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GLOSSARY

Appendix

Providing Information to Families and Owners

HACCC must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, HACCC must provide information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods [24 CFR 982.301]. The Housing Assistance Payments (HAP) contract informs owners of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability in connection with the contract.

Discrimination Complaints

If an applicant or participant believes that any family member has been discriminated against by HACCC or an owner, the family should advise HACCC. HUD requires HACCC to make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action. In addition, HACCC is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304].

HACCC Policy

Applicants or participants who believe that they have been subject to unlawful discrimination may notify HACCC either orally or in writing.

HACCC will attempt to remedy discrimination complaints made against HACCC.

HACCC will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO), the California Department of Fair Employment and Housing and local organizations such as Bay Area Legal Aid and Housing Rights, Inc. that may be able to assist them.

PART III: SELECTION FOR HCV ASSISTANCE

4-III.A. OVERVIEW

As vouchers become available, families on the waiting list must be selected for assistance in accordance with the policies described in this part.

The order in which families are selected from the waiting list depends on the selection method chosen by HACCC and is impacted in part by any selection preferences for which the family qualifies. The availability of targeted funding also may affect the order in which families are selected from the waiting list.

HACCC must maintain a clear record of all information required to verify that the family is selected from the waiting list according to HACCC's 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]

HUD may award funding for specifically-named families living in specified types of units (e.g., a family that is displaced by demolition of public housing; a non-purchasing family residing in a HOPE 1 or 2 projects). In these cases, HACCC may admit such families whether or not they are on the waiting list, and, if they are on the waiting list, without considering the family's position on the waiting list. These families are considered non-waiting list selections. HACCC must maintain records showing that such families were admitted with special program funding.

HACCC administers the following Special Purpose funding:

- Veterans Administration Supportive Housing Program (VASH)
- Moderate Rehabilitation
- Mainstream Program

Special (non-waitlist) Admissions include the following:

- In-Place households for newly authorized PBV projects
- Public Housing residents displaced due to RAD and other HACCC redevelopment efforts
- Up to 50 vouchers designated for formerly homeless families transitioning from higher-level Continuum of Care-funded permanent supportive housing programs who no longer need a higher level of care. A referral from the permanent supportive housing program is required.

Targeted Funding [24 CFR 982.204(e)]

HUD may award a PHA funding for a specified category of families on the waiting list. HACCC must use this funding only to assist the families within the specified category. In order to assist families within a targeted funding category, HACCC may skip families that do not qualify within

To receive this preference, applicants must not be living in standard, permanent replacement housing. State law requires a preference in cases of displacement by public or private action.

- **Permanent Supportive Housing Graduation (500 points).** A preference for formerly homeless families who have graduated from a Contra Costa County Continuum of Care (COC) funded permanent supportive housing program, or another homeless housing program participating in the COC Coordinated Entry system, that partners with HACCC such as Shelter Plus Care. A referral from the COC Coordinated Entry system is required to be eligible for this preference.

HACCC will provide up to 50 vouchers to eligible families who are homeless and that meet the local preference criteria defined in the Memorandum of Understanding (MOU) by and between HACCC and its partner agency(s). HACCC may, at its discretion, modify the total number of vouchers available for this local preference based on funding availability, the performance of social service agency partners, or other factors.

To serve these clients, HACCC's partner(s) will refer clients to HACCC that meet certain eligibility criteria for the local preference as defined in the Memoranda of Understanding (MOU) with each organization. HACCC may, at its discretion, enter into MOUs with additional agencies serving this population in the future. The partner agency must agree to provide housing search assistance and case management support so that the clients can find housing and remain stably housed. HACCC will not accept any referrals from partner agencies once the allotment for this local preference has been met. Thereafter, applicants referred by partner agencies will be added to the waiting list when there are vouchers available for this local preference. Applicants who are already on HACCC's waiting list may be pulled to the top of the Waiting List if they meet the eligibility requirements for the preference and are referred by the partner agencies.

Eligibility for this local preference is limited to families who are formerly homeless as defined in the MOU between HACCC and the partner agency. Additionally, applicants who qualify for the local preference must meet all of HACCC's specific screening and eligibility requirements.

- Mainstream (250 Points). A preference for non-elderly persons with disabilities transitioning out of institutional and other segregated settings, at serious risk of institutionalization, homeless, or at risk of becoming homeless. Families on the HCV waiting list shall have first priority for the Mainstream vouchers and thereafter a separate waiting list for Mainstream eligible households shall be maintained to include referrals from the Housing Consortium of the East Bay and the Contra Costa County Health, Housing and Human Services department who are partners with HACCC in the Mainstream voucher program.
- **Move from Las Deltas Properties to dramatically improve living conditions (50030 points).** A preference for residents of the Las Deltas public housing

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selection preference that affected the order in which the family was selected from the waiting list.

