPGC requires all units to pass HQS before the effective date of the tenant lease and HAP Contract. The HAPGC will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RFTA). The inspection will expire 30 days after the initial pass result. After the 30<sup>th</sup> day the unit must be re-scheduled for a new Initial inspection.

The PHA will make every reasonable effort to conduct initial HQS inspections for the family and owner in a manner that is time efficient and indicative of good customer service.

**Notice and Scheduling**

The family must allow the HAPGC to inspect the unit at reasonable times with reasonable notice.

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:30 a.m. and 5:00 p.m. Generally, inspections will be conducted on business days only. In the case of a life-threatening emergency, the HAPGC will give as much notice as possible, given the nature of the emergency.

**Owner/Family Inspection Attendance**

With the exception of the Initial Inspection, an adult household member must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

At initial inspection of a vacant unit, the HAPGC will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted but is not required.

**Inspection Results and Re-inspections**

If any HQS violations are identified, the owner/tenant will be notified of the deficiencies and be given a time frame to correct them. If requested by the owner or tenant, the time frame for correcting the deficiencies may be extended by the HAPGC for good cause.

The HAPGC will re-inspect the unit within 5 business days of the date the owner/tenant notifies the HAPGC the required corrections have been made.

### **Pre-inspection Utility and Appliance Requirements**

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

If utility service is not available for testing at the time of the initial inspection, HAPGC will re-inspect the unit to confirm that utilities are operational and that the unit meets HQS requirements before the HAP contract is executed by the HAPGC.

If the family is responsible for supplying the stove and/or refrigerator, the HAPGC will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the HAP contract is executed by the HAPGC. The HAPGC will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working.

### **D. BIENNIAL HQS INSPECTIONS [24 CFR 982.405(A)]**

Each unit under HAP contract must have a biennial inspection no more than 24 months after the most recent inspection. The HAPGC employs outside contractors to perform the inspections.

The HCV head-of-household and the owner are notified of the date and time of the inspection appointment by mail. If an adult family member cannot be present on the scheduled date, the family should request that the contractor reschedule the inspection. The contractor and family will agree on a new inspection date that should take place within 10 business days of the originally scheduled date. The contractor may schedule an inspection more than 105 business days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, the HAPGC will automatically schedule a second inspection. If the family misses two scheduled inspections without HAPGC approval, the family will be considered to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 15.

### **E. SPECIAL HQS INSPECTIONS [HCV GB P. 10-30]**

The HAPGC will conduct a special inspection if the owner, family, or another source reports HQS violations in the unit.

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

If the biennial inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled the HAPGC may elect to conduct a full annual inspection.

### **F. QUALITY CONTROL HQS INSPECTIONS [24 CFR 982.405(B), HCV GB P. 10-32]**

A HAPGC supervisor or other qualified person will conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

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

**G. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER A HAP CONTRACT**

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

**Notification of Correction Actions**

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

When failures that are not life threatening are identified, the HAPGC will send the owner and the family a written notification of the inspection results within 5 business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. No more than 30 days will be allowed for the correction unless an extension for good cause is determined by the Housing Choice Voucher Manager.

The notice of inspection results will inform the owner that if life-threatening conditions are not corrected within 24 hours, and non-life threatening conditions are not corrected within the specified time frame (or any HAPGC-approved extension), the owner's HAP will be abated in accordance with HAPGC's Enforcing Owner Compliance Policy. Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any HAPGC-approved extension, if applicable) the family's assistance will be terminated in accordance with HAPGC policy (see Chapter 15).

**Life Threatening HQS Conditions**

The following are considered life threatening conditions:

- Any condition that jeopardizes the security of the unit.
- Major plumbing leaks or flooding, waterlogged ceiling, or floor in imminent danger of falling.
- Natural or LP gas or fuel oil leaks.
- Any electrical problem or condition that could result in shock or fire.
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.
- Utilities not in service, including no running hot water.

- Conditions that present the imminent possibility of injury.
- Obstacles that prevent safe entrance or exit from the unit.
- Absence of a functioning toilet in the unit.
- Inoperable emergency equipment.
- Inoperable refrigerator or stove.
- Inoperable smoke detectors (there must be an operable smoke detector on each level (floor) of the unit. All smoke detectors that are present, must be operable.

If an owner fails to correct life threatening conditions as required by the HAPGC, the housing assistance payment will be abated, and the HAP contract will be terminated.

If a family fails to correct a family caused life threatening condition as required by the HAPGC, the family's assistance may be terminated.

The owner will be required to repair an inoperable smoke detector unless the HAPGC determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

### **Extensions**

For conditions that are life-threatening, the PHA cannot grant an extension to the 24-hour corrective action period. For conditions that are not life-threatening, extensions will be granted in cases where the HAPGC has determined that the owner has made a good faith effort to correct the deficiencies and is unable to, for reasons beyond the owner's control. Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case-by-case basis, but will not exceed 30 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days once the weather conditions have subsided.

### **Re-Inspections**

The HAPGC will conduct a re-inspection immediately following the end of the corrective period, or any HAPGC approved extension. It is the responsibility of the landlord to notify the inspector the repairs have been completed. The HAPGC will consider the unit "passed" based on the day the landlord reported to the inspector the unit is ready for re-inspection and all conditions "pass".

The family and owner will be given reasonable notice of the re-inspection appointment. If

the deficiencies have not been corrected by the time of the re-inspection, the HAPGC will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with HAPGC policies. If the HAPGC is unable to gain entry to the unit in order to conduct the scheduled re-inspection, the HAPGC will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 16.

## **H. ENFORCING OWNER COMPLIANCE**

### **HAP Abatement**

If an owner fails to correct HQS deficiencies by the time specified, the HAPGC will make all HAP abatements effective the first of the month following the expiration of the HAPGC specified correction period (including any extension). No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family's responsibility.

The HAPGC will inspect abated units within two weeks of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

During any abatement period, the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction. The landlord is not entitled to any back rent from the HAPGC for units that have been abated due to a failed HQS.

### **HAP Contract Termination**

The HAPGC will not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and gives the owner reasonable notice of the termination. The HAPGC will issue a voucher to permit the family to move to another unit as described in Chapter 10.

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

Reasonable notice of HAP contract termination by the HAPGC is 30 days.

## **I. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(B)]**

Families are responsible for correcting any of the following HQS violations:

- Tenant-paid utilities not in service.
- Failure to provide or maintain family-supplied appliances.
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

If the family fails to correct a violation within the period allowed by the PHA (and any extensions), the PHA will terminate the family's assistance, according to the policies described in Chapter 15.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

**J. SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEVEL [24 CFR 35.1225]**

If HAPGC is notified by a public health department, other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit, has been identified as having an environmental intervention blood lead level, the HAPGC must complete a risk assessment of the dwelling unit.

The results of the risk assessment must be immediately provided to the owner and tenant of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner and tenant.

Within 30 days after receiving the risk assessment report from the HAPGC, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330].

If the owner does not complete the "hazard reduction" as required, the dwelling unit is in violation of HQS and the HAPGC will take action in accordance with HAPGC Enforcing Owner Compliance Policy.

HAPGC reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 17.

**K. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]**

A unit meets HQS space standard if the dwelling unit has at least one bedroom or living/sleeping room for each two persons. A living/sleeping room must meet the condition of a bedroom and is considered space that is not a kitchen or a bathroom.

If the HAPGC determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, the HAPGC must issue the family a new voucher, and the family and HAPGC must try to find an acceptable unit as soon as possible.

If an acceptable unit is available for rental by the family, the HAPGC must terminate the HAP contract in accordance with its terms.

**CHAPTER 11**  
**PAYMENT STANDARDS AND RENT REASONABLENESS**

**A. PAYMENT STANDARDS [24 CFR 888.111 - 113]**

The HAPGC will establish a payment standard schedule to set payment standard amounts for Fair Market Rents (FMR) within HAPGC's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the HAPGC may establish a single payment standard amount for the whole FMR area or Small Area Fair Market Rents (SAFMR) calculated by zip code with the local metropolitan area. Unless HUD grants an exception, the HAPGC will establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

**Adjusting Payment Standards**

The HAPGC will review the appropriateness of the payment standards on an annual basis when the new FMR is published. In addition to ensuring the payment standards are always within the "basic range" the HAPGC will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

***Funding Availability:*** The HAPGC will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. The HAPGC will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

***Rent Burden of Participating Families:*** Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the HAPGC will consider increasing the payment standard. In evaluating rent burdens, the HAPGC will not include families renting a larger unit than their family unit size.

***Quality of Units Selected:*** The HAPGC will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

***Changes in Rent to Owner:*** The HAPGC may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

***Unit Availability:*** The HAPGC will review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

***Lease-up Time and Success Rate:*** The HAPGC will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

### **Payment Standard Exceptions**

The HAPGC may request HUD approval to establish a Payment Standard that is higher or lower for a designated area of the city. The HAPGC will submit a request for a lower Payment Standard if it determines that a lower Payment Standard is justifiable based on market data from that area and that establishing a lower Payment Standard would enable the HAPGC to provide housing assistance to more families.

The HAPGC will also request HUD approval for Small Area FMRs to set Exception Payment Standards using a higher (exception) Payment Standard for all units, or all units of a given size, within a designated area of the city if it determines that a higher Payment Standard is needed to help families obtain housing outside areas of high poverty concentration.

### **Payment Standard Exceptions for Individual Families**

Unit-by-unit exceptions to the HAPGC's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities.

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, the HAPGC must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and
- The rent for the unit is reasonable.

## **B. RENT REASONABLENESS [24 CFR 982.507]**

### **Lease Approval**

HAPGC may not approve a lease unless it determines that:

- The initial gross rent does not exceed the reasonable rent as determined by HAPGC in accordance with this Chapter; and
- The family portion of the rent does not exceed forty percent (40%) of the participant's adjusted monthly income.

### **When Determinations Are Required**

HAPGC is required to make a determination of rent reasonableness upon any of the

following eventualities:

- At initial lease up, or lease up upon transfer;
- Before any increase in rent to Owner is approved;
- If sixty (60) days or more before the family's annual reexamination date there is a 5% or greater decrease in the published FMR for the unit size as compared to the previous FMR;
- At the election of HAPGC;
- At the discretion of the US Department of Housing and Urban Development.

### **C. HAPGC-OWNED UNITS [24 CFR 982.352(B)]**

In cases where an HCV family is receiving assistance in a HAPGC-owned unit, the HAPGC must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A HAPGC-owned unit is defined as a unit that is owned by the HAPGC that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the HAPGC). The independent agency must communicate the results of the rent reasonableness determination to the family and the HAPGC.

The independent agency must be approved by HUD and may be the unit of general local government for the HAPGC jurisdiction (unless the HAPGC is itself the unit of general local government or an agency of such government).

### **D. OWNER INITIATED RENT DETERMINATIONS**

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 HAPGC 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 three other units on the premises the HAPGC will consider unit size and length of tenancy in the other units.

Rent reasonableness is determined by analyzing the local rental market and through contact with owners and property managers of rental property. The market area for rent reasonableness comparable is broad, but units will be compared on a neighborhood basis wherever possible.

The data for other unassisted units the owner owns will be gathered from Apartment Guide information, newspapers, realtors, professional associations, and inquiries of owners.

The HAPGC will maintain books or computer records that include comparable data on unassisted units in the market. Staff will use this data in making their rent reasonableness

determinations. The books will be updated on an annual basis.

The HAPGC 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 HAPGC'S receipt of the owner's request or on the date specified by the owner, whichever is later.

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

#### **E. REASONABLE RENT DETERMINATION**

The reasonable rent determination shall be determined based on the methodology described below. At any time a rent determination is undertaken, the following process is used for determining whether the gross rent proposed to be charged by the Owner is reasonable.

- HAPGC when determining reasonable rent always considers the required HUD rent reasonableness factors; however, HAPGC relies heavily on the following two factors in its determination in setting the maximum lease rent by zip code (with utilities included and without all utilities included): 1) Size of Dwelling Unit and 2) Location
- HAPGC maintains an automated database which includes data on rents of comparable unassisted units in the same sub-market or a contiguous sub-market for use by HAPGC staff in making rent reasonableness determinations.
- HAPGC staff shall determine the average rent within each zip code or neighborhood, based on the data collected during rent reasonableness surveys.
- HAPGC shall conduct an annual County-wide evaluation to determine the average contract rents for all unit sizes and/or types in each zip code.
- The County-wide evaluation shall be done in accordance with the rent reasonableness factors set forth above to determine reasonable contract rents.
- The results of the pre-approved contract rent(s) shall be made available to all HCV landlords and participants.
- The results shall set forth the allowable contract rents for all unit sizes in each zip code of Prince George's County.
- HAPGC shall monitor the rental market in the Prince George's County and if the market changes by ten percent (10%) or more within any zip code, HAPGC shall conduct a mid-year evaluation for those zip codes and have the right to adjust payment standards

and/or pre-approved rent reasonableness maximum lease rents.

- HAPGC shall make available such mid-year pre-approved contract rents changes to all HCVP landlords and participants.
- HCVP landlords shall be able to submit to the HAPGC rents for comparable unassisted units for consideration by the HAPGC.
- HAPGC has the right to use unassisted comparables of the same unit size in contiguous zip codes and/or make reasonable adjustments within the same zip codes of larger or smaller units where few or no unassisted comparables for that unit size can be located within any given zip code.
- HAPGC does not establish minimum base rent amounts.
- HAPGC shall attempt to use at least three unassisted comparables to make rent determinations
- The data for other unassisted units may be gathered from newspapers, realtors, professional associations, inquiries of owners, market surveys, and other available sources.
- The market area for rent reasonableness must be within Prince George's County

**Owner Information.**

The Owner is required to provide HAPGC with information if requested on rents charged by the owner for other units owned by the Owner either at the same premises or elsewhere in Prince George's County.

**Owner Certification.**

Acceptance of each monthly housing assistance payment is a certification by the Owner that the gross rent to the owner is not more than rent charged by the owner for comparable unassisted units in the premises for multi-unit premises, or in the same market area for single unit premises.

## CHAPTER 12

### OWNER PARTICIPATION AND HAP CONTRACT

#### A. OWNER RECRUITMENT

The HAPGC is responsible for ensuring that HCV Program participants have access to a broad selection of affordable housing opportunities in desirable and low poverty impacted areas. The HAPGC will recruit a sufficient number of property owners to increase affordable housing choices within in HAPGC's jurisdiction.

To accomplish this objective, the HAPGC will conduct owner outreach to ensure that property owners are familiar with the program and its advantages. The HAPGC will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

- Distributing printed material about the program to property owners and managers.
- Contacting property owners and managers by phone or in-person.
- Holding owner recruitment/information meetings at least once a year.
- Participating in community-based organizations comprised of private property and apartment owners and managers.
- Developing working relationships with owners and real estate brokers associations.
- Outreach strategies will be monitored for effectiveness and adapted accordingly.

#### Property Owner Retention

To encourage continued participation in the HCV Program, the HAPGC will implement customer service policies to include:

- Processing all transactions that may affect an owner's ability to lease a unit as rapidly as possible, in order to minimize vacancy losses for owners.
- Providing property owners with user friendly informational material that explain HUD rules and regulation governing the HCV Program and HAPGC policies and procedures.

In addition, the HAPGC strives to optimize the success of property owners new to the HCV Program by providing assistance that includes:

- Providing property owners with a designated HAPGC contact person.
- Coordinating inspection and leasing activities between the HAPGC, property owner, and HCV family.
- Initiating telephone contact with the property owner to explain the inspection process and providing an inspection booklet and other resource materials about HUD housing quality standards.
- Providing other written information about how the program operates, including

answers to frequently asked questions.

Additional services may be undertaken on an as-needed basis, and as resources permit.

### **Landlord Unit Listings**

HAPGC will aid families in their housing search by providing a list of landlords or other known parties known who may be willing to lease a unit to the family, or to help the family find a unit. Although the HAPGC cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the HAPGC their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24CFR 982.301(b)(11)].

Property owners willing to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify the HAPGC. The HAPGC will compile and maintain a listing of property owners and provide the list to HCV families as part of the informational briefing packet and/or on the HAPGC website.

### **B. OWNERS RESPONSIBILITIES**

HAPGC will hold property owners participating in the HCV Program to the following responsibilities:

- Screening the family and deciding whether to lease to the family, just as the owner would with any potential tenant. The HAPGC has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy.
- Performing all of the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease.
- 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.
- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance.
- Complying with equal opportunity requirements.
- Preparing and furnishing to the HAPGC information required under the HAP contract.
- Collecting from the family any security deposit, the tenant's contribution to rent (that part of rent to owner not covered by the housing assistance payment from the HAPGC), and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease.
- Paying for utilities and services (unless paid by the family under the lease).
- Making modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203].
- Comply with the Violence Against Women Reauthorization Act of 2005 (VAWA) when screening and terminating tenants.

**C. PROPERTY OWNERSHIP**

The HAPGC will only enter a contractual relationship with the legal owner of a qualified property. No tenancy or Housing Assistance Payment (HAP) contract will be approved without acceptable documentation of legal ownership (e.g., deed of trust, proof of taxes for most recent year).

**D. CHANGE OF OWNERSHIP**

A change in ownership requires execution of a new Contract. The HAPGC must receive a written request by the initial owner to change the HAP payee and/or the address to which payment is to be sent.

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program. The new owner must provide a written certification to the HAPGC that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed;
- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;
- The effective date of the HAP contract assignment;
- A written agreement to comply with the terms of the HAP contract; and
- Confirmation that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, the HAPGC will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease on the anniversary date of the lease, and the family elects to stay with continued assistance, the HAPGC will process the leasing in accordance with the policies in Chapter 9.

**E. OWNER QUALIFICATIONS**

The HAPGC does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the HAPGC may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

**Owners Barred from Participation [24 CFR 982.306(a) and (b)]**

The HAPGC must not approve the assisted tenancy if the HAPGC has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation. HUD may direct the HAPGC not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

**Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2]**

The HAPGC must not approve an RFTA if the owner is the parent, child, grandparent, grandchild, sister, or brother or immediate relative of any member of the family. The HAPGC may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists.