HACCC Policy

Involuntary Displacement (20 points):

- Families who claim they are being or have been displaced due to either a disaster or government action: written verification by the displacing unit or agency of government, or by a service agency such as the Red Cross. The disaster must either have occurred in the past year, or the family must still be living in temporary housing or receiving housing assistance subsidies that will expire.
- Families who claim they are being or have been displaced because of actions taken by the owner/agent of the unit the family is renting: Notification by owner to family of the action/ written verification by the owner or agent/documents such as sales agreements, foreclosure notices or building permits.
- Families who claim they have been or are about to be displaced to avoid reprisals for providing information to assist police in a criminal investigation: certification of threat assessment and placement in a witness protection program by a law enforcement agency and written recommendation from a law enforcement agency or HUD.

~~**Permanent Supportive Housing Graduation (500 points):** A preference for formerly homeless families who have graduated from a Contra Costa County Continuum of Care (COC) funded permanent supportive housing program, or another homeless housing program participating in the COC Coordinated Entry system, that partners with HACCC such as Shelter Plus Care. A referral from the COC Coordinated Entry system is required to be eligible for this preference.~~

~~———— **Insufficient Funding Termination (20 points):** A preference to any family that has been terminated from HACCC's HCV program due to insufficient program funding.~~

~~**Residency Preference (10 points):** In order to verify that an applicant is a resident, HACCC will require a minimum of 2 of the following documents: rent receipts, leases, utility bills, employer or agency records, school records, driver's licenses, voter's registration records, credit reports.~~

~~For families who work or who have been hired to work in Contra Costa County, a statement from the employer will be required.~~

~~**Veterans Preference (1 point):** HACCC will require U.S. government documents which indicate that the applicant qualifies under the above definition.~~

If HACCC determines that the family is ineligible, HACCC will send written notification of the ineligibility determination within 14 calendar days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 16).

Interior Air Quality

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one openable window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

Water Supply

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

Lead-Based Paint

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
- provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities within 30 days when identified by HACCC
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices
- As part of ongoing maintenance ask each family to report deteriorated paint.
- Maintain covered housing without deteriorated paint if there is child under six in the family

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For units occupied by environmental intervention blood lead level (lead poisoned) children under six years of age, a risk assessment must be conducted (paid for by HACCC). If lead hazards are identified during the risk assessment, the owner must complete hazard reduction activities within 30 days.

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

Access

Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

Site and Neighborhood

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

Sanitary Condition

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]

11-I.A. OVERVIEW

HACCC must conduct a reexamination of family income and composition at least annually. 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. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

11-I.B STREAMLINED ANNUAL REEXAMINATIONS [24 CFR 982.516(b)]

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources. If at least 90 percent of the family's income is from fixed sources, the PHA may streamline the verification of fixed income and may choose whether to verify non-fixed income amounts in years where no fixed-income review is required. If the family receives less than 90 percent of its income from fixed sources, the PHA may streamline the verification of fixed income and must verify non-fixed income annually.

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PHA Policy

HACCC will streamline the annual reexamination process by applying the verified COLA or interest rate to fixed-income sources. Fixed income sources are incomes with at least 90 % of the income coming from the fixed income source. HACCC will document in the file how the determination that a source of income was fixed was made.

For families with at least one source of fixed income, but for which less than 90% of the family's income is from fixed sources, HACCC shall verify and adjust non-fixed income sources annually

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If a family member with a fixed source of income is added, HACCC will use third-party verification of all income amounts for that family member.

If verification of the COLA or rate of interest is not available, HACCC will obtain third-party verification of income amounts.

Third-party verification of fixed sources of income will be obtained during the intake process and at least once every three years thereafter.

Third-party verification of non-fixed income will be obtained annually when the percentage of family income received from fixed sources is less than 90%.

11-I.C. SCHEDULING ANNUAL REEXAMINATIONS

HACCC must establish a policy to ensure that the annual reexamination for each family is completed *within* a 12-month period, and may require reexaminations more frequently [HCV GB p. 12-1].

HACCC Policy

Generally, HACCC will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, HACCC will schedule annual reexamination effective dates to coincide with the family's anniversary date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

HACCC also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

HACCC is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of HACCC. However, PHAs should give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time [Notice PIH 2009-36].

HACCC Policy

Families generally are required to participate in an annual reexamination interview and Housing Quality Standards inspection. All adult family members must attend the annual reexamination. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact HACCC to request a reasonable accommodation (see Chapter 2).

Notification of annual reexamination interviews and HQS inspections will be sent by first-class mail and will contain the date, time, and location of the interview or inspection. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled appointment, the family should contact HACCC in advance of the appointment to schedule a new appointment. If a family does not attend the scheduled appointment, HACCC will send a second notification and give the family a choice of 1) attending a new appointment, or 2) proposed termination of assistance. If a family fails to attend two scheduled appointments without PHA approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file.

PART VII: HOMEOWNERSHIP

[24 CFR 982.625 through 982.643]

15-VII.A. 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 may be newly admitted or an existing participant in the HCV program. HACCC must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

There are two forms of homeownership assistance described in the regulations: monthly homeownership assistance payments and single down payment assistance grants. However, PHAs may not offer down payment assistance until and unless funding is allocated by Congress. Since this has not yet happened, only monthly homeownership assistance may be offered.