This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

**Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19]**

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

- Any present or former member or officer of the HAPGC (except a participant commissioner)
- Any employee of the HAPGC, or any contractor, subcontractor or agent of the HAPGC, who formulates policy or who influences decisions with respect to the programs
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs
- Any member of the Congress of the United States

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The HAPGC must submit a waiver request to the appropriate HUD Field Office for determination. In considering whether to request a conflict of interest waiver from HUD, the HAPGC will consider the following factors:

- Consistency with state and local laws;
- The existence of alternative housing available to families;
- The individual circumstances of a particular family;
- The specific duties of individuals whose positions present a possible conflict of interest; and
- The nature of any financial investment in the property and plans for disclosure/divestiture; and the possible appearance of impropriety.

**F. DISAPPROVAL OF OWNER**

The HAPGC will disapprove an owner as directed by HUD for any of the following reasons:

- The owner has violated obligations under a HAP contract under Housing Choice Voucher of the 1937 Act (42 U.S.C. 1437f);
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in any drug-related criminal activity or any violent criminal activity;
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Housing Choice Voucher assistance or leased under any other federal housing program;
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Housing Choice Voucher or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents, of employees of the HAPGC, or of owner employees or other persons engaged in management of the housing; (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity;
- The owner has a history or practice of renting units that fail to meet state or local housing codes; or
- The owner has not paid state or local real estate taxes, fines, or assessment.

In considering whether to disapprove owners for any of the discretionary reasons listed above, the HAPGC will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, and health and safety of participating families, among others. Upon consideration of such circumstances, the HAPGC may, on a case-by-case basis, choose to approve an owner.

**G. NON-DISCRIMINATION [HAP CONTRACT – FORM HUD-52641]**

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, sexual orientation, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with the HAPGC.

The owner must cooperate with the HAPGC and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with the HAPGC.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

## **H. HOUSING ASSISTANCE PAYMENT (HAP) CONTRACT**

The HAP contract represents a written agreement between the HAPGC and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner's responsibilities under the program, as well as the HAPGC's obligations. Under the HAP contract, the HAPGC agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit.

The HAP contract is used for all HCV program tenancies except for assistance under the Housing Choice Voucher homeownership program, and assistance to families that own a manufactured home and lease the space. See chapter 9 for a discussion of any special housing types included in the HAPGC's HCV program.

If the HAPGC has given approval for the family of the assisted tenancy, the owner and the HAPGC execute the HAP contract. See chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.

### **HAP Contract Content**

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641. HAPGC prepares the Housing Assistance Payments (HAP) contract for execution between the property owner or representative and HAPGC. The family and the owner will execute the lease agreement. Copies of both documents will be furnished to the parties who signed the respective documents. HAPGC will maintain the originals in the participant file.

The HAP contract contains three main parts:

#### *Part A: Basic Information*

Includes basic contract information about the name of the tenant family, address of the contract unit, names of all household members, first and last dates of initial lease term, amount of initial monthly rent to owner, amount of initial housing assistance payment, utilities and appliances to be supplied by owner and tenant, signatures of HAPGC and owner [HCV Guidebook, pp 11-10 and 11-11]. For information on the contents of a HAP contract, look at the HCV Guidebook Chapter 11.

In general, the HAP contract cannot be modified. However, HAPGC does have the discretion to add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. HAPGC policy on the amount of security deposit an owner may collect is found in Chapter 9. In addition, HAPGC has the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the HAPGC is deemed received by the owner (e.g.,

upon mailing by HAPGC or actual receipt by the owner). HAPGC has not adopted a policy that defines when the housing assistance payment by HAPGC is deemed received by the owner. Therefore, no modifications to the HAP contract will be necessary.

*Part B: Body*

Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan.

*Part C: Tenancy Addendum*

The Tenancy Addendum (Form HUD-52641-A) sets forth the tenancy requirements for the program and the composition of the household, as approved by the HAPGC. The owner must sign the HUD Tenancy Addendum with the prospective tenant, and the tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the HAPGC prior to the execution of the HAP Contract. The HAPGC will ensure that both the owner and the assisted family receive copies of the dwelling lease. See Chapter 9 for more detail on request for tenancy approval policies and process and eligibility policies and process.

The owner and the HAPGC will execute the HAP contract. The HAPGC will not execute the HAP contract until the owner has submitted IRS form W-9. The HAPGC will ensure that the owner receives a copy of the executed HAP contract and abide by the terms and conditions of the Contract.

## I. RENT INCREASES TO OWNER

**Written Request Required.** Owners may request a rent increase no later than ninety (90) days prior to any Family reexamination month. The request must be in writing. HAPGC may require owners to submit their rent increase on an HAPGC form and/or sent to an HAPGC designated rent increase email address. 202-649-3922

**Amount of Rent Adjustment Rent.** The amount of the rent adjustment to the Owner may be adjusted either up or down. Subject to timeliness of submission compliance above, the adjusted rent to an Owner shall be the LESSER of:

- The current rent multiplied by the annual adjustment factor percentage published by HUD in effect at the time of request submission; or
- The reasonable rent as most recently determined (or redetermined) by HAPGC; or
- The increased dollar amount requested by the Owner.

**Prerequisites to a Rent Increase.** The annual lease rent may not be increased unless:

- The Owner has requested a specific increase amount at least ninety (90) days before the Family's reexamination month; and
- The request is made in writing on HAPGC provided forms for each unit (or in case of PBV each project) for which an increase is being requested; and
- In the preceding year, the Owner has complied with all requirements of the HAP contract, including compliance with the Housing Quality Standards.

**Timing of any Increases to Rent.** Housing Assistance Payment increases, if approved by HAPGC, shall be effective as of the first day of the first month commencing on or after the Participant's reexamination month.

## J. HAP CONTRACT PAYMENTS

During the term of the HAP contract, and subject to the provisions of the HAP contract, the HAPGC will make monthly HAP payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

The amount of the HAP payment is determined according to the policies described in Chapter 6 and is subject to change during the term of the HAP contract. The HAPGC must notify the owner and the family in writing of any changes in the HAP payment.

HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by the HAPGC is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant, plus the HAPGC HAP payment, should be equal to the rent specified in the lease (the rent to owner).

The family is not responsible for payment of the HAP payment, and the HAPGC is not responsible for payment of the family share of rent.

If the owner receives any excess HAP from the HAPGC, the excess amount must be returned immediately. If the HAPGC determines that the owner is not entitled to all or a portion of the HAP, the HAPGC may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Housing Choice Voucher HCV contract. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

### **Owner Certification of Compliance**

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract. By endorsing the monthly check from the HAPGC, the owner certifies to compliance with the terms of the HAP contract.

### **Late HAP Payments [24 CFR 982.451(a)(5)]**

The HAPGC is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for penalties if the HAPGC fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants; 2) it is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted family for late payment of the family's share of the rent.

If the payment is determined to be late for reasons beyond HAPGC's control, HAPGC is not required to pay a late payment penalty. They are also not required if HAPGC intentionally delays or denies payment as a remedy to an owner break of the HAP contract.

### **HAP Payment Abatement**

HAPGC may, with just cause, abate or hold HAP contract payments to property owners for not correcting HQS violations or other program violation until such time the program violation is corrected, or the HAP contract terminated. (See Chapter 10, Section L, *Enforcing Owner Compliance*.)

### **Termination of HAP Contract Payments [24 CFR 982.311(b)]**

The HAPGC must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated. HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

The owner must inform the HAPGC when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform the HAPGC when the owner has obtained a court judgment or other process allowing the owner to evict the tenant and provide the HAPGC with a copy of such judgment or determination.

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, the HAPGC will continue to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform the HAPGC of the date when the family actually moves from the unit or the family is physically evicted from the unit.

**K. BREACH OF HAP CONTRACT [24 CFR 982.453]**

HAPGC considers any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS.
- If the owner has violated any obligation under any other HAP contract under Housing Choice Voucher.
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- 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 program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan.
- If the owner has engaged in drug-related criminal activity.
- If the owner has committed any violent criminal activity.

If the HAPGC determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

Before the HAPGC invokes a remedy against an owner, the HAPGC will evaluate all information and documents available to determine if the contract has been breached. If relevant, the HAPGC will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, the HAPGC will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

**L. TERMINATION OF HAP CONTRACT**

The term of the HAP contract runs concurrently with the term of the dwelling lease, beginning on the first day of the initial term of the lease and terminating on the last day of

the term of the lease, including any lease term extensions.

The HAPGC will also terminate HAP contract and the housing assistance payments made under the HAP contract if:

- The owner or the family terminates the lease;
- The lease expires;
- The property owner breaches the HAP Contract;
- The HAPGC terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit.
- 180 calendar days have elapsed since the HAPGC made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by the HAPGC;
- The Annual Contributions Contract (ACC) between the HAPGC and HUD expires;
- Available program funding is not sufficient to support continued assistance for families in the program;
- The unit does not meet HQS size requirements due to change in family composition;
- The unit does not meet HQS; or
- The family breaks up.

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the HAPGC gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period and must return to the HAPGC any housing assistance payment received after this period.

The HAPGC will give the property owner and the family written notice of the HAP Contract termination. The notice must specify the reasons for and effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract.

#### **M. PROTECTING HCV TENANT AT FORECLOSURE ACTION [PIH 2010-49]**

Families receiving HCV assistance are entitled to certain protections set forth under the Protecting Tenants at Foreclosure Act (PTFA).

If a HAPGC learns that the property is in foreclosure, the HAPGC must:

1. Make all reasonable efforts to determine the status of the foreclosure and ownership of the property. This information can most likely be obtained through information that has been sent to the tenant notifying them of the foreclosure, and

possibly in a 90-day notice to vacate. Additionally, HAPGC may review legal notices in the local newspaper or the local government website to keep apprised of foreclosure actions initiated against owners of HCV assisted properties.

2. Continue to make payments to the original owner until ownership legally transfers in accordance with the HAP contract. With the exception of HUD-insured mortgages or loans, defaulting on a mortgage/loan is not a breach of the HAP contract.
3. Attempt to obtain a written acknowledgement of the assignment of the HAP contract from the successor in interest. The written agreement should include a request for owner information such as a Tax Identification Number, and payment instructions from the new owner. Even if the new owner does not acknowledge the assignment of the HAP contract in writing, the assignment is nevertheless effective by operation of law.
4. Inform the tenant that they must continue to pay rent in accordance with the lease, and if the successor in interest refuses to accept payment or cannot be identified, the tenant should pay the rent into escrow, because failure to pay rent may constitute an independent ground for eviction.
5. If the HAPGC is unable to make HAP payments to the successor in interest due to: (1) An action or inaction by the successor in interest that prevents such payments, including the rejection of payments or the failure of the successor to maintain the property in accordance with Housing Quality Standards (HQS); or (2) An inability to identify the successor, the HAPGC should inform the family of this. In order to ensure adequate protection of the tenant's rights under the statutory authority as well as enforcing performance of the successor in interest under the HAP contract, the HAPGC should refer tenants, as services are needed, to the local Legal Aid Office.

The HAPGC must make reasonable inquiries to determine whether the unit, in addition to having a tenant receiving HCV assistance, will be (or has been) assisted under the Neighborhood Stabilization Program (NSP).

In cases where the units have received assistance under the NSP, the HAPGC may use the funds that would have been used to pay the rent for other purposes. These other purposes include:

1. To pay utilities that are the owner's responsibility under the lease or applicable law, after taking reasonable steps to notify the owner that it intends to pay utilities rather than make payments to the owner.
2. The HAPGC is not required to notify the owner before making a utility payment if the unit has been or will be rendered uninhabitable by the termination or threat of termination of service. In that case, the HAPGC will notify the owner within a reasonable time after making the payment.
3. To pay the families moving costs, including security deposit costs.
4. Any funds that remain after use for these authorized purposes must only be used for housing assistance payments.



## CHAPTER 13 REEXAMINATIONS

### A. REEXAMINATION CYCLES

In accordance with HUD requirements, the Housing Authority of Prince George's County will conduct a reexamination of family income and composition based on the family's lease anniversary date. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. When families move to another dwelling unit the anniversary date for the reexamination will be changed to the new lease effective date.

Reexamination cycles are defined as:

*Anniversary date* is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

*Anniversary date* is defined as 24 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

*Triennial Anniversary date* is defined as 36 months from the effective date of the family's last triennial reexamination or, during a family's third year in the program, from the effective date of the family's initial examination (admission).

#### **Triennial Reexaminations**

The HAPGC will perform reexaminations for households on fixed incomes on a triennial basis. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated.

To qualify for a triennial reexamination schedule, all household income must be from a fixed source such as Social Security payments, to include Supplemental Security Income (SSI) and Supplemental Security Disability Insurance (SSDI); Federal, state, local, and private pension plans; and other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic payments.

Households with members who have fully excluded wage income and other fixed income sources will not be considered fixed income Households.

### **Notification and Preparations for Annual Reexaminations**

The HAPGC will begin the reexamination process 120 days in advance of its scheduled effective date. Generally, the HAPGC will schedule reexamination effective dates to coincide with the family's lease anniversary date.

The PHA will mail families a reexamination packet to complete. If the family chooses to move, they must contact the PHA within 10 business days of the date of the letter to schedule an appointment.

A written 10 business day notice will be sent by first-class mail and will contain the date and location in which the reexamination packet must be returned. The HAPGC may also exercise the option to allow families to complete reexamination forms and upload documents online through a tenant portal. When using either method, HAPGC will inform the family of the information and documentation that must be provided.

If families are unable to return their reexamination package by the scheduled due date, the family should contact HAPGC in advance of the notice to schedule a new due date. If a family does not return the reexamination package by the scheduled date, HAPGC will send a second notification that is a notice of intent to terminate assistance, allowing 10 business days in which the reexamination package will be due.

Families failing to send back two reexamination packages, without HAPGC approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 15) will be sent to the family's address of record, and to any alternate address provided in the family's file.

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

### **Reexaminations Interviews**

HAPGC requires the head of household, spouse, or co-head to attend the Reexamination interview. If an in-person interview is not practical due to health and safety issues or other extenuating circumstances, the interview may be conducted by video conference or telephone.

If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the HAPGC to request a reasonable accommodation (see Chapter 2).

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination interview. The required information will include but may not be limited to: Personal Declaration Form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

Information provided by the family must be verified in accordance with the policies in Chapter 6. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security Numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the Housing Quality Standards (HQS) (see Chapter 8), the HAPGC must issue the family a new voucher, and the family and HAPGC must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rent by the family, the HAPGC must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (inclusive of any extensions), the family will be sent a notice of housing assistance termination.

## **B. ON-GOING ELIGIBILITY**

### **Student Edibility**

During the reexamination process, the HAPGC will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" the parents' income will not be reviewed.

If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), the HAPGC will process a reexamination in accordance with the policies in this chapter.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student's assistance will be terminated.

**Registered Sex Offenders**

HAPGC has adopted the policy that recertification/reexamination documentation include a question asking whether the tenant or any member of the tenant’s household is subject to a lifetime state sex offender registration program in any state.

If the recertification/reexamination screening reveals that the tenant or a member of the tenant’s household is subject to a lifetime sex offender registration requirement, or that the tenant has falsified information or otherwise failed to disclose his or her criminal history on their application and/or recertification/reexamination forms, HAPGC will pursue eviction or termination of tenancy to the extent allowed by their lease and state or local law.

**C. INCOME VERIFICATION [24 CFR 5.233 24 - 5.236 24, PIH NOTICE 2018-18]**

The HAPGC will use the HUD prescribed hierarchy and techniques to verifying HCVP family income in accordance with PIH 2018-18 and subsequent PIH Notices and regulation indicated in the table below.

Level	Verification Technique	Ranking
6	<b>Upfront Income Verification UIV), using HUD’s Enterprise Income Verification (EIV) system and the Income Validation Tool (IVT) (not available for income verifications of new applicants)</b>	<b>Highest</b> (mandatory)
5	<b>Upfront Income Verification (UIV) using non-HUD system.</b>	<b>Highest</b> (optional)
4	<b>Written Third-Party Verification</b>	<b>High</b> (Mandatory to supplement EIV reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV-reported employment and income information and is unable to provide acceptable documentation to support dispute.)
3	<b>Written Third-Party Verification Form</b>	<b>Medium-Low</b> (Mandatory if written third party verification documents are not available or rejected by the PHA; and when

Level	Verification Technique	Ranking
		the applicant or tenant is unable to provide acceptable documentation.)
2	<b>Oral Third-Party Verification</b>	<b>Low</b> (Mandatory if written third party verification is not available).
1	<b>Tenant Declaration</b>	<b>Low</b> (Use as a last resort when unable to obtain any type of third-party verification.)

**Third Party Income Verification and EIV Disputes**

The HAPGC is **required** to request third party verification when the tenant disputes EIV information and the tenant is unable to provide acceptable documentation to support disputed information. However, the HAPGC should **also** remind the tenant that s/he is required to supply any information requested by the HAPGC for use in a regularly scheduled cyclical or interim reexamination of family income and composition

If the tenant does not provide the requested information, the HAPGC may mail or fax a third-party verification request form to the third-party source.

The HAPGC may determine that the tenant is not in compliance with program requirements and terminate tenancy or assistance, or both, if the tenant fails to provide the requested information in a timely manner (as prescribed by the HAPGC).

**D. CHANGES IN FAMILY COMPOSITION**

HUD requires program participants to report all changes in household composition to the HAPGC during and between Reexaminations. This includes additions due to marriage, birth, adoption, and court-awarded custody. All changes in family composition must be reported within 10 business days of the change. The family must obtain HAPGC’s and the owner’s written approval prior to all other additions to the household. All additions will be subject to eligibility requirements in Chapter 5 of this Plan.

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require HAPGC approval; however, the family must report to HAPGC the birth, adoption, or court awarded custody of a child within 10 business days of the addition.