HACCC must 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 HACCC to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. HACCC must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. HACCC may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where HACCC has otherwise opted not to implement a homeownership program.

HACCC must 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.

15-VII.B. FAMILY ELIGIBILITY [24 CFR 982.627]

The family must meet all of the requirements listed below before the commencement of homeownership assistance. HACCC may also establish additional initial requirements as long as they are described in HACCC administrative plan.

- Only current participants in the HCV rental program who have received assistance for at least one full year and who are in good standing with their landlord and the HACCC with regard to their family obligations and contracts may apply for the homeownership program. Good standing is defined as not owing back rent, not the subject of documented program and lease violations, not under eviction for violation of lease terms or subject to a proposal for termination due to a violation of program obligations.
- ~~The family must have been admitted to the Housing Choice Voucher program and be in compliance with their Lease and Program Regulations.~~

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- The head of household must be a member of the Section 8 Family Self Sufficiency (FSS) program and participating in the development of an Individual Training and Service Plan, and is meeting the obligations of their FSS contract. Or the family may be a former member of the FSS program who has successfully completed the program. The family will be required to meet all other obligations and pre-requirements of the HOA program. Elderly and disabled persons are exempt from the requirement to participate in the FSS program, but are not prohibited from participation.
- The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2000, based on the income of adult family members who will own the home. HACCC may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not HACCC's requirement) will be considered to meet the minimum income requirement, if it can demonstrate that it has been pre-qualified or pre-approved for financing that is sufficient to purchase an eligible unit.
- 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~~ the head of household ~~of~~ the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term 'full-time employment' means 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, HACCC must grant an exemption from the employment requirement if HACCC determines that it is needed as a reasonable accommodation.
- The family has not 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 982.63(C).

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15-VII.C. SELECTION OF FAMILIES [24 CFR 982.626]

If the family is unable to purchase a home within the maximum time limit, the HACCC will issue the family a voucher to lease a unit provided the family is in compliance with Section 8 Housing Choice Voucher program rules.

15-VII.F. HOMEOWNERSHIP COUNSELING [24 CFR 982.630]

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by HACCC. HUD suggests the following topics for HACCC-required pre-assistance counseling:

- Home maintenance (including care of the grounds);
- 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 in HACCC jurisdiction;
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and
- Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

HACCC may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families.

HACCC may also require additional counseling after the commencement of homeownership assistance. If HACCC offers a post-purchase counseling program, it will have the discretion to determine whether the family is required to participate in this type of counseling. Post-purchase counseling will generally be triggered by a participant's violation of their homeownership obligations or evidence of the participants failure to perform program expectations.

~~HACCC may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If HACCC offers a program of ongoing counseling for participants in the homeownership option, HACCC shall have discretion to determine whether the family is required to participate in the ongoing counseling.~~

15-VII.G. HOME INSPECTIONS, CONTRACT OF SALE, AND HACCC DISAPPROVAL OF SELLER [24 CFR 982.631]

Home Inspections

HACCC may not commence monthly homeownership assistance payments for a family until HACCC has inspected the unit and has determined that the unit passes HQS.

An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

HACCC may not require the family to use an independent inspector selected by HACCC. The independent inspector may not be a HACCC employee or contractor, or other person under control of HACCC. However, HACCC may establish standards for qualification of inspectors selected by families under the homeownership option.

HACCC may disapprove a unit for assistance based on information in the independent inspector's report, even if the unit was found to comply with HQS.

Contract of Sale

Before commencement of monthly homeownership assistance payments, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give HACCC a copy of the contract of sale. The contract of sale must:

- Specify the price and other terms of sale by the seller to the purchaser;
- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser;
- 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 HACCC.
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;
- Provide that the purchaser is not obligated to pay for any necessary repairs; and
- Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24.

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Contract of Sale for Units Not Under Construction

If the unit is not yet under construction at the time the family is to enter into a contract for sale, the contract for sale must also provide that:

- f. Other types of loans that come to the attention of HACCC that demonstrate a high-risk factor - to be decided on a case by case basis.

Underwriting Guidelines:

If the mortgage is not FHA-insured, the Authority will require the lender to comply with generally accepted mortgage underwriting standards consistent with those of HUD/FHA, Ginnie Mae, Fannie Mae, Freddie Mac, California Housing Finance Agency (CalHFA), USDA Rural Housing Services, The Federal Home Loan Bank or other private lending institutions.

Down payment:

The family is expected to comply with secondary mortgage market underwriting down payment requirements.

HACCC requires the family to contribute at least one percent (1%) of the purchase price towards the down payment. This amount must come from the family's personal resources and not from gifts, grants, retirement accounts or down payment assistance. HACCC may grant relief from this requirement in those cases where a contribution of personal resources would result in extreme hardship for the family.

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~~The Authority does not have a minimum family down payment requirement. Regardless the family should expect to comply with secondary mortgage market underwriting down payment requirements.~~

15-VII.I. CONTINUED ASSISTANCE REQUIREMENTS; FAMILY OBLIGATIONS [24 CFR 982.633]

Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, the HACCC may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the HACCC the homeownership assistance for the month when the family moves out. Before commencement of homeownership assistance, the family must execute a statement of family obligations in the form prescribed by HUD. In the statement, the family agrees to comply with all family obligations under the homeownership option.