**Changes in Household Composition Requiring Approval**

Families must request HAPGC approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days, or 30 cumulative days, within a twelve-month

period, and therefore no longer qualifies as a “guest.” Requests must be made in writing and approved by the HAPGC prior to the individual moving in the unit.

The HAPGC will not approve the addition of a new family or household member unless the individual meets the HAPGC’s eligibility criteria (see Chapter 5).

The HAPGC will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If the PHA determines an individual meets the HAPGC’s eligibility criteria as defined in Chapter 5, the HAPGC will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued another voucher and will be required to move.

If the HAPGC determines that an individual does not meet the HAPGC’s eligibility criteria as defined in Chapter 5, the HAPGC will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The HAPGC will make its determination within 30 business days of receiving all information required to verify the individual’s eligibility.

Only the following will be considered as an addition to the household:

- Minors – birth, adoption, custody.
- Persons eighteen (18) years of age or older or other adults as deemed appropriate and qualified by the HAPGC.
- Live-in aide.
- Foster child/foster adult

### **Departure of a Household Member**

If a household member ceases to reside in the unit, the family must inform the HAPGC within 10 business days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform HAPGC within 10 business days.

## **E. INTERIM REEXAMINATIONS**

The HAPGC requires that the family report interim changes between all Reexamination cycles regarding family income, family composition, and other changes that may affect the family’s HCV Program assistance.

The family must notify the HAPGC of changes in writing. Generally, the family will not be required to attend an interview for an interim reexamination. However, they must complete the Personal Declaration form. If the HAPGC determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the HAPGC will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from the HAPGC. This time frame may be extended for good cause with HAPGC approval. The HAPGC will accept required documentation by mail, email, fax, or in person.

### **HAPGC Initiated Interim Reexaminations - Income**

The HAPGC will conduct interim reexaminations in each of the following instances:

- For families receiving the Earned Income Disallowance (EID), the HAPGC will conduct an interim reexamination at the start and conclusion of the second 12-month exclusion period (50 percent phase-in period).
- If the family has reported zero income or unstable income such as child support, contributions, unemployment, etc., the HAPGC will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income or the unstable income exists. In addition, all families paying minimum rent will be reexamined by the HAPGC every three (3) months.
- If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g., seasonal or cyclic income); the HAPGC will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.
- If at the time of the annual reexamination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the HAPGC will conduct an interim reexamination.
- At the time of Family Self-Sufficiency (FFS) Program enrollment, if necessary.

The HAPGC may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

### **Family Initiated Interim Reexaminations – Income/Expenses**

The HAPGC has adopted policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. Families must be permitted to obtain an interim reexamination any time a family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)].

Families are required to report all increases in earned income, including new employment, within 10 business days of the date the change takes effect.

If the family's TTP is the minimum rent and/or the family has requested a hardship exemption, the family must report any increase in income. The HAPGC will adjust the rent at the end of the hardship period.

The HAPGC will conduct interim reexaminations for families that qualify for the earned income disallowance (EID), when the EID family's share of rent will change as a result of the increase. In all other cases, the PHA will note the information in the tenant file but will not conduct an interim reexamination.

### **Optional Reporting - Income**

If a family reports a change that it was not required to report and that would result in an increase in the family share of the rent, the HAPGC will note the information in the tenant file but will not conduct an interim reexamination.

If a family reports a change that it was not required to report and that would result in a decrease in the family share of rent, the HAPGC will conduct an interim reexamination.

Families may report changes in income or expenses at any time.

## **F. RECALCULATING FAMILY RENT AND SUBSIDY AMOUNT [24 CFR 982.516(D)(2)]**

After gathering and verifying required information for an annual or interim reexamination, the HAPGC must recalculate the family share of the rent and the subsidy amount and notify the family and owner of the changes. While the basic policies that govern these calculations are provided in Chapter 7, this part lays out policies that affect these calculations during a reexamination.

### **Subsidy Standards**

The family share of the rent and HAP calculations must use the correct subsidy standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located. See Chapter 7 for information on how to select the appropriate subsidy standard.

### **Utility Allowances**

When there are changes in the utility arrangement with the owner, the HAPGC must use the utility allowances in effect at the time the new lease and HAP contract are executed. At reexamination, the HAPGC must use the current utility allowance schedule [24 CFR 982.517(d)(2)].

## **G. EFFECTIVE DATE OF TOTAL TENANT PAYMENT (TTP) CHANGES**

The Housing Authority of Prince George's County will mail notice of rent changes to both the landlord and HCV participant. If head-of-household disagrees with the rent adjustment, he/she may request an informal hearing.

### **Increase in Total Tenant Payment (TTP)**

An *increase* in the family share of the rent that results from a Reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

If the HAPGC chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the HAPGC, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 18.

### **Decrease in Total Tenant Payment (TTP)**

A *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If the HAPGC chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the HAPGC.

If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

### **Effective Date of Total Tenant Payment (TTP) Changes**

The HAPGC will notify the owner and family of any changes in the amount of the HAP contract payment. The notice must include the following information:

- The amount and effective date of the new HAP payment.
- The amount and effective date of the new family share of the rent.
- The amount and effective date of the new tenant rent to owner.

The family must be given an opportunity for an informal hearing regarding the HAPGC's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment (see Chapter 16).

### **Discrepancies**

During an annual or interim reexamination, the HAPGC may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the HAPGC may discover errors made by the HAPGC. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 7.

## CHAPTER 14

### MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

#### A. ALLOWABLE MOVES [24 CFR 982.314]

The Housing Authority of Prince George's County (HAPGC) will allow families to move to a new housing unit and retain their HCV Program assistance if the move complies with HUD regulations and statutes under the VAWA. A family may move to a new unit if:

- The family terminates the lease with the property owner in accordance the termination provisions of the lease.
- The HAPGC terminates the HAP contract due to an HCV Program breach by the property owner.
- The family's current unit does not meet occupancy standards because of a change in family composition.
- The owner has given the family a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the family for reasons that would not cause the rental assistance to be terminated.
- The family and the owner mutually agree to terminate the lease. In such instance, the family must give the HAPGC a copy of the termination agreement.
- The family qualifies to move within or out of HAPGC's jurisdiction to protect the safety and welfare of the family under the VAWA.

#### B. DENIAL OF MOVE REQUESTS

In determining whether to deny permission to move, the HAPGC will consider the criteria under federal regulations at 24 CFR 982.552(c)(1). These include:

- The family has violated any family obligations under the program.
- Any member of the family has been evicted from federally assisted housing in the last three (3) years.
- The HAPGC has ever terminated assistance under the program for any family member.
- Any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family currently owes rent or other amounts to the HAPGC or to another PHA in connection with Section 8 or public housing assistance under the 1937 U.S. Housing Act.
- The family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

- The family breaches an agreement with the HAPGC to pay amounts owed to the Authority or amounts paid to an owner by an Authority. (The HAPGC, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a PHA or amounts paid to an owner by a PHA. The PHA may prescribe the terms of the agreement.
- The family has engaged in or threatened abusive or violent behavior toward HAPGC personnel.
- The family has been engaged in criminal activity or alcohol abuse as described in 24 CFR 982.553.

### **C. RESTRICTIONS ON ELECTIVE MOVES**

The HAPGC will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within the HAPGC's jurisdiction or outside it under portability.

The HAPGC will also deny a family permission to make more than one elective move during any 12-month period. This policy applies to all assisted families residing in the HAPGC's jurisdiction.

The HAPGC will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, witness protection programs), to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), victims of domestic violence, or to address an emergency situation over which a family has no control.

#### **Exceptions to Restricting Moves**

***Violence Against Women Act.*** A family may receive a voucher and move in violation of the lease if the family has complied with all other obligations of the voucher program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is, or has been, the victim of domestic violence, dating violence, sexual assault, or stalking and who either reasonably believed he or she was imminently threatened by harm from further violence by remaining in the assisted dwelling unit or has been the victim of sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's move or request to move.

***Reasonable Accommodations.*** HAPGC must consider and grant requests for reasonable accommodations that may be necessary for an individual with a disability to use and enjoy a dwelling or participate in or benefit from the program (in accordance with the Fair Housing Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act and HUD's implementing regulations at 24 CFR 100.204, 24 CFR 8.33, and 28 CFR parts 35 and 36.). See Chapter 2 for more details.

#### **D. INSUFFICIENT FUNDING**

The HAPGC will deny a family permission to move on the grounds that the HAPGC does not have sufficient funding for continued assistance if:

- The move is initiated by the family, not the owner or the HAPGC.
- The HAPGC can demonstrate that the move will, in fact, result in higher subsidy costs.
- The HAPGC can demonstrate that it does not have sufficient funding in its annual budget to accommodate higher subsidy costs. This policy applies to moves within the HAPGC'S jurisdiction as well as to moves outside it under portability.

#### **E. MOVE PROCESS**

##### **Notification to HAPGC and Owner**

Families must notify the HAPGC in writing of the intent to move to within and outside HAPGC's jurisdiction. The request must be made prior to the family vacating its current unit. If the family is requesting to move outside HAPGC's jurisdiction under portability, the notice to the HAPGC must specify the area where the family intends to move.

Upon receipt of a family's notification that it wishes to move, the HAPGC will determine whether the move is approvable in accordance with the regulations and policies set forth in sections A and B of this Chapter.

The HAPGC will notify the family in writing of its determination within 10 business days following receipt of the family's notification. If the move is approved, a recertification appointment will be scheduled and the HAPGC will issue a new voucher to the family within 10 business days.

##### **Reexamination of Family Income and Composition**

For families approved to move to a new unit within the HAPGC's jurisdiction, HAPGC will perform a new annual reexamination in accordance with the policies set forth in Chapter 13 of this Plan.

For families moving into or families approved to move out of the HAPGC's jurisdiction under portability, the HAPGC will follow the policies set forth in Section G and H of this chapter.

##### **Voucher Reissuance and Briefing**

The HAPGC will issue a new voucher within 10 business days of the HAPGC'S written approval to move for families approved to move to a new unit within the HAPGC'S jurisdiction. No briefing is required for these families.

If a family does not locate a new unit within allowed unit search period and any extensions (see Chapter 8), the family may remain in its current unit with continued voucher assistance if the owner agrees and the HAPGC approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of the HAPGC's jurisdiction under portability, the HAPGC will follow the policies set forth in F of this Chapter.

### **Housing Assistance Payments**

The HAPGC may not make any housing assistance payment to the owner for any month **after** the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

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

### **F. OUTGOING PORTABILITY [24 CFR 982.353]**

Portability applies to families moving into the HAPGC's jurisdiction from another PHA's jurisdiction or moving out of the HAPGC's jurisdiction. Under portability, families are eligible to receive assistance to lease a unit outside of HAPGC's jurisdiction. The unit may be located:

- In the same state as the HAPGC.
- In the jurisdiction of a PHA anywhere within the United States or its territories that administers a tenant-based HCV Program.

### **G. OUTGOING PORTABILITY**

A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one PHA in the area, the initial PHA may choose the receiving PHA [24 CFR 982.355(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the HAPGC's jurisdiction under portability. The initial PHA, in accordance with HUD regulations and HAPGC's policy, determines whether a family qualifies.

### **Allowable Moves under Portability**

The HAPGC will determine whether a participant family may move out of the HAPGC's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections A and B of this Chapter. The HAPGC will notify the family of its determination in accordance with the approval policy set forth in section E of this Chapter.

### **Determining Family Income Eligibility**

For a participant family approved to move out of its jurisdiction under portability, the HAPGC generally will conduct a reexamination of family income and composition only if the family's annual reexamination must be completed on or before the initial billing deadline specified on form HUD-52665, Family Portability Information.

If the participant family's income exceeds the income limit of the Receiving PHA, the family will not be denied assistance. However, the PHA cannot enter into a HAP contract if the amount of assistance is zero dollars.

The HAPGC will make any exceptions to this policy necessary to remain in compliance with HUD regulations. Requests to port must be in writing and include the jurisdiction of the port.

The HAPGC will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

### **Voucher Issuance and Term**

For families approved to move under portability, the HAPGC will issue a new voucher within 10 business days of the HAPGC'S written approval to move.

The initial term of the voucher will be for 60 days. The HAPGC will approve **no** extensions to a voucher issued to a participant family porting out of the HAPGC's jurisdiction except under the following circumstances:

- The initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA.
- The family decides to return to the HAPGC's jurisdiction and search for a unit there.
- The family decides to search for a unit in a third PHA'S jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 8 of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

To receive or continue receiving assistance under the HAPGC voucher program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction within 60 days following the expiration date of the HAPGC's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.)

### **Communication with the Receiving PHA**

Because the portability process is time-sensitive, the HAPGC will notify the receiving PHA by phone, fax, or e-mail to expect the family. The initial HAPGC will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, email, and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. The

HAPGC will pass this information along to the family. The HAPGC will also ask for the name, address, telephone number, fax, and email of the person responsible for processing the billing information.

The HAPGC will provide the following documents and information to the receiving PHA:

- Form HUD-52665, Family Portability Information, with Part I filled out
- A copy of the family's voucher
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary, in the case of an applicant family, family and income information in a format similar to that of form HUD-50058
- Copies of the income verifications backing up the form HUD-50058
- Social security numbers (SSNs)
- Documentation of SSNs for all family members age 6 and over
- Documentation of legal identity
- Documentation of citizenship or eligible immigration status
- Documentation of participation in the earned income disallowance (EID) benefit
- Documentation of participation in a family self-sufficiency (FSS) program

The HAPGC will notify the family in writing regarding any information provided to the receiving PHA.

### **Payments to the Receiving PHA**

The HAPGC will requisition funds from HUD based on the anticipated lease-ups of portable Vouchers in other jurisdictions. Payments for families in other jurisdictions will be made to other PHA's when billed or in accordance with other HUD approved procedures for payment.

If the HAPGC has not received an initial billing notice from the receiving PHA by the deadline specified on form HUD-52665, it will contact the receiving PHA by phone, fax, or e-mail on the next business day. If the PHA reports that the family is not yet under HAP contract, the HAPGC will inform the receiving PHA that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. The HAPGC will send the receiving PHA a written confirmation of its decision by mail.

The HAPGC will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

The Receiving PHA will notify the HAPGC in writing of any termination of assistance to families within 10 working days of the termination of assistance. If a hearing is required and requested by the family, the hearing will be conducted by the Receiving PHA, using the

regular hearing procedures included in this Administrative Plan. A copy of the hearing decision will be furnished to the HAPGC.

### **Subsequent Family Moves**

If the HAPGC determines that it must deny moves on the grounds that it lacks sufficient funding, it will notify all receiving PHAs with which it has entered into portability billing arrangements that they, too, must deny moves to higher cost units by portable families from the PHA's jurisdiction.

The HAPGC will allow exceptions to this policy for purposes of reasonable accommodation of a family member who is a person with disabilities

## **H. INCOMING PORTABILITY**

### **Administration**

The HAPGC will accept a family with a valid voucher from another jurisdiction and administer the assistance for the initial PHA or absorb the voucher based on the availability of funding.

If administering for the initial PHA, the family will be issued a voucher by the HAPGC with the same start date. The HAPGC may grant extensions to the incoming voucher in accordance with this Administrative Plan. When HAPGC does not absorb the voucher, it will administer the initial PHA's voucher and HAPGC Program policies will prevail. For initial lease-up, the family must be within HAPGC's low income limits.

### **Porting-In Process**

Families moving into HAPGC's jurisdiction under portability must promptly contact the HAPGC requesting housing assistance using the voucher issued by the initial PHA.

Within 10 business days after a portability-eligible family requests assistance, HAPGC will notify the initial PHA whether it intends to bill the agency on behalf of the portable family or absorb the family into its own program.

If for any reason the HAPGC refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing.

### **Briefing Sessions**

The HAPGC will require the family to attend a briefing in-person or remotely by video conference. The HAPGC provide the family with a briefing packet (as described in Chapter 8) and, in an individual briefing, will orally inform the family about the HAPGC payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

### **Income Eligibility and Reexamination**

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

In conducting its own reexamination, the HAPGC will rely upon any verification provided by the initial PHA to the extent that they (a) accurately reflect the family's current circumstances and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

### **Voucher Issuance and Term**

When family ports into its jurisdiction, the HAPGC will issue the family a voucher based on the paperwork provided by the initial PHA unless the family's paperwork from the initial PHA is incomplete, the family's voucher from the initial PHA has expired or the family does not comply with the HAPGC's procedures. The HAPGC will update the family's information when verification has been completed.

The HAPGC issued voucher will expire on the same date as the initial PHA's voucher.

### **Voucher Extensions**

The HAPGC may extend the term of the voucher that it issued to an incoming portable family unless the HAPGC plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in Chapter 8.

The HAPGC will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

### **Communication with the Initial PHA**

As the receiving PHA, the HAPGC will require the following documents from the initial PHA:

- A copy of the family's Voucher, with issue and expiration dates, formally acknowledging the family's ability to move under portability.
- The most recent HUD 50058 form and verifications.
- The HAPGC can request income verification, copies of Social Security cards, and birth certificates from the initial PHA. However, because the initial PHA is not required to provide this information the HAPGC may have to request it from the family.
- The names of initial PHA staff designated for inquiries on eligibility and billing.
- A HUD 56625 form as part of the required documents in the portability process.

- Declarations and verifications of U.S. citizenship/eligible immigrant status.
- The Administrative Fee Schedule for billing purposes.

### **Billing the Initial PHA**

As the receiving PHA (and if the HAPGC did not absorb a family), the HAPGC will bill the initial PHA monthly for Housing Assistance Payments. The HAPGC will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline but will also send the notice by regular mail.

The HAPGC will notify the initial PHA, using form HUD 52665, of any change in the billing amount for the family resulting from:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments
- Termination of the HAP contract
- Payment of a damage/vacancy loss claim for the family
- Termination of the family from the program

The timing of the notice of the change in the billing amount will correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances will the notification be later than 10 business days following the effective date of the change in the billing amount.

### **Absorbing a Housing Choice Voucher**

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

If the HAPGC decides to absorb a family after that, it will provide the initial PHA with 30 days' advance notice.