The family must comply with the following obligations.

1. Ongoing counseling: To the extent required by the HACCC, the family must attend and complete ongoing homeownership and housing counseling.
2. Compliance with mortgage: The family must comply with the terms of any mortgage securing debt incurred to purchase the home (or any refinancing of such debt).
3. Prohibition against conveyance or transfer of home:

- a. So long as the family is receiving homeownership assistance, use and occupancy of the home is subject to 982.551(h) and (i).
 - b. The family may grant a mortgage on the home for debt incurred to finance purchase of the home or any refinancing of such debt.
 - c. Upon death of a family member who holds, in whole or in part, title to the home or ownership of cooperative membership shares for the home, homeownership assistance may continue pending settlement of the decedent's estate, notwithstanding transfer of title by operation of law to the decedent's executor or legal representative, so long as the home is solely occupied by remaining family members in accordance with 982.551(h).
2. Supplying required information: The family must supply required information to the HACCC in accordance with 982.551(b). In addition to other required information, the family must supply any information as required by the HACCC or HUD concerning any mortgage or other debt incurred to purchase the home, and any refinancing of such debt (including information needed to determine whether the family has defaulted on the debt, and the nature of any such default), information on any satisfaction or payment of the mortgage debt; information on any sale or other transfer of any interest in the home and information on the family's homeownership expenses.
 3. Notice of move-out: The family must notify the HACCC before the family moves out of the home.
 4. Notice of mortgage default: The family must notify the HACCC if the family defaults on a mortgage securing any debt incurred to purchase the home.
 5. Prohibition on ownership interest on second residence: During the time the family receives homeownership assistance, no family member may have any ownership interest in any other residential property.
 6. Other family obligations: The family must comply with the obligations of a participant family described in 982.551. However, the following provisions do not apply to assistance under the homeownership option; 982.551(c), (d), (e), (f), (g) and (i).
 7. The HACCC may establish additional requirements for continuation of homeownership assistance for the family. The family must comply with any such requirements.

Additional HACCC requirements

Before commencement of homeownership assistance, the family must execute the HACCC Statement of Family Obligations which details the additional HACCC HCV Homeownership Program obligations. In the statement, the family agrees to comply with the additional HACCC requirements under the homeownership option.

The family must comply with the following additional obligations:

Continuous Employment Obligations

- The applicant head of household, co-head or spouse must remain continuously employed (no less than 30 hours per week) while participating in the program.
- Part-time employment by both parties, totaling over 30 hours per week, does not constitute full-time employment by either party.

For continued eligibility purposes, continuous employment is defined as full time employment (average of 30 hours per week) with no gap in employment lasting more than four weeks total (30 hours x 48 weeks = 1,440 hours).

The employment requirement is not applicable to elderly families or those whose head or co-head of household, spouse or sole member experience permanent disability.

Mitigating Circumstances

If a working family is subsequently determined by HACCC to now qualify as a "disabled family," as defined by HUD, the full-time employment requirement is no longer applicable to that family.

HACCC 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.

HACCC will allow week-for-week substitutions whenever 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 30-day *Notice to Correct*. Failure to correct will result in a correctable 30-day *Notice of Termination*.

A participant who is employed but is on leave from work due to maternity leave, FMLA or is receiving Workman's Compensation, is exempt from the full-time employment requirement during the period of approved leave from work. A participant must return to full-time employment within 30 days after exhaustion of applicable benefits. Willful failure to return to full-time employment (30 hours per week), after 30 days, will generate a 30-day *Notice to Correct*. Failure to correct will result in a correctable 30-day *Notice of Termination*.

Consideration of other mitigating circumstances is at the discretion of a local Area Coordinator recommendation to the HCV Program Administrator. The Program Administrator will review any additional mitigating circumstances that prevent a participant's return to full-time employment within the time frames allotted. Determinations of the review are made on a case-by-case basis. The decisions are subject to final approval by the Director.

Prohibition Against Conveyance or Transfer of The Home

So long as the family is receiving homeownership assistance, they may not sell, convey or transfer any interest in the home to any entity or person other than a member of the assisted family residing in the home. If the family chooses to sell the home to another family member, they must inform HACCC of their intent prior to the sale, and receive written consent from HACCC before commencing with any sale, refinance or transfer of interest. The family is required to provide HACCC with applicable documentation related to any sale, refinance, or transfer.

Upon the death of a family member who holds, in whole or in part, title to the home or ownership of cooperative membership shares for the home, homeownership assistance may continue pending settlement of the decedent's estate, notwithstanding transfer of the title by operation of the law to the decedent's executor or legal representative, so long as the home is solely occupied by remaining family members. The family is required to inform the HACCC of the decedent's death within fourteen (14) days of its occurrence.