### **Denial or Termination of Assistance**

The HAPGC may at any time deny or terminate assistance to a portable family for family action or inaction.

If the HAPGC elects to deny or terminate assistance for a portable family, the HAPGC will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. The HAPGC will base its denial or termination decision on the policies set forth in Chapter 5 or Chapter 6. The informal review or hearing will be held in accordance with the policies in Chapter 16. The receiving PHA will furnish the initial HAPGC with a copy of the review or hearing decision.

**CHAPTER 15**  
**TERMINATION OF ASSISTANCE**

The Housing Authority of Prince George's County (HAPGC) may terminate assistance for a family because of the family's action or failure to act. The HAPGC will provide families with a written description of the Family Obligations under the Housing Choice Voucher and project-based assistance programs, the grounds under which the HAPGC can terminate assistance, and the HAPGC's Informal Hearing procedures.

This chapter describes when the HAPGC is required to terminate assistance and the HAPGC's policies regarding the grounds for termination of assistance under an outstanding HAP Contract.

If termination is based upon behavior resulting from a disability, the HAPGC will delay the determination in order to determine if there is an accommodation that would mitigate the behavior resulting from the disability.

The HAPGC **will not** terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency Program or other HAPGC sponsored training, economic improvement, or social service programs.

**A. MANDATORY TERMINATION [24 CFR 982.553(B) AND 982.551(L)]**

The HAPGC **will** terminate a family's assistance if:

- If any member of the family fails to sign and submit to HAPGC required consent forms for obtaining information.
- If a family fails to provide the documentation or certification required for any family member who obtains a social security number, joins the family, or reaches 6 years of age.
- If any family member does not establish citizenship or eligible immigration status. (See Chapter 5).
- The family has failed to comply with any family obligations under the program. However, the HAPGC **will not** terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency program.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program. (See Chapter 17)
- The family has not reimbursed any HAPGC for amounts the HAPGC paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- The family has breached the terms of a repayment agreement entered into with the HAPGC.

- A family member has engaged in or threatened violent or abusive behavior toward HAPGC personnel.
- If the family is absent from the unit for more than 180 consecutive calendar days, the family's assistance will be terminated.
- If the family is under contract, and 180 days have elapsed since the HAPGC's last housing assistance payment was made.
- Any member of the family has been convicted of manufacturing or producing methamphetamine on the premises of the assisted dwelling.
- The family has been evicted from the Housing Choice Voucher unit due to serious violations of the lease, such as non-payment of the tenant rent portion, repeated destruction of property, a pattern of violations, etc.
- If any family member is subject to a lifetime registration requirement under a state sex offender registration program.
- If a family member is currently engaging in illegal use of a drug and/or there is a pattern of illegal drug use that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.
- If HAPGC discovers that the family was evicted from federally assisted housing for drug related criminal activity within three (3) years from the date of admission to the Program.
- If, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

In making its decision to terminate assistance, the HAPGC will consider alternatives as described in Section J of this Chapter and other factors described in Sections F and G. Upon consideration of such alternatives and factors, the HAPGC may, on a case-by-case basis, choose not to terminate assistance.

### **Eviction**

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. However, the HAPGC will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or consider alternative measures at the discretion of the HAPGC. Upon consideration of such alternatives and factors, the HAPGC may, on a case-by-case basis, choose not to terminate assistance.

Serious and repeated lease violations will include, but are not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, criminal activity, or living or housekeeping habits that cause damage to the unit or premises. Generally, the criteria to be used are whether the reason for the eviction was through no fault of the tenant or guests.

If the eviction action is finalized in court, the owner must provide the HAPGC with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

### **Use of Illegal Drugs and Alcohol Abuse**

The HAPGC will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

Currently engaged in is defined as any use of illegal drugs during the previous three (3) years.

The HAPGC will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

The HAPGC will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

### **Drug Related or Violent Criminal Activity**

The HAPGC will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the Housing Choice Voucher program.

The HAPGC will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

In making its decision to terminate assistance, the HAPGC will consider alternatives and other factors as described in Chapter 5. Upon consideration of such alternatives and factors, the HAPGC may, on a case-by-case basis, choose not to terminate assistance.

***Violence Against Women Act (VAWA)***. For the purpose of determining a violation, HAPGC will not consider a family to be engaged in violent criminal activity if the family member is a victim in accordance with the Violence Against Women Act (VAWA). However, nothing should be considered to limit the termination of the person who engages in the criminal act or any other program obligations.

## **B. TERMINATION FOR MISSED APPOINTMENTS AND DEADLINES**

It is a Family Obligation to supply information, documentation, and certification as needed for the HAPGC to fulfill its responsibilities. The HAPGC schedules appointments and sets deadlines in order to obtain the required information. The Obligations also require that the family allow the HAPGC to inspect the unit, and appointments are made for this purpose.

A participant who fails to keep an appointment or to supply information required by a deadline without notifying HAPGC, may be sent a Notice of Termination of Assistance for failure to provide required information or for failure to allow the HAPGC to inspect the unit.

The family will be given information about the requirement to keep appointments, and the number of times appointments will be rescheduled as specified in this Plan.

Appointments will be scheduled and time requirements will be imposed for the following events and circumstances:

- Verification Procedures
- Voucher Issuance and Briefings
- Housing Quality Standards and
- Inspections
- Recertifications
- Informal reviews and hearings

Acceptable reasons for missing appointments or failing to provide information by deadlines are:

- Medical emergency
- Incarceration
- Family emergency

### **C. TERMINATION FOR COLLUSION WITH OWNER**

If the family willingly and knowingly commits fraud or is involved in any other illegal scheme with the owner, the HAPGC may terminate assistance. In making this determination, the HAPGC will carefully consider the possibility of overt or implied intimidation of the family by the owner and consider the family's understanding of the events.

### **D. TERMINATION BY THE FAMILY**

The request to terminate assistance should be made in writing and signed by the head of household, spouse, or co-head and submitted to the HAPGC. The HAPGC will then send a confirmation notice to the family and the owner within 10 business days of the family's request, but no later than the termination effective date (as requested by the family).

### **E. TERMINATION WHEN TOTAL TENANT PAYMENT REACHES TOTAL RENT**

As a family's income increases, the amount of HAPGC subsidy goes down. HAPGC will terminate assistance if the family's total tenant payment (TTP) reaches or exceeds the total rent.

If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the family must notify the HAPGC of the changed circumstances and request an interim reexamination before the expiration of

the 180-day period.

#### **F. TERMINATION OF ASSISTANCE UNDER THE VAWA**

Acts of domestic violence, dating violence, 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 a cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that domestic violence, dating violence, or stalking.

The HAPGC has the right, under the VAWA, to terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.

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

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, or stalking.
- Whether the threat is a physical danger beyond a speculative threat.
- Whether the threat is likely to happen within a short period of time.
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location.

If the tenant wishes to contest the HAPGC's determination that he or she is an actual and imminent threat to other tenants or employees, the tenant may do so as part of the informal hearing.

#### **Victim Documentation**

When a participant family is facing assistance termination because of the actions of a participant, household member, guest, or other person under the participant's control and a participant or immediate family member of the participant's family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, or stalking, the HAPGC will request in writing that the individual submit documentation affirming that claim. The written request will include explicit instructions on where, when, and to whom the documentation must be submitted. It will also state the consequences for failure to submit the documentation by the deadline.

The documentation will consist of a completed and signed form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking. In lieu of the certification form, the HAPGC will accept either of the following forms of documentation:

- A police or court record documenting the actual or threatened abuse.
- Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The HAPGC reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice.

The individual claiming victim status must submit the requested documentation within 14 business days after receipt of the HAPGC's written request or must request an extension within that time frame. The HAPGC may, at its discretion, extend the deadline for 10 business days.

If the individual provides the requested documentation within 14 business days, or any HAPGC-approved extension, the HAPGC will reconsider its termination decision in light of the documentation.

If the individual does not provide the requested documentation within 14 business days, or any HAPGC-approved extension, the HAPGC will proceed with termination of the family's assistance in accordance with applicable law, program regulations, and the policies in this plan.

### **Terminating Assistance of a Perpetrator under the VAWA**

The HAPGC will terminate assistance to a family member if the HAPGC determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, non-culpable family members.

In making its decision, the HAPGC will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066) or other documentation of abuse submitted to the HAPGC by the victim in accordance with this section. The HAPGC will also consider the circumstances of the perpetrator's act, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If the HAPGC does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.

### **Confidentiality of the Victim**

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

## **G. TERMINATION DUE TO INSUFFICIENT FUNDING**

The HAPGC will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If the HAPGC determines there is a shortage of funding, prior to terminating any HAP contracts, the HAPGC will determine if any other actions can be taken to reduce program costs. If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the HAPGC will terminate HAP contracts as a last resort.

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

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

### Category 1: Families who have committed program fraud or abuse within the past 12 months.

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

- *First*, the HAPGC will terminate families who owe the HAPGC money but are not yet under repayment agreement.
- *Second*, the HAPGC will terminate families who owe the HAPGC money, are under repayment agreement, but have made at least one late payment.
- *Third*, the HAPGC will terminate families who owe the HAPGC money, are under repayment agreement, and have made all payments in accordance with the repayment agreement.
- *Fourth*, the HAPGC will terminate Zero-Income families.

### Category 1: Terminations based on issues unrelated to family behavior:

- *First in, first out.* Under this option the HAPGC 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 in the following order:
  1. Non-elderly, non-disabled single member families.
  2. Non-elderly, non-disabled families with no children under the age of 18.
  3. Non-elderly, non disabled families with children under the age of 18.

4. Elderly and disabled families.

**H. NOTICE OF TERMINATION**

When termination is initiated by the HAPGC, the notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination. However, if a family vacates the unit without informing the HAPGC, 30 days notice will not be given. In these cases, the notice to terminate will be sent at the time the HAPGC learns the family has vacated the unit.

When a family's assistance is to be terminated, whether voluntarily or involuntarily, the HAPGC will give the family and the property owner written notice that specifies:

- The reasons for which assistance has been terminated.
- The effective date of the termination...
- The family's right to an informal hearing as described in Chapter 16.

If a criminal record is the basis of the termination, a copy of the record must accompany the notice. A copy of the criminal record also must be provided to the subject of the record [24 CFR 982.553(d)].

**I. ALTERNATIVES TO TERMINATION OF ASSISTANCE**

**Change in Household Composition**

As a condition of continued assistance, the HAPGC may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].

**Repayment of Family Debt**

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

**Reasonable Accommodations**

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

## **J. HAPGC DECISION TO TERMINATE ASSISTANCE [24 CFR 982.310(H)]**

The HAPGC is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated. The HAPGC will use the concept of the preponderance of the evidence as the standard for making all termination decisions

The HAPGC will consider the following factors when making its decision to terminate assistance:

- The seriousness of the case, especially with respect to how it would affect other residents
- The effects that termination of assistance may have on other members of the family who were not involved in the action or failure
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or a victim of domestic violence, dating violence, or stalking.
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future.
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.
- The HAPGC will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.
- In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family.

## **K. TERMINATION BY PROPERTY OWNER**

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause which is defined as:

- Serious or repeated lease violations.
- Violation of federal, state, or local laws.
- Engaging in Criminal activity or alcohol abuse.

### **Other Good Cause**

After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).
- After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

**HAPGC Action Regarding Owner Termination of Lease**

Owners are required to provide the HAPGC with a notice of eviction within five (5) business days following a court ordered eviction.

The HAPGC will not automatically terminate housing assistance to a family due to a property owner terminating a lease unless the family has also violated HCV Program rules that warrant mandatory termination. Lease termination other than for program violation will be examined by HAPGC before a termination decision is made.

**CHAPTER 16**  
**INFORMAL REVIEW AND HEARINGS**

**A. INFORMAL REVIEW FOR APPLICANTS [24 CFR 982.554]**

The HAPGC will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes denying listing on the HAPGC waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

An applicant is someone who has applied for admission to the program but is not yet a participant in the program. Informal reviews are intended to provide a “minimum hearing requirement and need not be as elaborate as the informal hearing requirements. (Federal Register Volume 60, No. 127, p 36490).

The HAPGC must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on the HAPGC waiting list.
- Denying or withdrawing a voucher.
- Refusing to enter into a HAP contract or approve a lease.
- Refusing to process or provide assistance under portability procedures.
- For victims of domestic violence covered by VAWA.

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the HAPGC.
- General policy issues or class grievances.
- A HAPGC determination not to grant approval of the tenancy.
- A HAPGC determination that the unit is not in compliance with the HQS.
- A HAPGC determination that the unit is not in accordance with the HQS due to family size or composition.
- A determination of the family unit size under the HAPGC subsidy standards.

### **Informal Review Request**

A request for an informal review must be made in writing and delivered to the HAPGC, by the close of the business day, no later than 10 business days from the date of the HAPGC's denial of assistance.

The HAPGC must schedule and send written notice of the informal review within 15 business days of the family's request.

### **Informal Review Process [24 CFR 982.554(b)]**

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

The applicant will be provided an opportunity to present written or oral objections to the decision of the HAPGC and present evidence during the review, citing the reason for denial. The applicant may also have an advocate present during the informal review that may be able to substantiate the applicant's denial claims.

The person conducting the review will make a recommendation to the HAPGC, but the HAPGC is responsible for making the final decision as to whether assistance should be granted or denied.

### **Informal Review Decision [24 CFR 982.554(b)]**

In rendering a decision, the HAPGC will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the Notice.
- The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.
- The validity of the evidence. The HAPGC will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the HAPGC will uphold the decision to deny assistance.

If the facts prove the grounds for denial, and the denial is discretionary, the HAPGC will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The HAPGC will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

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

## **B. INFORMAL HEARING FOR HCV PROGRAM PARTICIPANTS [24 CFR 982.555]**

HAPGC will offer an informal hearing for certain HAPGC determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the HAPGC's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the HAPGC's decisions related to the family's circumstances are in accordance with the law, HUD regulations and HAPGC policies.

The HAPGC is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

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

### **Circumstances Not Requiring an Informal Hearing**

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by the HAPGC.
- General policy issues or class grievances.
- Establishment of the HAPGC schedule of utility allowances for families in the program.
- The HAPGC determination not to approve an extension or suspension of a voucher term.
- A determination not to approve a unit for tenancy.
- The HAPGC determinations that a unit selected by the applicant is not in compliance with the HQS.
- A determination that the unit is not in accordance with HQS because of family size.
- A determination by the HAPGC to exercise or not to exercise any right or remedy against an owner under a HAP contract.

### **Hearing Attendees**

Hearings may be attended by a hearing officer and the following applicable persons:

- A HAPGC representative(s) and any witnesses for the HAPGC

- The participant and any witnesses for the participant
- The participant's counsel or other representative
- Any other person approved by the HAPGC as a reasonable accommodation for a
- person with a disability

### **Decisions Subject to Informal Hearing**

Circumstances for which the HAPGC will give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment.
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule.
- A determination of the family unit size under the HAPGC's subsidy standards.
- A determination that an HCV Program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under HAPGC's subsidy standards, or the HAPGC determination to deny the family's request for exception from the standards.
- A determination to terminate assistance for a participant family because of the family's actions or failure to act.
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules.
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)].
- A determination to deny admission based on an unfavorable history that may be the result of domestic violence, dating violence, or stalking.

### **Requesting and Scheduling an Informal Hearing [24 CFR 982.555(d)]**

A request for an informal hearing must be made in writing and delivered to the HAPGC, by the close of the business day, no later than 10 business days from the date of the decision or notice to terminate assistance.

The HAPGC will schedule and send written notice of the informal hearing to the family within 10 business days of the family's request.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family.

Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the HAPGC may request documentation of the “good cause” prior to rescheduling the hearing.

If the family does not appear at the scheduled date and time and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the HAPGC within 24 hours of the scheduled hearing date, excluding weekends and holidays. The HAPGC will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

### **Notice of Informal Hearing**

In cases where the HAPGC makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

- The proposed action or decision of the HAPGC.
- A brief statement of the reasons for the decision including the regulatory reference.
- The date the proposed action will take place.
- A statement of the family’s right to an explanation of the basis for the HAPGC’s decision.
- A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.
- A deadline for the family to request the informal hearing.
- To whom the hearing request should be addressed.
- A copy of the HAPGC hearing procedures.

### **Pre-Hearing Right to Discovery**

Participants and the HAPGC are permitted pre-hearing discovery rights. The participant will be given the opportunity before the hearing to examine any HAPGC documents that are directly relevant to the hearing.

The program participant will be allowed to copy any documents related to the hearing at a cost of \$.30 per page. Discovery documents must be requested no later than two (2) business days prior to the scheduled hearing date.

The HAPGC will also be given an opportunity before the hearing to examine, at the HAPGC HCV Program Office, any family documents that are directly relevant to the hearing.

Whenever a participant requests an informal hearing, HAPGC will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than two (2) business days prior to the scheduled hearing date.

### **The Informal Hearing Process**

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

The participant may be represented by an attorney or other representative at the participant's expense

The hearing officer is responsible for managing the order of business and ensuring that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures and guidelines for conduct established by the hearing officer. Any person demonstrating disruptive, abusive, or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the HAPGC will take effect and another hearing will not be granted.

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

- **Oral evidence:** the testimony of witnesses
- **Documentary evidence:** a writing which is relevant to the case, for example, a letter written to the HAPGC. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.
- **Demonstrative evidence:** Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.
- **Real evidence:** A tangible item relating directly to the case.

*Hearsay Evidence* is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either the HAPGC or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the HAPGC to overrule any objections to evidence.

## Hearing Officer's Decision

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

- **HAPGC Notice to the Family.** The hearing officer will determine if the reasons for the HAPGC's decision are factually stated in the Notice.
- **Discovery.** The hearing officer will determine if the HAPGC and the family were given the opportunity to examine any relevant documents in accordance with HAPGC policy.
- **HAPGC Evidence to Support the HAPGC Decision:** The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the HAPGC's conclusion.
- **Validity of Grounds for Termination of Assistance (when applicable).** The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and HAPGC policies. If the grounds for termination are not specified in the regulations or in compliance with HAPGC policies, then the decision of the HAPGC will be overturned.