Annual Recertification

The family must complete Annual Reexaminations in accordance with Chapter 11 Part 1, of this Administrative Policy (Chapter 11 Part 1, Annual Reexaminations [24 CFR 982.516]) During each annual re-certification, the family is required to document that it is current on mortgage, insurance and utility payments.

Notice of Move-Out and Mortgage Default

The family must notify HACCC of its intent to move out of the home by supplying HACCC with an advanced written thirty-day notice.

The family will notify HACCC in advance if any family member who owns, in whole or in part, any ownership interest in the home moves out.

Changes in Family Income or Household Composition

The Family must inform HACCC of any changes in the sources and amounts of family income and notify HACCC of any changes in the family composition in accordance with Chapter 11, Part II of this Administrative Policy (Chapter 11 Part 2, Interim Reexaminations [24 CFR 982.516])

Refinancing

The family must obtain written approval from the HACCC before securing any refinance or equity loan.

During the time the family receives homeownership assistance, no family member may have any ownership interest in any other residential property.

Other Continued Family Obligations

The family must:

1. Sign a release allowing HACCC, counselors, realtors, and participating lenders to exchange information on the borrower.

2. Agree to maintain the condition of the home to comply with minimum HUD Housing Quality Standards (HQS).
3. Acknowledge that the termination of assistance shall be in accordance with program requirements and the Administrative Plan.
4. Acknowledge that the family is obligated for the whole mortgage payment in the event of termination of assistance.
5. Not sublease or assign the property.

~~Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, HACCC may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to HACCC the homeownership assistance for the month when the family moves out.~~

~~Before commencement of homeownership assistance, the family must execute a statement in which the family agrees to comply with all family obligations under the homeownership option.~~

~~The family must comply with the following obligations:~~

- ~~• The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.~~
- ~~• The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR 982.551 (h) and (i).~~
- ~~• The family must supply information to HACCC or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by HACCC or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.~~
- ~~• The family must notify HACCC before moving out of the home.~~
- ~~• The family must notify HACCC if the family defaults on the mortgage used to purchase the home.~~
- ~~• No family member may have any ownership interest in any other residential property.~~
- ~~• The family must comply with the obligations of a participant family described in 24 CFR 982.551, except for the following provisions which do not apply to assistance under the homeownership option: 24 CFR 982.551(c), (d), (e), (f), (g) and (j).~~
- ~~• Before commencement of homeownership assistance, the family must execute a statement of family obligations in the form prescribed by HUD. In the statement, the family agrees to comply with all family obligations under the homeownership option.~~

15-VII.J. MAXIMUM TERM OF HOMEOWNER ASSISTANCE [24 CFR 982.634]

Except in the case of a family that qualifies as an elderly or disabled family, other family members (described below) shall not receive homeownership assistance for more than:

- Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer; or
- Ten years, in all other cases.

—The maximum term described above applies to any member of the family who:

- Has an ownership interest in the unit during the time that homeownership payments are made; or
- Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made.

The maximum term of assistance does not apply to elderly or disabled families.

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.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

If the family has received such assistance for different homes, or from different HACCCs, the total of such assistance terms is subject to the maximum term described in this part.

~~15 VII.K COMPLIANCE WITH THE MORTGAGE~~

~~The family must comply with the terms of the mortgage securing debt incurred to purchase the home, and any refinancing of such debt.~~

~~The family must obtain written approval from the HACCC before securing any refinance or equity loan.~~

~~During the time the family receives homeownership assistance, no family member may have any ownership interest in any other residential property.~~

~~15 VII.L PROHIBITION AGAINST CONVEYANCE OR TRANSFER OF THE HOME~~

~~So long as the family is receiving homeownership assistance, they may not sell, convey or transfer any interest in the home to any entity or person other than a member of the assisted family residing in the home. If the family chooses to sell the home to another family member, they must inform HACCC of their intent prior to the sale, and receive written consent from HACCC before commencing with any sale, refinance or transfer of interest. The family is required to provide HACCC with applicable documentation related to any sale, refinance, or transfer.~~

~~Upon the death of a family member who holds, in whole or in part, title to the home or ownership of cooperative membership shares for the home, homeownership assistance may continue pending settlement of the decedent's estate, notwithstanding transfer of the title by operation of the law to the decedent's executor or legal representative, so long as the home is solely occupied by remaining family members. The family is required to inform the HACCC of the decedent's death within fourteen (14) days of its occurrence.~~

~~15-VII.M THE FAMILY MUST PROVIDE THE HACCC WITH THE FOLLOWING INFORMATION~~

- ~~a. Any mortgage or other debt incurred to purchase the home, and any refinancing of such debt (including information needed to determine whether the family has defaulted on the debt, and the nature of any such default, and information on any satisfaction or payment of the mortgage debt;~~
- ~~b. Any sale or other transfer of any interest in the home.~~
- ~~c. The family's homeownership expenses. During each annual re-certification, the family is required to document that it is current on mortgage, insurance and utility payments.~~

~~15-VII.KN. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR 982.635]~~

~~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.~~

~~At the commencement of homeownership assistance the payment standard for a family is the lower of either the payment standard for the family unit size or the payment standard for the size of the home. If the home is located in an exception payment standard area, the PHA/HACCC must use the appropriate payment standard for the exception payment standard area.~~