The hearing officer will issue a written decision to the family and the HAPGC no later than 30 business days after the hearing. The report will contain the following information:

### Hearing information:

- Name of the participant;
- Date, time, and place of the hearing;
- Name of the hearing officer;
- Name of the HAPGC representative; and
- Name of family representative (if any).

**Background** A brief, impartial statement of the reason for the hearing.

**Summary of the Evidence:** The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

**Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

**Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the HAPGC's decision.

**Order:** The hearing report will include a statement of whether the HAPGC's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the HAPGC to

change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct the HAPGC to restore the participant's program status.

**Notice of Final Decision [24 CFR 982.555(f)]**

The HAPGC is not bound by the decision of the hearing officer for matters in which the HAPGC is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State or local laws.

If the HAPGC determines it is not bound by the hearing officer's decision in accordance with HUD regulations, the HAPGC must notify the family within ten (10) days of the determination and the reason for the determination.

The HAPGC will mail a "Notice of Final Decision" including the hearing officer's report, to the participant and their representative. This Notice will be sent by first-class mail. A copy of the "Notice of Final Decision" will be maintained in the HAPGC's file.

The HAPGC is not bound by hearing decisions:

- Concerning matters in which the HAPGC is not required to provide an opportunity for a hearing.
- Contrary to HUD regulations or requirements.
- Contrary to Federal, State, or local laws.
- That exceeds the authority of the person conducting the hearing.

**C. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]**

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the HAPGC hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

### **Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]**

The HAPGC will send a notice of denial or termination of assistance for noncitizens advising the family:

- That financial assistance will be denied or terminated and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the HAPGC either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

### **Informal Hearing Process**

Informal Hearings for non-citizen will follow the same procedures program participants.

### **Procedure for Appeal**

If the participant (or any member) claimed eligible immigrant status and the USCIS primary and secondary verifications failed to document the status, the family must make an appeal to the USCIS within ten (10) days and provide the HAPGC with a copy of the written request of appeal as well as proof of mailing. Failure to provide the HAPGC with such documentation and proofs will result in the termination of assistance.

The USCIS will issue a written decision to the family within thirty (30) days of receipt of the appeal and will forward a copy of the decision to the HAPGC. The family is also encouraged to provide the HAPGC a copy of the USCIS decision upon receipt.

The participant may then request that the HAPGC conduct an informal hearing regarding the HAPGC's initial determination. The request for a hearing must be made either within 30 days of receipt of the HAPGC notice of termination, or within 30 days of receipt of the USCIS appeal decision.

After the HAPGC has made a determination of ineligibility, the family will be notified within 10 days of the determination and informed of the option for prorated assistance (if applicable) or, for participants who qualify, for Temporary Deferral of Termination of Assistance.

### **Hearing Decision**

The HAPGC must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

### **Retention of Documents**

The HAPGC will retain for a minimum of five (5) years documents submitted to the HAPGC by the family, or provided as part of the USCIS appeal or the HAPGC informal hearing process as follows:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

**CHAPTER 17**  
**PROGRAM INTEGRITY**

The Housing Authority of Prince George’s County is committed to ensuring that the proper level of benefits is paid to all HVC and project-based voucher participants, and that housing resources reach only eligible families.

HAPGC will take all steps necessary to prevent fraud, waste, and mismanagement so that program resources are utilized judiciously. This Chapter outlines the HAPGC’s policies for the prevention, detection and investigation of program abuse and tenant fraud.

**A. PREVENTING ERRORS AND PROGRAM ABUSE**

The HAPGC anticipates that the vast majority of families and HAPGC employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

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

- The HAPGC will provide each applicant and Housing Choice Voucher Program participant with a copy of “Is Fraud Worth It?” (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.
- The HAPGC will provide each applicant and Housing Choice Voucher Program participant with a copy of “What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19. In addition, the HAPGC will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.
- The HAPGC will require mandatory briefings for all HCV Program participants prior to issuing the housing choice voucher. The HAPGC will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the family representative will be required to sign a program briefing certificate to confirm that all rules and pertinent regulations were explained to them.
- The HAPGC will routinely provide counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.
- HAPGC staff will be required to review and explain the contents of all HUD- and HAPGC-required forms prior to requesting family member signatures.
- The HAPGC will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key HAPGC forms and form letters that request information from a family member.

- The HAPGC will provide each HAPGC employee with the necessary training on program rules and the organization's standards of conduct and ethics.
- At every regular reexamination, the HAPGC staff will explain any changes in HUD regulations or HAPGC policy that affect program participants.

## **B. DETECTING ERRORS AND ABUSE**

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

- The HAPGC routinely will use EIV and other non-HUD sources of up-front income verification. This includes the Work Number and any other private or public databases available to the HAPGC.
- At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.
- The HAPGC will compare family-reported income and expenditures to detect possible unreported income.

The HAPGC will also use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the HAPGC's error detection and abuse prevention efforts.

### **Consideration of Remedies**

In the case of family-caused errors or program abuse, the HAPGC will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

### **Notice and Appeals**

The HAPGC will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the HAPGC determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through an informal hearing or grievance hearing (see Chapter 16).

## **C. QUALITY CONTROL AND ANALYSIS OF DATA**

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the HAPGC to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985]. (See Chapter 16 for additional information about SEMAP requirements).

In addition to the SEMAP quality control requirements, the HAPGC will employ a variety of methods to detect errors and program abuse.

The HAPGC will routinely use available sources of enterprise income verification (EIV) to compare with family-provided information. At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information. The HAPGC will compare family-reported income and expenditures to detect possible unreported income.

#### **D. INDEPENDENT AUDITS AND HUD MONITORING**

OMB Circular A-133 requires all PHAs that expend \$500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of HAPGC activities and notifies the HAPGC of errors and potential cases of program abuse.

The HAPGC will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the HAPGC's error detection and abuse prevention efforts.

#### **E. INVESTIGATING ERRORS AND PROGRAM ABUSE**

The HAPGC will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the HAPGC to investigate, the allegation must contain at least one independently verifiable item of information, such as the name of an employer or the name of an unauthorized household member. The HAPGC will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

##### **Investigation Process**

When the HAPGC has determined that an allegation or referral warrants follow-up, either the staff person who is responsible for the file or a person designated by the Executive Director or Deputy Director to monitor the program compliance will conduct the investigation. The steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below.

- **EIV.** In all cases EIV will be updated and reviewed, including income discrepancy reports.
- **Credit Bureau Inquiries.** In cases involving previously unreported income sources, a CBI inquiry may be made to determine if there is financial activity that conflicts with the reported income of the family.
- **Verification of Credit.** In cases where the financial activity conflicts with file data, a Verification of Credit form may be mailed to the creditor in order to determine the

unreported income source.

- **Employers and Ex-Employers.** Employers or ex-employers may be contacted to verify wages that may have been previously undisclosed or misreported.
- **Neighbors/Witnesses.** Neighbors and/or other witnesses may be interviewed who are believed to have direct or indirect knowledge of facts pertaining to the HAPGC's review.
- **Other Agencies.** Investigators, caseworkers, or representatives of other benefit agencies may be contacted.
- **Public Records.** If relevant, the HAPGC may review public records kept in any jurisdictional courthouse. Examples of public records which may be checked are real estate, marriage, and divorce, Uniform Commercial Code financing statements, voter registration, judgments, court or police records, state wage records, utility records, and postal records.
- **Head of Household or Family Members.** The HAPGC may discuss the allegation (or details thereof) with the Head of Household or family member by scheduling an appointment at the HAPGC office. Under no circumstances will inflammatory language, accusation, or any unprofessional conduct or language, on the part of either the family or the HAPGC representative, be tolerated by management. An additional staff person may be required to attend such interviews.

### **Consent to Release of Information [24 CFR 982.516]**

The HAPGC may investigate possible instances of error or abuse using all available HAPGC and public records. If necessary, the HAPGC will require HCV families to give consent to the release of additional information.

The HAPGC will base its evaluation on a preponderance of the evidence collected during its investigation. Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence

For each investigation, the HAPGC will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the HAPGC, and (3) what corrective measures or penalties will be assessed.

### **Consideration of Remedies**

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

In the case of family-caused errors or program abuse, the HAPGC will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the

case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

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

## **F. CORRECTIVE MEASURES AND PENALTIES**

### **Subsidy Under and Over Payments**

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the HAPGC must promptly correct the HAP, family share, and any utility reimbursement prospectively. HAPGC Policy Increases in the family share will be implemented only after the family has received 30 days' notice. Any decreases in family share will become effective the first of the month following the discovery of the error.

### **Incorrect Subsidy Determinations**

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the HAPGC to use incorrect information provided by a third party.

***Family Reimbursement to HAPGC.*** In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. The HAPGC may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, the HAPGC will terminate the family's assistance in accordance with the policies in Chapter 15.

***HAPGC Reimbursement to Family.*** The HAPGC will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

### **Reimbursements**

Whether the family or owner is required to reimburse the HAPGC or the HAPGC is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse.

## **G. FAMILY CAUSED ERRORS AND PROGRAM ABUSE**

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members. In cases of program abuse families must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

### **Prohibited Family Actions**

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the HAPGC [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

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

- Payment to the owner in excess of amounts authorized by the HAPGC for rent, security deposit, and additional services.
- Offering bribes or illegal gratuities to the HAPGC Board of Commissioners, employees, contractors, or other HAPGC representatives.
- Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the HAPGC on the family's behalf.
- Use of a false name or the use of falsified, forged, or altered documents.
- Intentional misreporting of family information or circumstances (e.g., income, family composition).
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income).
- Admission of program abuse by an adult family member.
- Receiving any benefit for which they are not eligible.
- Other actions HAPGC determines to constitute program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

### **Penalties for Program Abuse**

In the case of program abuse caused by a family the HAPGC may, at its discretion, impose any of the following remedies:

- The HAPGC will require the family to repay excess subsidy amounts paid by the HAPGC, as described earlier in this section.
- The HAPGC may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 1 (for participants).
- The HAPGC may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 13, respectively.
- The HAPGC may refer the family for state or federal criminal prosecution.

## **H. OWNER CAUSED ERROR OR ABUSE**

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan.

This section focuses on errors and program abuse by owners. An incorrect subsidy determination caused by an owner would generally be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

### **Prohibited Owner Actions**

An owner participating in the HCV program must not:

- Make any false statement to the HAPGC [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)].

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

- Charging the family rent above or below the amount specified by the HAPGC.
- Charging a security deposit other than that specified in the family's lease.
- Charging the family for services that are provided to unassisted tenants at no extra charge.
- Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit.
- Knowingly accepting incorrect or excess housing assistance payments.
- Offering bribes or illegal gratuities to the HAPGC Board of Commissioners, employees, contractors, or other HAPGC representatives.
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the HAPGC.
- Residing in the unit with an assisted family.

### **Remedies and Penalties**

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

- Require the owner to repay excess housing assistance payments.
- Terminate the HAP contract (See Chapter 12).

- Bar the owner from future participation in any HAPGC programs.
- Refer the case to state or federal officials for criminal prosecution.

### **Owner Reimbursement to HAPGC**

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the HAPGC any excess subsidy received. The HAPGC may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the HAPGC may allow the owner to pay in installments over a period of time.

### **I. HAPGC CAUSED ERROR AND ABUSE**

The responsibilities and expectations of HAPGC staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a HAPGC staff member that are considered errors or program abuse related to the HCV program.

Additional standards of conduct may be provided in the HAPGC personnel policy. HAPGC-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

#### **HAPGC Prohibited Actions**

Any of the following will be considered evidence of program abuse by HAPGC staff:

- Failing to comply with any HCV program requirements for personal gain.
- Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner.
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the HAPGC.
- Disclosing confidential or proprietary information to outside parties.
- Gaining profit as a result of insider knowledge of HAPGC activities, policies, or practices.
- Misappropriating or misusing HCV funds.
- Destroying, concealing, removing, or inappropriately using any records related to the HCV program.
- Committing any other corrupt or criminal act in connection with any federal housing program.

#### **Repayment to the HAPGC**

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

### **HAPGC Reimbursement to Family or Owner**

The HAPGC must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from the HAPGC's administrative fee reserves.

### **J. CRIMINAL PROSECUTION**

When the HAPGC determines that program abuse by an owner, family, or HAPGC staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the HAPGC will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

HAPGC staff will also be subject to disciplinary action in accordance with HAPGC's policies and practices

### **K. FRAUD AND PROGRAM ABUSE RECOVERY**

The HAPGC may retain a portion of program fraud losses that the HAPGC recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163]. The HAPGC must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits the HAPGC to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement; or
- Reasonable and necessary costs that the HAPGC incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

If HUD incurs costs on behalf of the HAPGC related to the collection, these costs must be deducted from the amount retained by the HAPGC

**CHAPTER 18**  
**PROJECT-BASED VOUCHERS [24 CFR 983.5]**

The HAPGC will administer a project-based voucher (PBV) program under an annual contributions contract (ACC) with HUD to take up to 20 percent of its voucher program budget and attach the funding to specific units rather than using it for tenant-based assistance. The HAPGC will operate a PBV program if doing so is consistent with the HAPGC's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities.

**A. GENERAL PROVISIONS**

No statement in this Plan regarding the HAPGC's obligations or responsibilities shall relieve an owner from any obligation or responsibility of owner under the PBV program, including without limitation applicable law, regulations, this Plan, any Agreement to enter into HAP, and any HAP contract. Where an owner shall fail to comply with any obligation or responsibility of the owner, the HAPGC shall have no liability to the owner, regardless of any action or inaction by the HAPGC. Nor shall any owner be deemed or construed an intended beneficiary of any responsibility or obligation of HAPGC hereunder except where expressly stated.

This PBV Plan is intended to comply in all respects with applicable law and HUD regulations. If and to the extent any provision hereof directly conflicts with applicable law or HUD regulations, then the provision hereof shall be modified so as to comply with same. In addition, this PBV Plan is intended to establish certain baseline rules and requirements for the PBV program and shall in no respect be deemed to amend or modify any provision of an agreement to enter into HAP Contract or HAP Contract which is more restrictive than the requirements herein.

No provision hereof shall be construed to obligate an owner who has executed an Agreement to enter HAP Contract or a HAP Contract to accept or continue to provide housing to any tenant where the same would result in breach or default of, or non-compliance with, the applicable requirements of any LIHTC or multifamily housing bond assistance received by owner in conjunction with owner's construction or rehabilitation of the PBV units.

**B. TENANT-BASED VS PROJECT-BASED VOUCHER ASSISTANCE**

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, HAPGC policies contained in this administrative plan apply to the PBV program and its participants.

### **C. RELOCATION REQUIREMENTS [24 CFR 983.7]**

Any persons displaced by the HAPGC as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)[42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance shall be paid with funds provided or obtained by the owner unless the HAPGC expressly agrees to provide assistance with the cost of relocation assistance to the owner. If the HAPGC expressly agrees to provide assistance, such assistance may be provided through local public funds, or funds available from other sources.

The HAPGC will not use voucher program funds to cover relocation costs, except that the HAPGC may in its sole discretion use its administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes will also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. Any owner seeking PBV assistance must demonstrate to the HAPGC that it has complied with the URA.

### **D. FAIR HOUSING AND EQUAL OPPORTUNITY**

The HAPGC will comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program (See Chapter 2). This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, the HAPGC will comply with the HAPGC Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

### **E. PROJECT-BASED VOUCHER OWNER PROPOSALS**

#### **Solicitation and Selection of PBV Proposals [24 CFR 983.51(c)]**

The HAPGC must select PBV proposals in accordance with the selection procedures in this Plan. The HAPGC must select PBV proposals by either of the following two methods:

1. ***HAPGC Request for PBV Proposals.*** The HAPGC may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the HAPGC request. The HAPGC may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.
2. ***Previously Selected Proposals.*** The HAPGC may select proposals that were previously selected based on a competition. This may include selection of a proposal

for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance.

### **HAPGC Request for Proposals for Rehabilitated and Newly Constructed Units**

The HAPGC will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in newspapers and trade journals. In addition, the HAPGC will post the RFP and proposal submission and rating and ranking procedures on its electronic web site.

The HAPGC will publish its advertisement in the local newspapers and trade journals for at least one day per week for three consecutive weeks. The advertisement will specify the number of units the HAPGC estimates that it will be able to assist under the funding the HAPGC is making available.

Proposals will be due in the HAPGC office by close of business 30 calendar days from the date of the last publication. In order for the proposal to be considered, the owner must submit the proposal to the HAPGC by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

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

- Owner experience and capability to build or rehabilitate multifamily housing as identified in the RFP;
- Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;
- Extent to which the project furthers the HAPGC's goal of deconcentrating poverty and expanding housing and economic opportunities;
- Location of the Project in a Revitalization Area as defined by HUD.
- Compliance with all HUD Equal Opportunity and Civil Rights requirements including Section 504, Fair Housing and Section 3.
- If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and
- Projects with less than 25 percent of the units assisted will be rated higher than projects with 25 percent of the units assisted. In the case of projects for occupancy by the elderly, persons with disabilities or families needing other services, the HAPGC will

rate partially assisted projects on the percent of units assisted. Projects with the lowest percent of assisted units will receive the highest score under this criterion.

### **PHA Requests for Proposals for Existing Housing Units**

The PHA will advertise its request for proposals (RFP) for existing housing in local newspapers and trade journals. In addition, the PHA will post the notice inviting such proposal submission and the rating and ranking procedures on its electronic web site.

The PHA will periodically publish its advertisement in local newspapers and trade journals for at least one day per week for three consecutive weeks. The advertisement will specify the number of units the PHA estimates that it will be able to assist under the funding the PHA is making available.

### **Selection of Owners for PBV Program Participation**

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

Owners may submit unsolicited proposals for review by the HAPGC under this Section. In addition, the HAPGC may periodically advertise that it is seeking proposals under this Section in local and regional newspapers.