~~At reexamination of income the payment standard for a family is the greater of either the payment standard at the commencement of homeownership assistance for occupancy of the home or the payment standard at the most recent regular reexamination of family income and composition since the commencement of homeownership assistance for occupancy of the home.~~

~~In determining the amount of the homeownership assistance payment, HACCC 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.~~

~~HACCC may pay the homeownership assistance payments directly to the family, or at HACCC's discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, HACCC must pay the excess directly to the family.~~

~~15-VII.Q. NOTICE OF MOVE-OUT AND MORTGAGE DEFAULT~~

~~The family must notify HACCC of its intent to move out of the home by supplying HACCC with an advanced written thirty-day notice.~~

~~The family will notify HACCC in advance if any family member who owns, in whole or in part, any ownership interest in the home moves out.~~

~~The family must notify HACCC if the family defaults on a mortgage securing any debt incurred to purchase the home within fourteen days of default.~~

~~15-VII.R. CHANGES IN FAMILY INCOME/HOUSEHOLD COMPOSITION~~

~~The Family must inform HACCC of any changes in the sources and amounts of family income and notify HACCC of any changes in the family composition within fourteen (14) days of the change.~~

- ~~1. The family must comply with the obligations of the homeownership assistance program.~~
- ~~2. The family must not sublease or assign the property.~~
- ~~3. No family member may commit fraud, bribery or any other corrupt or criminal act in connection with the program.~~
- ~~4. No family member must participate in illegal drug or violent criminal activity.~~

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~~15-VII.NS. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]~~

~~At any time, HACCC 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).~~

~~HACCC may also deny or terminate assistance for violation of family obligations described in 24 CFR Parts 982.551 or 982.633.~~

~~HACCC 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.~~

~~15-VII.O. 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 regarding Informal Hearings set forth in the Administrative Plan, will apply.~~

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15-VII.PF. SWITCHING FROM HOA TO RENTAL ASSISTANCE:

The HACCC may allow a family to switch from the homeownership assistance program to the Section 8 Housing Choice Voucher Rental Assistance Program. The family must meet the following criteria for determination of transfer:

- a. The family has not defaulted on a loan with the homeownership assistance program
- b. The family has met all of its obligations while participating in the homeownership assistance program.
- c. The family vacates the home and conveys the title to the appropriate designee or representative. The family must sign a Conveyance Acknowledgement Notice, indicating the requirement to completely transfer and convey the property, and failure to do so will result in termination of their rental assistance if such assistance has commenced.

If the family is approved for transfer from the homeownership assistance program to rental assistance, HACCC will issue the family a rental voucher, and the family will complete the normal voucher home search process. During the period in which the family is searching for a rental unit, and, if no mortgage default has occurred, HACCC will continue to provide the family with homeownership assistance.

If the family fails to transfer or convey the property, HACCC will not provide the family with rental assistance. If a rental assistance lease has commenced, HACCC will terminate the family's Section 8 Voucher and rental assistance payments.

A family member who owns an interest in the home cannot split and receive both homeownership assistance and rental assistance concurrently. Other family members must apply to the Section 8 wait list.

15-VII.Q. RECAPTURE

HACCC Policy

By regulation, HACCC 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.

further adjustments if it determines that rent burdens for assisted families in HACCC's jurisdiction are unacceptably high [24 CFR 982.503(g)].

HACCC Policy

HACCC will review the appropriateness of the payment standards on an annual basis when the new FMR is published, and at other times as determined necessary. In addition to ensuring the payment standards are always within the "basic range" HACCC will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

Funding Availability: HACCC 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. HACCC 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, HACCC will consider increasing the payment standard. In evaluating rent burdens, HACCC will not include families renting a larger unit than their family unit size.

Quality of Units Selected: HACCC 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: HACCC 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: HACCC 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: HACCC 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.

Changes to payment standard amounts will be effective on January 1st of every year, or within three months of the FMR effective date, whichever is earlier. The effective date is applicable both to HUD-required revisions and to discretionary revisions.

~~Changes to payment standard amounts will be effective on December 1st, or sixty days (60) after the FMR effective date, of every year unless, based on the proposed FMRs, it appears that one or more of HACCC's current payment standard amounts will be outside the basic range when the final FMRs are published. In that case, HACCC will adjust the payment standard to be effective within 60 days of the published effective date of the new FMR for any new contracts. For all other transaction, the pre-adjusted higher~~

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 HACCC's decision.

Order: The hearing report will include a statement of whether HACCC's decision is upheld or overturned. If it is overturned, the hearing officer will instruct HACCC to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct HACCC to restore the participant's program status.

Procedures for Rehearing or Further Hearing

HACCC Policy

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 HACCC will take effect and another hearing will not be granted.

In addition, within 15 business days after the date the hearing officer's report is mailed to HACCC and the participant, HACCC or the participant may request a rehearing or a further hearing. Such request must be made in writing and postmarked or hand-delivered to the Executive Director or their designee within the 15 business day period. The request must demonstrate cause, supported by specific references to the hearing officer's report, why the request should be granted.