The HAPGC reserves the right to request at any time additional information regarding any proposal received in response to such a solicitation, including without limitation, a site plan, construction plans, and budgetary information. The HAPGC reserves the right to reject all proposals received. Regardless of whether any proposal is accepted, the HAPGC shall have no responsibility or liability to any owner for any cost incurred in developing or submitting a proposal, or in any other way related to HAPGC's solicitation.

The HAPGC may also directly contact specific owners that have already been selected for Federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

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

- Owner experience and capability to build or rehabilitate multifamily housing;
- Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;
- Extent to which the project furthers the HAPGC's goal of deconcentrating poverty and expanding housing and economic opportunities; and
- Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME

program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community.

- Location of the Project in a Revitalization Area as defined by HUD.
- Compliance with all HUD Equal Opportunity and Civil Rights requirements including Section 504, Fair Housing and Section 3.

The HAPGC reserves the right to request at any time additional information regarding any proposal received, including without limitation, a site plan, construction plans, and budgetary information. The HAPGC will notify any owner submitting an unsolicited proposal whether the proposal has been approved or rejected within 120 calendar days of receipt, subject to the proposer timely providing all additional materials and information which the HAPGC may request.

Without limitation, no proposal will be considered and/or approved unless vouchers are available to the HAPGC for PBV assistance and the use of available vouchers for PBV Program. assistance is in the best interest of the HAPGC and HCV recipients and applicants, as determined by the HAPGC. To receive consideration, a proposal must comply with all applicable HUD regulations and requirements as set forth herein and at 24 CFR Part 983.

Regardless of whether any proposal is accepted, the HAPGC will have no responsibility or liability to any owner for any cost incurred in developing or submitting a proposal under this Section, regardless of whether the proposal is solicited or unsolicited.

### **Approval of Owner**

Approval or selection of a proposal does not constitute a binding agreement by the HAPGC to enter into an Agreement to enter into HAP Contract, nor shall it create any legal right in owner to participation in the PBV program. Any such rights shall accrue only upon execution by all parties of an Agreement to enter into HAP Contract and shall be limited in accordance with the terms and conditions set forth therein.

### **F. NOTIFICATION OF SELECTION**

Within 10 business days of the HAPGC making the selection, the HAPGC will notify the selected owner in writing of the owner's selection for the PBV program. The HAPGC will also notify in writing all owners that submitted a response to the solicitation that were not selected and provide the names of the selected owner.

In addition, the HAPGC will publish its notice for selection of PBV proposals for two consecutive days in the same newspaper it used to solicit the proposals (or the Virginian Pilot if there was no public solicitation). The announcement will include the name of the owner that was selected for the PBV program. The HAPGC will also post the notice of owner selection on its electronic web site, if any.

The HAPGC will make available to any interested party its rating and ranking sheets and documents that identify the HAPGC basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after

publication of the notice of owner selection during normal business hours and for a production cost of \$.30 per copy.

HAPGC will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

### **Pre-selection HQS Inspection [24 CFR 983.103(a)]**

The HAPGC will examine the proposed site before the proposal selection date. If the units to be assisted already exist, the HAPGC must inspect all the units before the proposal selection date and must determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, the HAPGC may not execute the HAP contract until the units fully comply with HQS.

### **G. HAPGC-OWNED UNITS [24 CFR 983.51(E) AND 983.59]**

HAPGC owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the PHA owned units were appropriately selected based on the selection procedures specified in the PHA administrative plan. If the HAPGC elects to use project-based voucher for HAPGC owned units, the Authority must identify the entity that will review the PHA proposal selection process and perform specific functions with respect to rent determinations and inspections and other functions associated with administration of the HCVP.

### **H. INELIGIBLE UNIT TYPES**

In accordance with 24 CFR 983.53, the HAPGC will not provide PBV assistance for the following unit types:

- Shared housing
- Units on the grounds of a penal, reformatory, medical, mental, or similar public or
- Private institution
- Nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care or intermediate care
- Units owned or controlled by an educational institution or its affiliate and are designated for occupancy by students of the institution
- Manufactured homes
- Cooperative housing
- Transitional housing
- High-rise elevator buildings for families with children.
- Owner-occupied units

- Units occupied by an ineligible family
- Other subsidized housing units
- Units rented to family members, including a parent, child, grandparent, grandchild, sister, or brother

#### **I. FAMILY-SELF SUFFICIENCY PROGRAM PARTICIPANTS**

The HAPGC will develop housing for occupancy by families participating in a Self-Sufficiency program who are in need of services to complete the family's Family Self – Sufficiency contract of participation or lease agreement. The families must receive the services, and successfully complete the service program, to be eligible for continued occupancy. The following types of services will be provided depending on the needs of the family:

- Transportation for activities such interviews, job training, employment, and school;
- Training in housekeeping and homemaking activities;
- Family budgeting;
- Child care;
- Parenting skills;
- Computer labs;
- Life skills and
- Work skills development and job training.

On a monthly basis, the HAPGC will monitor all families that are receiving services to determine if such families will be allowed to continue receiving PBV assistance. The HAPGC will monitor FSS families receiving services through Case Management to ensure that the family has received all of the required services stated in the FSS contract of family participation.

#### **J. SITE SELECTION STANDARDS**

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

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

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

- A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;
- A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;
- A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area;
- A census tract where there has been an overall decline in the poverty rate within the past five years; or
- A census tract where there are meaningful opportunities for educational and economic advancement.

## **K. DWELLING UNIT INSPECTIONS**

### **Housing Quality Standards**

The HAPGC must inspect each contract unit before execution of the HAP contract. The HAPGC may not enter into a HAP contract covering a unit until the unit fully complies with HQS. In addition, prior to providing assistance to a new family in a contract unit, the HAPGC must inspect the unit. The HAPGC may not provide assistance on behalf of the family until the unit fully complies with HQS.

### **Annual Inspections**

The HAPGC will annually during the term of the HAP contract inspect a random sample consisting of at least 20 percent of the contract units in each building to determine if the units and the premises are maintained in accordance with HQS. Turnover inspections will not count toward meeting this annual inspection requirement.

If more than 20 percent of the annual sample of inspected contract units in a building fails the initial inspection, the HAPGC will re-inspect 100 percent of the contract units in the building.

### **Other Inspections**

The HAPGC will inspect contract units as needed to determine if the units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The HAPGC will take into consideration complaints and any other information coming to its attention regarding HQS violations.

### **HAPGC Owned Units**

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

## **L. REHABILITATED AND NEWLY CONSTRUCTED UNITS**

In order to offer PBV assistance in rehabilitated or newly constructed units, the HAPGC will enter into a HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(a)].

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and the HAPGC agrees that upon timely completion of such development in accordance with the terms of the Agreement, the HAPGC will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(b)].

Subject to agreement upon all terms and conditions of the Agreement, the HAPGC will enter into the Agreement with the owner within 10 business days of receiving both environmental approval and notice that subsidy layering requirements have been met, and before construction or rehabilitation work can start.

### **Completion of the Housing**

The HAPGC will determine the need for the owner to submit additional documentation as evidence of housing completion such as a certificate of occupancy or other evidence that the units comply with local requirements; and an architect's certification that the housing complies with HQS, building codes, zoning, or work specifications. Without limitation, the HAPGC may specify any additional documentation requirements in the Agreement to enter into HAP contract. (24 CFR 983.155(b)).

## **M. HOUSING ASSISTANCE PAYMENT (HAP) CONTRACT**

The PHA must enter into a HAP contract with an owner for units that are receiving PBV assistance for an initial term of not less than one (1) year and no more than 15 years. The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. The HAP contract must be in the form required by HUD [24 CFR 983.202]

At any time before expiration of the HAP contract, the PHA may extend the term of the contract for an additional term of up to 15 years if the PHA determines an extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension.

### **HAP Contract Extension**

When determining whether or not to extend an expiring PBV contract, the AUTHORITY will consider several factors including, but not limited to:

- The cost of extending the contract and the amount of available budget authority;
- The condition of the contract units;
- The owner's record of compliance with obligations under the HAP contract and lease(s);
- Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and
- Whether the funding could be used more appropriately for tenant-based assistance.

### **HAP Contract Amendment**

The HAPGC will consider adding contract units to the HAP contract when the HAPGC determines that additional housing is needed to serve eligible low-income families. Circumstances may include, but are not limited to:

- The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and
- Voucher holders are having difficulty finding units that meet program requirements.

### **HAP Contract Termination**

The HAPGC will abate and terminate PBV HAP contracts, in whole or in part, for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Chapter 12.

### **Design or Special Feature Requirements**

The HAPGC will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. The HAPGC will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter into HAP contract, and the HAP contract.

## **N. APPLICANT ELIGIBILITY AND VERIFICATION**

The application eligibility, verification, and selection processes are the same as outlined in Chapters 3 through 5 of the Plan.

## **O. WAITING LIST MANAGEMENT**

The HAPGC will establish a separate waiting list for the HAPGC's entire PBV program. Provided that HAPGC may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units if such projects/buildings/units are subject to additional occupancy requirements as a result of LIHTC, bond financing, or governmental assistance.

## **P. TENANT SELECTION**

The HAPGC will provide a selection preference when required by the regulation (e.g., eligible in-place families, qualifying families for "excepted units," persons with mobility impairments for accessible units). The following additional preferences used in the Tenant-based program have been established for the PBV program are the same as local preferences of the HCV Program. See Chapter 4 of this Plan.

## **Q. ACCEPTANCE OF OFFER OF ASSISTANCE**

### **Family Briefing**

When a family accepts an offer for PBV assistance, the HAPGC will give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the HAPGC must provide a briefing packet that explains how the HAPGC determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

### **Persons with Disabilities**

If an applicant family's head or spouse is disabled, the HAPGC must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2 of this Plan). In addition, the HAPGC must have a mechanism for referring a family that includes a family member with mobility impairment to an appropriate accessible PBV unit.

### **Persons with Limited English Proficiency**

The HAPGC should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2 of this Plan).

## **R. REFUSAL OF OFFER OF ASSISTANCE**

The HAPGC is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance;

- Deny any admission preference for which the applicant qualifies;
- Change the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the HAPGC's selection policy; or
- Remove the applicant from the tenant-based voucher waiting list.

#### **S. OWNER SELECTION OF TENANTS**

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease.

#### **Disapproval by Landlord**

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list. An owner must promptly notify HAPGC in writing of the grounds for any rejection of an applicant.

#### **T. THE OWNER'S LEASE**

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD. HAPGC will review the owner's lease for compliance with state or local law.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a HAPGC model lease.

#### **Security Deposits**

The HAPGC prohibits the owner from collecting security deposits in excess of amounts charged by the owner to unassisted tenants. In addition, security deposits cannot exceed one month's rent.

#### **U. VACANCIES**

The owner must notify the HAPGC in writing (mail, fax, or e-mail) within 5 business days of learning about any vacancy or expected vacancy.

The HAPGC will make every reasonable effort to refer families to the owner within 20 business days of receiving such notice from the owner.

#### **Reduction in HAP Payments Due to Vacancies**

If any contract units have been vacant for 120 days, the HAPGC will give notice to the owner that the HAP contract may be amended to reduce the number of contract units that

have been vacant for this period. The HAPGC will provide the notice to the owner within 10 business days of the 120<sup>th</sup> day of the vacancy. The amendment to the HAP contract will be effective the 1<sup>st</sup> day of the month following the date of the HAPGC's notice.

### **Vacancy Payments to Owners**

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the HAPGC determines that the vacancy is the owner's fault.

If the HAPGC determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the housing assistance payment, the HAPGC will notify the landlord of the amount of housing assistance payment that the owner must repay. The HAPGC will require the owner to repay the amount owed.

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the HAPGC of the vacancy in accordance with the policy regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within 10 business days of the end of the period for which the owner is requesting the vacancy payment, subject to any extension which may be granted by the Authority.

The request must include the required owner certifications and the HAPGC may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the HAPGC within 10 business days of the HAPGC's request or such additional time as the HAPGC may allow, no vacancy payments will be made.

## **V. MOVING WITH CONTINUED ASSISTANCE [24 CFR 983.61]**

### **Moves Due to Wrong Size Unit and Accessibility Issues**

The HAPGC will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 10 business days of the HAPGC's determination. The HAPGC will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

- PBV assistance in the same building or project;
- PBV assistance in another project; or
- Tenant-based voucher assistance.

When the HAPGC offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, the HAPGC may terminate the housing assistance payments at the expiration of this 30-day period.

The HAPGC may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

### **Family Initiated Moves**

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the HAPGC. If the family wishes to move with continued tenant-based assistance, the family must contact the HAPGC to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, the HAPGC is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, the HAPGC must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

### **W. EXCEPTIONS TO THE OCCUPANCY CAP**

When the HAPGC determines that a family no longer meets the criteria for a "qualifying family" in connection with the 25 percent per building cap exception, the HAPGC will provide written notice to the family and owner within 10 business days of making the determination. The family will be given 30 days from the date of the notice to move out of the PBV unit. If the family does not move out within this 30-day time frame and the owner has not commenced eviction proceedings, the HAPGC will terminate the housing assistance payments at the expiration of this 30-day period.

The HAPGC may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

The HAPGC may refer other eligible families to the excepted units. However, if there are no eligible families on the waiting list and the owner does not refer eligible families to the HAPGC, the HAPGC may amend the HAP contract to reduce the total number of units under contract.

### **X. DETERMINING RENT TO OWNER**

Upon written request by the owner, the HAPGC will consider using the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. The HAPGC will

review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, the HAPGC may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent, if the HAPGC determines it is necessary due to budgetary constraints.

### **Rent Increases**

An owner's request for a rent increase must be submitted to the HAPGC 60 days prior to the anniversary date of the HAP contract and must include the new rent amount the owner is proposing.

HAPGC will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

### **HAPGC-Owned Units**

For HAPGC-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD. The HAPGC must use the rent to owner established by the independent entity.

### **Rent Reasonableness**

At the time the initial rent is established and at all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the HAPGC.

The reasonable rent of a unit receiving PBV assistance will be determined by comparison to rent for other comparable unassisted units. When making this determination, the HAPGC will consider factors that affect market rent. Such factors include the location, quality, size, type, and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

### **Rent Reasonableness for HAPGC-owned Units**

For HAPGC-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for HAPGC-owned units to the HAPGC and to the HUD field office where the project is located.

### **Owner Certification of Reasonable Rent**

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the HAPGC may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

**Y. PAYMENTS TO OWNERS**

During the term of the HAP contract, the HAPGC will make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family.

The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due unless the owner and the HAPGC agree on a later date.

**Z. TENANT RENT TO OWNER**

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the HAPGC in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in HAPGC's notice to the family and owner.

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the HAPGC.

Likewise, the HAPGC is only responsible for making the housing assistance payment to the owner in accordance with the HAP contract. The HAPGC is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit.

**AA. TERMINATION OF ASSISTANCE**

See Chapters 15, 16, and 17 of this Plan.

**CHAPTER 19**

**HOMEOWNERSHIP**

**[24 CFR 982.625 - 982.643]**

**A. HOMEOWNERSHIP OVERVIEW [24 CFR 982.625]**

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option will be an existing participant in the Housing Authority of Prince George's County HCV Program for one year and are in good standing. The only form of homeownership assistance currently available at HAPGC is monthly homeownership assistance payments.

**Housing Choice Voucher Rules Apply**

With the exception of unique eligibility and "family obligation" procedures identified elsewhere in the chapter, HAPGC will administer the HCV Homeownership program in accordance with all the policies and procedures contained in the HCV Administrative Plan and 24 CFR Part 982.

**B. ELIGIBILITY [24 CFR 982.627]**

The family must meet all of the requirements listed below before the commencement of homeownership assistance.

- The family must be a current participant in the program and been a participant for at least one year.
- The family must qualify as a first-time homeowner or a cooperative member.
- The non-disabled/non-elderly/elderly family must meet the Federal minimum income requirement of \$14,500. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2,000, based on the income of adult family members who will own the home. Welfare assistance cannot be used to determine the minimum income requirement for a non-elderly/non-disabled family.
- For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by 12.
- For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families.
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (not less than an average of 30 hours per week); and has been continuously so employed during the year before commencement of homeownership assistance for the family.

- The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, the HAPGC must grant an exemption from the employment requirement if the HAPGC determines that it is needed as a reasonable accommodation.
- The family has not previously defaulted on a mortgage securing debt to purchase a home under the homeownership option.
- Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.
- Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR 982.631(c).
- The family has had no family-caused violations of HUD's Housing Quality Standards within the past year.
- The family does not owe money to the HAPGC.
- The family has not committed any serious or repeated violations of a HAPGC-assisted lease within the past year.
- The family is in good standing with all terms of the family obligations and has been so for at least one year.
- An applicant must demonstrate a minimum down payment of at least three percent (3%) or more. One percent (1%) of the purchase price of the property must come from the family's personal resources.

### **Families Requiring Reasonable Accommodations**

The HAPGC may offer homeownership assistance if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. It is the sole responsibility of the HAPGC to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The HAPGC must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability.

The HAPGC will review request for reasonable accommodations and may approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

### **C. SELECTION OF FAMILIES [24 CFR 982.626]**

Unless otherwise provided (under the homeownership option), the HAPGC will limit homeownership assistance to participant families and may prescribe additional requirements for commencement of homeownership assistance for a family. In any case, all families must meet eligibility requirements as defined in Section B of this Plan.

If the HAPGC limits the number of families that may participate in the homeownership option, the HAPGC must establish a system by which to select families to participate.

The HAPGC has not designated a specific number of Vouchers to the HCV Homeownership Program, however the HAPGC will adjust the program to the number of vouchers available in the market, qualified families, need, and administrative resources.

#### **Selection Preferences**

HAPGC shall use a priority mechanism to ensure a fair and equitable selection of new applicants. Upon securing a sufficient number of applicants to ensure full utilization of the program, HAPGC shall resort to its traditional use of priority and then date and time of application. Priority will be given in the following order:

1. Families that have graduated from the FSS program and meet the HCV Homeownership eligibility requirements.
2. Families that have verified that they meet the eligibility requirements and are acceptable for lender/loan requirements by a qualified lender with qualified loan products.
3. All other eligible families.
4. Other families that are participating to achieve eligibility

Within preference and non-preference categories, families will be selected according to the date and time of their application for participating in the homeownership option approved by the HAPGC.