A rehearing or a further hearing may be requested for the purpose of rectifying any obvious mistake of law made during the hearing or any obvious injustice not known at the time of the hearing.

It shall be within the sole discretion of HACCC to grant or deny the request for further hearing or rehearing. A further hearing may be limited to written submissions by the parties, in the manner specified by the Executive Director or their designee.

The decision of the Executive Director or their designee shall be final.

14 calendar days PHA Notice of Final Decision [24 CFR 982.555(f)]

HACCC is not bound by the decision of the hearing officer for matters in which HACCC 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 HACCC determines it is not bound by the hearing officer's decision in accordance with HUD regulations, HACCC must promptly notify the family of the determination and the reason for the determination.

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PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-VII.A. OVERVIEW

HACCC has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that HACCC is subject to.

16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e); Notice PIH 2017-13]

~~HACCC~~ The owner must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within five business days of being so notified by any other medical health care professional. The owner must also notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five business days. The PHA may collaborate with the owner on the notification process, such as by agreeing with the owner to provide the required notifications on the owner's behalf.

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The Lead Safe Housing Rule & Lead Disclosure Rule (LSHR) threshold for action pursuant to 24 CFR 35 is as follows:

- Confirmed EBLL \geq 5 μ g/dL (micrograms/deciliter)
 - Notification by public health department or other medical health care provider
 - If reported by family or other source, PHA should attempt to confirm
- Aligned with Centers for Disease Control and Prevention (CDC) reference range of 5 μ g/dL

HACCC Policy

Upon notification by the owner, HACCC 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 within five business days.

Upon notification by the owner, the PHA will notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five business days.

16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]

At least quarterly, HACCC must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified environmental intervention blood lead level.

If HACCC obtains names and addresses of environmental intervention blood lead level children from the public health department(s), HACCC must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, HACCC must carry out the notification, verification, and

Part I: General Requirements

17-1.A. OVERVIEW

[24 CFR 983.5; FR Notice 1/18/17; Notice PIH 2017-21]

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The project-based voucher (PBV) program allows HACCC that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to take up to 20 percent of its authorized units and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. HACCC may only operate a PBV program if doing so is consistent with HACCC's Annual Plan, and the goal of de-concentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

HACCC Policy

HACCC will operate a project-based voucher program using up to 20 percent of its authorized units for project-based voucher assistance.

An additional 10 percent of the authorized units can be made available for PBV assistance. for units targeted to The units may be distributed among one, all, or a combination of the categories as long as the total number of units does not exceed the 10 percent cap. Units qualify under this exception if the units:

- Are specifically made available to house individuals and families that meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) and contained in the Continuum of Care Interim Rule at 24 CFR 578.3.
 - Are specifically made available to house families that are comprised of or include a veteran.
 - Veteran means an individual who has served in the United States Armed Forces.
 - Provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR 5.403.
- ~~1. Families meeting the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act and contained in the in the Continuum of Care Interim Rule at 14CFR578.3; or~~
 - ~~2. Families that comprise of or include a veteran; or~~
 - ~~3. Units provide supportive services to persons with disabilities or elderly persons.~~

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Support Services may include the following:

- Meal service adequate to meet nutritional need;
- Housekeeping aid;
- Personal assistance;
- Transportation services;
- Health-related services;
- Educational and employment services: or

- Other services designed to help the recipient live in the community as independently as possible.
- Are located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year Estimates.

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- 4. ~~The units are located in a census tract with a poverty rate of 20 percent or less as determined in the most recent American Community Survey (ACS) 5-year estimates.~~

Prior to issuing assistance for an additional 10 percent of the authorized units for PBV assistance, HACCC shall submit to the HUD Field Office the following:

1. The total number of units authorized under the ACC including HUD-VASH and Family Unification Program (FUP) vouchers and how many units are excluded from the total PBV commitment to date, if applicable;
2. Total number of units currently committed for PBV under HAP, AHAP or selected and specify the number of units excluded from the baseline PBV units;
3. The number of units to which HACCC is proposing to attached PBV assistance through the RFP or selection;

The notice must be submitted to HUD no later than 14 days prior to the issuance of an RFP or selection is made to exceed the 20 percent cap on PBV assistance.

17-1.A.1 Units Not Subject To PBV Program Unit Limitation

PBV units under the RAD program and HUD-VASH PBV set-aside vouchers do not count toward the 20 percent limitation when PBV assistance is attached to them.

In addition, units that were previously subject to certain federal rent restrictions or were receiving another type of long-term housing subsidy provided by HUD are not subject to the cap. The unit must be covered under a PBV HAP contract that first became effective on or after 4/18/17.