### **D. HOMEOWNERSHIP PROGRAM APPLICATION**

Applicants to the Homeownership Program must complete and submit the *Homeownership Application* to the HCV Program Administrator for review. The application includes information on income, assets, obligations, and family composition.

Upon receipt of a *HCV Homeownership Application*, the HCV Program Administrator determines whether an applicant meets the eligibility criteria for the program. The application review will include at minimum:

1. Evaluation of family composition and HCV rental status.
2. Review of income, savings, and disability documentation.

3. Verification that the applicant is in compliance with all lease provisions using the HAPGC *Landlord Reference* form.
4. Evaluation of employment history.

All documentation is subject to independent verification by HAPGC for discrepancies or omissions. If discrepancies or omissions are discovered, the HAPGC will perform an interim reexamination to resolve same.

### **Certificate of Eligibility**

If the HAPGC determines that a family meets minimum eligibility criteria, he/she may issue a *Certificate of Eligibility* to enable the applicant to shop for a home purchase. The issuance of a *Certificate of Eligibility* does not guarantee that a participant will have the ability to secure a homeownership loan.

### **E. ELIGIBLE UNITS [24 CFR 982.628]**

In order for a unit to be eligible, the HAPGC must determine that the unit satisfies all of the following requirements:

- The unit must be under construction, already exist at the time the family enters into the contract of sale or a unit to be built for the family. Under construction requires that at least the footers are poured and in place. The HAPGC will not commence Housing Assistance Payments until the unit has satisfactorily passed an HQS and independent inspections and meet all other program requirements.
- The unit must be a one-unit property or a single dwelling unit in a cooperative or condominium.
- The unit must have been inspected by the HAPGC for HQS and also by an independent inspector designated by the family for the systems, structure, and other requirements for the independent inspection.
- The unit must meet Housing Quality Standards prior to the time of assistance.
- For a unit where the family will not own fee title to the real property (such as a manufactured home), the home must have a permanent foundation and the family must have the right to occupy the site for at least 40 years.

Housing unit ineligible under the HCV Homeownership Program:

- A current public housing or Indian housing rental unit;
- A unit receiving Housing Choice Voucher project-based assistance;
- A nursing home, board and care home, or facility providing continual psychiatric, medical, or nursing services;
- A college or other school dormitory;

- On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
- A dwelling owned by a seller that is debarred, suspended, or subject to a limited denial of participation.

### **HAPGC Owned Units**

For HAPGC-owned units all of the following conditions must be satisfied:

- HAPGC informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a HAPGC-owned unit is freely selected by the family without PHA pressure or steering;
- The unit is not ineligible housing;
- The PHA obtains the services of an independent agency to inspect the unit for compliance with HQS, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any PHA provided financing.
- All of these actions must be completed in accordance with program requirements.

### **F. ADDITIONAL REQUIREMENTS FOR SEARCH AND PURCHASE [24 CFR 982.629]**

It is the family's responsibility to find a home that meets the criteria for voucher homeownership assistance. The HAPGC has established the maximum time that will be allowed for a family to locate and purchase a home and will require the family to report on their progress in finding and purchasing a home.

If the family is unable to purchase a home within the maximum time established by the HAPGC, the HAPGC provide additional time for the family to search. Documentation requesting the additional time will be provided by the family.

At the time the Certificate of Eligibility is issued, the family is placed in "home shopping status." The family has 180 days to locate and make an offer on a home and secure a prequalification letter from their lender. The HAPGC may grant three additional 30-day extensions not to exceed a total of 270 home shopping days.

All requests for extensions must be submitted in writing to the HAPGC prior to the expiration of the period for which the extension is being requested. The HAPGC will approve or disapprove the extension request within 10 business days. The family will be notified of the HAPGC's decision in writing.

If the participant family cannot complete the purchase of a unit within the maximum required time frame and is not receiving rental assistance under a HAP contract at the time the search and purchase time period expires, the family will be allowed to lease a unit and remain in the rental program, so long as they are still in good standing with the program.

Following the purchase, HAPGC will conduct an HQS inspection to determine if reasonable accommodations still exist or if there is a complaint, or reason to believe that the unit is not HQS compliant or resident is compliance with the program.

### **G. HOMEOWNERSHIP COUNSELING [24 CFR 982.630]**

All families wishing to participate in the Homeownership Program must complete a minimum of the regular eight hours of pre-purchase homeownership counseling and any individually required counseling sessions.

HAPGC will provide homeownership counseling prior to application, after a *Certificate of Eligibility* is issued, and post-purchase counseling. An HCV applicant must attend and satisfactorily complete the HAPGC *Home Choice* counseling program.

The counseling program covers the topics listed below. Applicants who HAPGC determines are not yet “mortgage ready” may be required to obtain additional information/counseling on any of the following issues:

- Is homeownership right for you?
- Special needs of disabled home buyers/fair housing issues;
- Budgeting and money management;
- Credit counseling;
- How to negotiate the purchase price of a home;
- How to obtain homeownership financing and loan pre- approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing;
- How to find a home, including information about homeownership opportunities, schools, and transportation services in the area;
- Information about the Real Estate Procedures Act, State and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions;
- Home maintenance;
- Taxes, proration of taxes if assisted by the program;
- Inspection criteria, HQS requirements, special requirements in the contract for sale;
- Voucher, eligibility, and continuous eligibility requirements;
- Post purchase counseling.

The HAPGC or its counseling partner will offer additional counseling after commencement of homeownership assistance (ongoing counseling). This is part of the program and attendance remains a participant's obligation in order to continue to be assisted by the HAPGC.

If the HAPGC does not use a HUD-approved housing counseling agency to provide the counseling, the HAPGC will ensure that its counseling program is consistent with the counseling provided under HUD's Housing Counseling program.

## **H. HOME INSPECTION, CONTRACT OF SALE, AND HAPGC DISAPPROVAL OF A SELLER [24 CFR 982.631]**

### **Housing Quality Standards (HQS) Inspection**

When a family locates a home they wish to purchase and submits a copy of their purchase offer/contract, the HAPGC will conduct a housing quality standards (HQS) inspection within 10 business days. Any items found not to meet HQS must be repaired before the unit can be determined eligible for the homeownership program and before the closing date.

The HAPGC will also require a home inspection as required by HUD. The family must hire an independent professional inspector, whose report must be submitted to HAPGC for review. The inspector must be a member of the American Society of Home Inspectors (ASHI) or other recognized professional society, or a licensed engineer, or a standard that is readily accepted by the local lending community that is participating in the HCV Homeownership Program. The inspector may not be a HAPGC employee.

The HAPGC will review the professional report in 5 days and based on the presence of major physical problems, the HAPGC may disapprove the purchase of the home. If the HAPGC disapproves the purchase of a home, the family will be notified in writing of the reasons for the disapproval.

### **Contract of Sale**

Eligible homes must be located within the boundaries of the HAPGC HCV Program. The seller cannot be an individual, company, or corporation who has been debarred, suspended, or is subject to a limited denial of participation by HUD or HAPGC.

HAPGC may deny approval of a seller for any reason provided for disapproval of an owner under the voucher rental program regulations. Before commencement of homeownership assistance, the homeownership applicant must enter into a contract of sale, or earnest money agreement, with the home seller.

HAPGC will provide the buyer with an Addendum to the Residential Purchase Agreement. Both the buyer and seller must execute the earnest money agreement and Addendum.

The Addendum to the Residential Purchase Agreement shall contain the following provisions:

1. Specify price and other terms of sale by the seller to the purchaser.
2. Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser.
3. Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser and HAPGC.
4. Provide that the purchaser is not obligated to pay for any necessary repairs.
5. Specify that an HQS inspector be granted access to the property to perform an HQS inspection prior to closing. Homeownership assistance is contingent on satisfactory inspections by both inspectors and subject to approval by HAPGC.
6. Specify that the seller has not been debarred, suspended, or subject to a limited denial of participation in a HUD program under 24 CFR.
7. Specify that before Buyer is obligated under any contract to purchase Property, Seller shall permit Buyer a 10-day period (unless the parties mutually agree, in writing, upon a different period of time) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards. Buyer may waive the opportunity to conduct the risk assessment or inspection by so indicating in writing.

The Addendum to the Residential Purchase Agreement shall contain the following provisions if the unit is not yet constructed:

1. The purchaser is not obligated to purchase the unit unless an environmental review has been performed and the site has received environmental approval prior to commencement of construction in accordance with 24 CFR 982.628.
2. The construction will not commence until the environmental review has been completed and the seller has received written notice from the PHA that environmental approval has been obtained. Conduct of the environmental review may not necessarily result in environmental approval, and environmental approval may be conditioned on the contracting parties' agreement to modifications to the unit design or to mitigation actions.

Commencement of construction in violation of either of the above two provisions voids the purchase contract and renders homeownership assistance under 24 CFR part 982 unavailable for purchase of the unit.

### **Disapproval of a Seller**

In its administrative discretion, the HAPGC may deny approval of a seller for the same reasons a HAPGC may disapprove an owner under the regular HCV program [see 24 CFR 982.306(c)]. The seller cannot be limited denial process (LDP) or otherwise not capable of entering into contractual conditions as set forth by HUD.

## **I. FINANCING [24 CFR 982.632]**

The family is responsible for securing financing to purchase a home. The issuance of the Certificate of Eligibility does not guarantee that a family has the ability to secure financing for a home purchase.

The HAPGC and/or partner agencies will provide guidance to potential home buyers to ensure they avail themselves of various down payment assistance programs, optimum loan packages, mortgage interest rates, and ways to avoid predatory lending practices.

### **Loan Restrictions**

As a check against predatory lending, the HAPGC will review the financing and refinancing of each purchase transaction, including estimated closing cost. The HAPGC will not approve loans for features, such as balloon payments, adjustable rate mortgages, and unusually high interest rates. The HAPGC will not approve any loans that contain predatory practices.

The HAPGC also will not approve “seller financing” or “owner held” mortgages. Beyond these basic criteria, the HAPGC will rely on the lenders or the secondary market to determine the loan that will be affordable to program participants.

HAPGC may disapprove proposed financing of the debt if HAPGC determines that the debt is unaffordable. In making this determination, HAPGC will take into account family expenses such as child care, un-reimbursed medical expenses, homeownership expenses, and other family expenses, in addition to the participant’s income.

Independent of the lender’s requirements, HAPGC has established criteria that prohibits the family share in excess of 45% of the monthly adjusted income at the time of the initial closing.

HAPGC must approve any proposed refinancing of the property. The HAPGC staff will review all requests for refinancing. Refinancing the property, without prior written approval from HAPGC, may result in termination of the HCV Homeownership assistance.

### **Down Payment Requirements**

The purchasing family is required to invest at least three percent (3%) of the purchase price of the home. This investment can take the form of a down payment, closing costs, or a combination of the two. Of this sum, at least one percent (1%) of the purchase price must come from the family’s personal resources.

If the family is an FSS graduate, the FSS escrow may be used to meet 50% of the down payment and closing costs contribution requirements established by HAPGC.

The buyer may acquire financing through any HAPGC approved lender. If the home is purchased using FHA mortgage insurance, it is subject to FHA mortgage insurance requirements.

Qualified participants may use the value of rental assistance as a form of “income” to help them qualify for a mortgage. Their assistance may be applied directly against their mortgage payment, therefore enabling a borrower to qualify for a home purchase.

There is no prohibition against using local/state grants or other subsidized financing in conjunction with the Housing Choice Voucher Homeownership Program. The program can be combined with a variety of mortgage loan products and other HUD programs to assist a potential home buyer in achieving the most favorable interest rate and terms of purchase.

#### **J. CONTINUED ASSISTANCE REQUIREMENT; FAMILY OBLIGATIONS [24 CFR 982.633]**

The HAPGC and family must execute a HUD prescribed Statement of Homeowner Obligations (form HUD-52649) after a home is located and before homeownership assistance can start. In the statement the family agrees to comply with all obligations under the homeownership option.

The family must also execute the HAPGC Statement of Family Obligations which details the additional HAPGC HCV Homeownership Program obligations.

#### **Continuous Reporting Requirements**

HAPGC will reexamine the family’s income and composition on an annual basis. After purchase of the home, the family must continue to adhere to the “HUD Statement of Homeowner Obligations” and the HAPGC Statement of Family Obligations in order to continue to receive the monthly housing assistance payment.

**Statement of Family Obligations.** The HAPGC Statement of Family Obligations will be reviewed by the family and signed at each annual reexamination. A new Certificate of Housing Assistance Payment must be issued prior to any change in the housing assistance payment. Non-elderly and non-disabled families are required to annually document continued compliance with the full-time work requirement of the program by annual completion of the Homeownership Work Certification. HAPGC may deny or terminate assistance for violation of participant obligations as described in the “HUD Statement of Homeowner Obligations”, the HAPGC Statement of Family Obligations, or other program obligations.

**Changes in Income.** A family must disclose all changes in income within ten (10) business days of the change and at the annual reexamination. Failure to disclose or accurately report changes will jeopardize a family’s continued participation in this program. A family may not add an adult household member without prior HAPGC approval. HAPGC will deny admission to any individual who would otherwise not qualify for admission to the program due to criminal history, drug related history, or registry on a sex-offender list.

**Continuous Employment.** The applicant head of household or spouse must remain continuously employed (no less than 30 hours per week) while participating in the program. The applicant head of household or spouse must remain continuously employed (no less than 30 hours per week) while participating in the program.

HAPGC will consider mitigating circumstances where certain lapses in employment prohibit the family from meeting its continuous employment obligation. These include receipt of Unemployment Insurance Benefits due to layoff; absences defined under the Family Medical Leave Act; receipt of Workman's Compensation benefits.

HAPGC will allow week-for-week substitutions whenever of any of these benefits are received. The participant must return to full-time employment within 30 days after exhaustion of unemployment benefits. Failure to return to full-time employment (30 hours per week) within 30 days will generate a 60-day Notice to Correct. Failure to correct will result in a correctable 30-day Notice of Termination.

***Post-Purchase Requirements.*** Participant must agree to attend post-purchase counseling sessions in conjunction with acceptance into this program to continue to receive assistance. HAPGC may require families who become delinquent on their mortgage payments to participate in additional homeownership and/or credit counseling classes.

***Other Continuous HAPGC Family Obligations.*** In addition to completing the HUD Statement of Homeowner Obligations and HAPGC's Statement of Family Obligations Addendum prior to the issuance of the homeownership voucher, agreeing to comply with all family obligations under the Homeownership Program.

#### **K. MAXIMUM TERM OF HOMEOWNERSHIP ASSISTANCE [24 CFR 982.634]**

The limits on the length of time a family will receive homeownership assistance are as follows:

- 15 years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer;
- 30 years for elderly or disabled families; or
- 10 years in all other cases.

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

Upon the death of a family member who holds, in whole or in part, title to the home, homeownership assistance may continue, pending settlement of the decedent's estate. The home must be solely occupied by remaining family members in accordance with 24 CFR 982.551(h).

**L. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR 982.635]**

While the family is residing in a homeownership unit, the HAP is equal to the lower of: (1) the payment standard minus the total tenant payment, or (2) the monthly homeownership expenses minus the total tenant payment.

The family is responsible for all monthly homeownership expenses not reimbursed by the housing assistance payment. Homeownership expenses include:

- Principal and interest on the initial mortgage debt and any refinancing of such debt;
- Any mortgage insurance premium incurred to finance the purchase of the home;
- real estate taxes and public assessments on the home;
- Home insurances;
- Cooperative or condominium operating charges or maintenance fees assessed by the condominium or cooperative homeowner association;
- The land lease for land where the home is located;
- The HAPGC allowance for maintenance expenses;
- The HAPGC allowance for costs of major repairs and replacements;
- The HAPGC utility allowance for the home;
- Principal and interest on debt incurred to finance major repairs, replacements, or improvements on the home.

For an individual with disabilities, such debt may include those costs incurred by the family to make the home accessible.

The monthly homeownership assistance payment is the lower of the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the HAPGC will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described in elsewhere in this plan for the Housing Choice Voucher program.

The HAPGC may pay the homeownership assistance payments directly to the family, or at the HAPGC discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, the HAPGC must pay the excess directly to the family.

Homeownership assistance for a family terminates automatically 90 calendar days after the last homeownership assistance payment on behalf of the family. However, a PHA may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

### **Direct Payments to Family or Lender**

The HAPGC housing assistance payment will be paid directly to the family or to the lender, if required by the lender. If paid to the family, it will be the family's responsibility to make the entire payments to the lender.

The HAPGC may make the exception if the family requests the payment to go directly to the lender, and this arrangement is acceptable to the mortgage company. If the assistance payment exceeds the amount due to the lender, the HAPGC must pay the excess directly to the family. The family, at its option, can also place these funds in an escrow account that can be used for repairs or other homeownership expenses

### **Monthly Maintenance Allowance**

**Monthly maintenance allowance:** The monthly maintenance allowance will be the annual maintenance allowance, divided by twelve. The annual maintenance allowance will be set at \$600 at this time, subject to future adjustments.

**Monthly major repair/replacement allowance:** The monthly major repair/replacement allowance will be the annual major repair/replacement allowance divided by 12. The annual major repair/replacement allowance will be set at \$600 at this time, subject to future adjustments.

### **Cooperative Membership Expenses**

Homeownership expenses for a cooperative member may only include amounts allowed by the HAPGC to cover:

- The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;
- Home insurance;
- The HAPGC allowance for maintenance expenses;
- The HAPGC allowance for costs of major repairs and replacements;
- The HAPGC utility allowance for the home;
- Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the HAPGC determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person;
- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association;

**M. PORTABILITY [24 CFR 982.636, 982.637, 982.353(B) AND (C), 982.552, 982.553]**

HAPGC will permit portability of HCV homeownership assistance to another jurisdiction subject to HAPGC policies governing portability. The receiving jurisdiction must operate a HCV Homeownership Program for which the applicant qualifies and it must be willing to administer new homeownership families. In order to remain eligible for the program, the participant must sell the current home purchased under the HCV Homeownership Program and incur no mortgage default.

HAPGC will also accept families from another HCV Homeownership Program subject to HAPGC admission requirements for the homeownership program. It will administer the voucher if approved for homeownership.

Subject to the restrictions on portability included in HUD regulations and HAPGC policies, a family may exercise portability if the receiving PHA is administering a voucher homeownership program and accepting new homeownership families. The receiving PHA may absorb the family into its voucher program or bill the initial PHA.

The family must attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA will determine whether the financing, and the physical condition of the unit, are acceptable. The receiving PHA must promptly notify the initial PHA if the family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the HAPGC.

**N. MOVING WITH CONTINUED ASSISTANCE [24 CFR 982.637]**

A family receiving homeownership assistance may move with continued tenant-based assistance. The family may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

Requests to move will be approved and/or denied in accordance with the HAPGC policies stated in Chapter 15 of this Plan. The HAPGC will not require additional counseling of any families who move with continued assistance.

The HAPGC will deny permission to move to a new unit with continued voucher assistance as follows:

- Lack of funding to provide continued assistance.
- At any time, the HAPGC may deny permission to move with continued rental or homeownership assistance in accordance with 24 CFR 982.638, regarding denial or termination of assistance.
- In accordance with the HAPGC policy regarding number of moves within a 12-month period.

The HAPGC must deny the family permission to move to a new unit with continued voucher rental assistance if:

- The family defaulted on an FHA-insured mortgage; and
- The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and the family has moved, or will move, from the home within the period established or approved by HUD.

#### **O. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]**

A family's homeownership assistance may be terminated if a family fails to comply with its obligations under the HCV Homeownership Program or if the family defaults on the mortgage.

In making its decision to terminate homeownership assistance, the HAPGC will consider alternatives as described in Chapter 15 of this Plan. Upon consideration of such alternatives and factors, the HAPGC may, on a case-by-case basis, choose not to terminate assistance. Termination notices will be sent in accordance with the requirements and policies set forth in Chapter 15 of this Plan.

#### **Failure to Comply with Homeowner Obligations**

The family must comply with the terms of any mortgage incurred to purchase and/or refinance the home. The family must provide HAPGC with written notice of any sale or transfer of any interest in the home; any plan to move out of the home prior to the move; notification of the family's household composition and income and homeownership expenses on an annual basis; and any notice of mortgage default received by the family.

Except as otherwise specified in this plan, the family may not convey or transfer the home to any entity or person. Homeownership assistance may be denied or terminated in accordance with any of the provisions listed at 24CFR 982.638 and/or HAPGC requirements.

#### **Occupancy of Home**

Homeownership assistance will only be provided while the family resides in the home. If the family moves out of the home, HAPGC will not continue homeownership assistance commencing with the month after the family moves out. Neither the family nor the lender is obligated to reimburse HAPGC for homeownership assistance paid for the month the family moves out

#### **Changes in Income Eligibility**

HAPGC may adjust a family's homeownership assistance based upon changes in family income. The effective change shall occur 30 days after the month in which a reexamination of income occurred.

Participation in the HCV Homeownership Program shall continue until such time as the assistance payment amounts to zero for a period of 180 consecutive days. At that time, the family will no longer be eligible, and the HAP will be terminated.

However, should the family go to zero HAP, for 180 consecutive days, the HAPGC reserves the right to extend the period past 180 days, should there be documented extenuating circumstances for an extension to the time period. Such documented extenuating circumstances include but is not limited to:

- Death in the family.
- Loss of employment or income due to no fault of the family.
- Documentation of a medical or financial hardship beyond the control of the family for a member of the assisted household.

After receipt of verification, the HAPGC shall reinstate the family into the program subject to available funding and other program requirements.

#### **Refusal to Meet Continuous Work Requirement**

HAPGC may terminate a working family's homeownership assistance based on a willful refusal to adhere to, or properly document, the full-time employment requirement.

#### **Violation of Statement of Family Obligations**

The HAPGC will terminate a family's homeownership assistance if the family violates any of the homeowner obligations, as well as for any of the reasons listed in the Statement of Homeownership Obligation Housing Choice Voucher Homeownership Program.

#### **Family Requests a Return to Rental Assistance**

If a family requests to return to rental assistance, HAPGC may provide the family with a rental voucher, provided there is no mortgage loan default and the family has met all obligations under the HCV Program. The family must sell the home before HAPGC provides rental assistance.

At any time, the HAPGC may deny or terminate homeownership assistance in accordance with HCV program requirements in 24 CFR 982.552 (Grounds for denial or termination of assistance) or 24 CFR 982.553 (Crime by family members).

The HAPGC may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts 982.551 or 982.633.

The HAPGC must terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt.

**P. DEFAULT**

If the family defaults on the home mortgage loan, the participant will not be able to use the homeownership voucher for rental housing but may reapply for the Housing Choice Voucher waiting list, if the waiting list is open.

**Q. RECAPTURE**

By regulation, HAPGC cannot recapture any of the HCV Homeownership assistance, unless there is an act of fraud or misrepresentation of a material fact. The HCV Homeownership recapture provision does not apply to any other program funds that may be used in the transaction.

**R. INFORMAL HEARING [24 CFR 982.555]**

An informal hearing will be provided for participants who are being terminated from the Program because of the family's action or failure to act as provided in 24 CFR 982.552. The rules and procedures set forth in the Administrative Plan, entitled "Informal Hearings," will apply.

**GLOSSARY**

***ACRONYMS USED IN SUBSIDIZED HOUSING***

<b>AAF</b>	Annual adjustment factor (published by HUD in the Federal Register and used to compute annual rent adjustments)
<b>ACC</b>	Annual contributions contract
<b>ADA</b>	Americans with Disabilities Act of 1990
<b>BR</b>	Bedroom
<b>CDBG</b>	Community Development Block Grant (Program)
<b>CFR</b>	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
<b>CPI</b>	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
<b>FDIC</b>	Federal Deposit Insurance Corporation
<b>FHA</b>	Federal Housing Administration
<b>FICA</b>	Federal Insurance Contributions Act (established Social Security taxes)
<b>FMR</b>	Fair market rent
<b>FR</b>	Federal Register
<b>FSS</b>	Family Self-Sufficiency (Program)
<b>FY</b>	Fiscal year
<b>FYE</b>	Fiscal year end
<b>GAO</b>	Government Accountability Office
<b>GR</b>	Gross rent
<b>HAP</b>	Housing assistance payment
<b>HCV</b>	Housing choice voucher
<b>HQS</b>	Housing quality standards.
<b>HUD</b>	Department of Housing and Urban Development
<b>HUDCLIPS</b>	HUD Client Information and Policy System
<b>IG</b>	(HUD Office of) Inspector General
<b>IPA</b>	Independent public accountant
<b>IRA</b>	Individual Retirement Account
<b>IRS</b>	Internal Revenue Service
<b>JTPA</b>	Job Training Partnership Act

<b>LBP</b>	Lead-based paint
<b>MSA</b>	Metropolitan statistical area (established by the U.S. Census Bureau)
<b>MTCS</b>	Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system)
<b>NOFA</b>	Notice of funding availability
<b>OMB</b>	Office of Management and Budget
<b>PASS</b>	Plan for Achieving Self-Support
<b>PHA</b>	Public housing agency
<b>PHRA</b>	Public Housing Reform Act of 1998 (also known as the Quality Housing and Work Responsibility Act)
<b>PIC</b>	PIH Information Center
<b>PIH</b>	(HUD Office of) Public and Indian Housing
<b>PS</b>	Payment standard
<b>QC</b>	Quality control
<b>QHWRA</b>	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)
<b>REAC</b>	(HUD) Real Estate Assessment Center
<b>RFP</b>	Request for proposals
<b>RFTA</b>	Request for tenancy approval
<b>RIGI</b>	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
<b>SEMAP</b>	Section 8 Management Assessment Program
<b>SRO</b>	Single room occupancy
<b>SSA</b>	Social Security Administration
<b>SSI</b>	Supplemental security income
<b>TANF</b>	Temporary assistance for needy families
<b>TR</b>	Tenant rent
<b>TTP</b>	Total tenant payment
<b>UA</b>	Utility allowance
<b>URP</b>	Utility reimbursement payment
<b>VAWA</b>	Violence Against Women Reauthorization Act of 2005

## **DEFINITIONS**

**Absorption.** In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

**Accessible.** The facility or portion of the facility can be approached, entered, and used by individuals with physical handicaps.

**Adjusted Income.** Annual income, less allowable HUD deductions.

**Adjusted Annual Income.** Same as Adjusted Income.

**Administrative fee.** Fee paid by HUD to the PHA for administration of the program. See §982.152.

**Administrative fee reserve** (formerly “operating reserve”). Account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes. See §982.155. Administrative fee reserves from FY 2004 and 2005 funding are further restricted to activities related to the provision of tenant-based rental assistance authorized under Section 8.

**Administrative plan.** The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA’s board and included as a supporting document to the PHA Plan. See §982.54.

**Admission.** The point when the family becomes a participant in the 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) in a tenant-based program.

**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.

**Annual contributions contract (ACC).** The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

**Annual Income.** The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

**Applicant (applicant family).** A family that has applied for admission to a program but is not yet a participant in the program.

**Area Exception Rent.** An amount that exceeds the published FMR. See §982.504(b).

**“As-paid” States.** States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

**Assets.** (See Net Family Assets.)

**Auxiliary aids.** Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving Federal financial assistance.

**Budget authority.** An amount authorized and appropriated by the Congress for payment to HAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

**Child.** 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 child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

**Citizen.** A citizen or national of the United States.

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

**Common space.** In shared housing: Space available for use by the assisted family and other occupants of the unit.

**Computer match.** The automated comparison of data bases containing records about individuals.

**Confirmatory review.** An on-site review performed by HUD to verify the management performance of a PHA.

**Consent form.** Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

***Congregate housing.*** Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see §982.606 to §982.609.

***Contiguous MSA.*** In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

***Continuously assisted.*** An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

***Contract.*** (See Housing Assistance Payments Contract.)

***Contract authority.*** The maximum annual payment by HUD to a PHA for a funding increment.

***Cooperative*** (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: see §982.619.

***Covered families.*** Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance 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 the assistance.

***Dating violence.*** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

The length of the relationship

The type of relationship

The frequency of interaction between the persons involved in the relationship

***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.

***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, 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.

**Domestic violence.** 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 cohabitating with or has cohabitated 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.

**Domicile.** The legal residence of the household head or spouse as determined in accordance with State and local law.

**Drug-related criminal activity.** As defined in 42 U.S.C. 1437f(f)(5).

**Drug-trafficking.** The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

**Economic Self-Sufficiency Program.** Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see §5.603(c).

**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.** An individual who is at least 62 years of age.

**Eligible Family (Family).** A family that is income eligible and meets the other requirements of the Act and Part 5 of 24 CFR.

**Employer Identification Number (EIN).** The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

**Evidence of citizenship or eligible status.** The documents which must be submitted to evidence citizenship or eligible immigration status. (See §5.508(b).)

**Extremely Low Income Family.** A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. (CFR 5.603)

**Facility.** All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other real or personal property or interest in the property.

**Fair Housing Act** means title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988

**Fair market rent (FMR).** The rent, including the cost of 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. See periodic publications in the Federal Register in accordance with 24 CFR part 888.

**Family.** Includes but is not limited to the following, and can be further defined in PHA policy.

A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)

An elderly family or a near-elderly family

A displaced family

The remaining member of a tenant family

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 rent to owner.** In the voucher program, the portion of rent to owner paid by the family.

**Family self-sufficiency program (FSS program).** The program established by a PHA in accordance with 24 CFR part 984 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. For calculation of family share, see §982.515(a).

**Family unit size.** The appropriate number of bedrooms for a family, as determined by the

PHA under the PHA subsidy standards.

**Federal agency.** A department of the executive branch of the Federal Government.

**Foster Child Care Payment.** Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

**Full-time Student.** A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (CFR 5.603)

**Funding increment.** Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

**Gross rent.** The sum of the rent to owner plus any utility allowance.

**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). A special housing type: see §982.610 to §982.614.

**Handicap.** Any condition or characteristic that renders a person an individual with handicaps. See 24 CFR 8.3.

**Handicap Assistance Expense.** See “Disability Assistance Expense.”

**HAP contract.** Housing assistance payments contract. (Contract). A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

**Head of household.** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

**Housing assistance payment.** The monthly assistance payment by a PHA, 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 agency (HA).** A State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. (“PHA” and “HA” mean the same thing.)

**Housing Quality Standards.** The HUD minimum quality standards for housing assisted under the voucher program.

**HUD.** The Department of Housing and Urban Development.

**Immediate family member.** A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or any other person living in the household of that person and related to that person by blood and

marriage.

**Imputed Asset.** Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

**Imputed Income.** HUD passbook rate multiplied by the total cash value of assets. Calculation used when net family assets exceed \$5,000.

**Imputed welfare income.** An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

**Income.** Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

**Income For Eligibility.** Annual Income.

**Income information** means information relating to an individual's income, including:

All employment income information known to current or previous employers or other income sources

All information about wages, as defined in the State's unemployment compensation law, including any Social Security Number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, Employer Identification Number of an employer reporting wages under a State unemployment compensation law

Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received

Unearned IRS income and self-employment, wages and retirement income

Wage, social security, and supplemental security income data obtained from the Social Security Administration.

**Individual with handicaps.** Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment.

**Initial PHA.** In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

**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 HAP contract term.

**Jurisdiction.** The area in which the PHA has authority under State and local law to administer the program.

**Landlord.** Either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

**Lease.** A written agreement between an owner and a 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 PHA.

**Live-in aide.** A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

Is determined to be essential to the care and well-being of the persons;

Is not obligated for the support of the persons; and

Would not be living in the unit except to provide the necessary supportive services.

**Local Preference.** A preference used by the PHA to select among applicant families.

**Low Income Family.** A family whose income does not exceed 80% of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80% for areas with unusually high or low incomes.

**Manufactured home.** A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. A special housing type: see §982.620 and §982.621.

**Manufactured 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. See §982.622 to §982.624.

**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. (A deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 3% of annual income.

**Minor.** A member of the family household other than the family head or spouse, who is under 18 years of age.

**Mixed family.** A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

**Monthly adjusted income.** One twelfth of adjusted income.

**Monthly income.** One twelfth of annual income.

**Mutual housing.** 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.** (1) 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.

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 under §5.609.

In determining net family assets, PHAs 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.

**Office of General Counsel (OGC).** The General Counsel of HUD.

**Owner.** Any person or entity with the legal right to lease or sublease a unit to a participant.

**PHA Plan.** The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

**PHA's quality control sample.** An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

**Participant (participant family).** A family that has been admitted to the PHA 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 PHA for the family (first day of initial lease term).

**Payment standard.** The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

**Persons With Disabilities.** A person who has a disability as defined in 42 U.S.C. 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means and "individual with handicaps" as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes). See "Individual with handicaps"

**Portability.** Renting a dwelling unit with Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

**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.

**Processing entity.** The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the Section 8 program, the "processing entity" is the "responsible entity."

**Project owner.** The person or entity that owns the housing project containing the assisted dwelling unit.

**Public Assistance.** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

**Public Housing Agency (PHA).** Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

**Reasonable rent.** A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

**Receiving PHA.** In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

**Recertification.** Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

**Remaining Member of Tenant Family.** Person left in assisted housing who may or may not normally qualify for assistance on own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

**Rent to owner.** The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

**Residency Preference.** A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (“residency preference area”).

**Residency Preference Area.** The specified area where families must reside to qualify for a residency preference.

**Responsible entity.** For the public housing and the Section 8 tenant-based assistance, project-based certificate assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

**Secretary.** The Secretary of Housing and Urban Development.

**Section 8.** Section 8 of the United States Housing Act of 1937.

**Section 8 covered programs.** All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under section 202 of the Housing Act of 1959.

**Section 214.** Section 214 of the Housing and Community Development Act of 1980, as amended

**Section 214 covered programs** is the collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in §5.500.

**Security Deposit.** A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

**Set-up charges.** In a manufactured home space rental: Charges payable by the family for assembling, 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. A special housing type: see §982.615 to §982.618.

**Single Person.** A person living alone or intending to live alone.

**Single room occupancy housing (SRO).** A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. A special housing type: see §982.602 to §982.605.

**Social Security Number (SSN).** The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

**Special admission.** Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

**Special housing types.** See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

**Specified Welfare Benefit Reduction.** Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

**Spouse.** The marriage partner of the head of household.

**Stalking.** To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and 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, including any Indian tribal 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.

**Subsidy standards.** Standards established by a PHA 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 after the family submits a request for approval of the tenancy. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension. This practice is also called "tolling".

**Tenancy Addendum.** For the Housing Choice Voucher Program, the lease language required by HUD in the lease between the tenant and the owner.

**Tenant.** The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

**Tenant rent to owner.** See "Family rent to owner".

**Term of Lease.** The amount of time a tenant agrees in writing to live in a dwelling unit.

**Total Tenant Payment (TTP).** The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

**Unit.** Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

**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 PHA 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 reimbursement.** In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

**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.

**Vacancy Loss Payments.** (Applies only to pre-10/2/95 HAP Contracts in the Rental Certificate Program). When a family vacates its unit in violation of its lease, the owner is

eligible for 80% of the contract rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies the PHA as soon as s/he learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.

**Very Low Income Family.** A low-income family whose annual income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

**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 (Housing Choice Voucher).** A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

**Voucher holder.** A family holding a voucher with an unexpired term (search time).

**Voucher program.** The housing choice voucher program.

**Waiting list admission.** An admission from the PHA waiting list.

**Welfare assistance.** Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. FOR THE FSS PROGRAM (984.103(b)), “welfare assistance” includes only cash maintenance payments from Federal or State programs designed to meet a family’s ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.

**Welfare-to-work (WTW) family.** A family assisted by a PHA with Voucher funding awarded to the PHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).