~~Units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD do not count toward the percentage limitation when PBV assistance is attached to them.~~

1. The unit must meet the following conditions in order to qualify for this exception:
 - (a) ~~The unit must be covered under a PBV HAP contract that first became effective on or after the effective date of this notice; and~~
 - (b) (a) In the 5 years prior to the date the PHA either (i) issued the RFP under which the project was selected or (ii) selected the project based on a prior competition or without competition, the unit met at least one of the two following conditions:
 - (i) The unit received one of the following forms of HUD assistance:
 - (a) Public Housing Capital or Operating Funds (section 9 of the 1937 Act).
 - (b) Project-Based Rental Assistance (section 8 of the 1937 Act). Project-based rental assistance under section 8 includes the section 8 moderate rehabilitation program, including the single-room occupancy (SRO) program.

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Part II: PBV Owner Proposals

17-II.A. OVERVIEW

HACCC must describe the procedures for owner submission of PBV proposals and for HACCC selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, HACCC must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR 983.53 and 983.54], complies with the cap on the number of PBV units per project [24 CFR 983.56], and meets the site selection standards [24 CFR 983.57].

17-II.B. OWNER PROPOSAL SELECTION PROCEDURES

[24 CFR 983.51]

HACCC must select PBV proposals in accordance with the selection procedures in HACCC's administrative plan. HACCC must select PBV proposals by either of the following two methods.

- HACCC's request for PBV Proposals. HACCC may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to HACCC's request. HACCC 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.
- HACCC 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.

Units Selected Non-Competitively [FR Notice 1/18/17; Notice PIH 2017-21]

For certain public housing projects where the PHA has an ownership interest or control and will spend a minimum amount per unit on rehabilitation or construction, the PHA may select a project without following one of the two processes above.

PHA Policy

The PHA may attach PBVs to projects owned by the PHA as described above.

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Solicitation And Selection Of PBV Proposals [24 CFR 983.51(c)]

Prior to issuing a request for proposals (RFP) for a competitive selection process or prior to selection of a project in a non-competitive selection process, HACCC shall submit to the HUD Field Office the following:

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acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements. However, in order to satisfy applicable requirements, HCAs must conduct subsidy layering reviews in compliance with the guidelines set forth in the *Federal Register* notice published July 9, 2010.

If before or during the HAP Contract, the owner receives additional HUD or other governmental assistance for the project that results in an increase in project financing in an amount that is equal to or greater than 10 percent of the original development budget, the owner must report such changes to HACCC and HACCC must notify the Housing Credit Agency or HUD (if there is no participating HCA in their jurisdiction), that a further subsidy layering review is required.

17-II.F. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT

25 Percent Per Project Cap [24 CFR 983.56(a), FR Notice 1/18/17, and Notice PIH 2017-21]

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In general, HACCC may not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter into a HAP or a HAP contract to provide PBV assistance for units in a project, if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than the greater of 25 units or 25 percent of the number of dwelling units (assisted or unassisted) in the project.

Exceptions To 25 Percent Per Project Cap [24 CFR 983.56(b); Notice PIH 2017-21]

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~~As of April 18, 2017, Exceptions are allowed and PBV~~ units are not counted against the 25 percent per project cap if:

- The units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project
- If the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].

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The Housing Opportunity Through Modernization Act of 2016 (HOTMA) eliminated the project cap exemption for projects that serve disabled families and modified the exception for supportive services. Projects where these caps were implemented prior to HOTMA ~~(HAP contracts executed prior to 4/18/17)~~ may continue to use the former exceptions and may renew their HAP contracts under the old requirements, unless the PHA and owner agree to change the conditions of the HAP contract. However, this change may not be made if it would jeopardize an assisted family's eligibility for continued assistance in the project.

PHAs must include in the PHA administrative plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. As of 4/18/17, the project must make supportive services available to all families receiving PBV assistance in the project, but the family does not actually have to accept and receive supportive services for the exception to apply to the unit. It is not necessary that the services be provided at or by the project, but must be reasonably available to families receiving PBV assistance at the project and designed to help families in the project achieve self-sufficiency or live in the

family building. HACCC may also determine not to provide PBV assistance for excepted units, or HACCC may establish a per-project cap of less than 25 percent.

Housing Opportunities Through Modernization Act of 2016 (HOTMA) Changes

The Housing Opportunities Through Modernization Act of 2016 (HOTMA) made changes to the income-mixing project cap and modified the exception categories to the cap on the number of assisted units in a project. The new caps apply only to projects with HAP effective dates after the HOTMA final implementation rule effective date of April 18, 2017.

Under HOTMA, the new limitation on the number of PBVs in a project is now the greater of 25 units or 25 percent of the units in a project. Owners under HAP contracts predating April 18, 2017 are still subject to the terms of those HAP Contracts and must continue to designate the same number of units and assist the same number of excepted families as provided in such HAP contracts for the duration of the HAP contract and subsequent renewals unless the owner and HACCC mutually agree to change the requirements.

Projects not Subject to a Project Cap [FR Notice 1/18/17; Notice PIH 2017-21]

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PBV units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD are exempt from the project cap. In other words, 100 percent of the units in these projects may receive PBV assistance. ~~To qualify for the exception, the unit must:~~

- ~~• Be covered by a PBV HAP contract that first became effective on or after 4/18/17; and~~
- ~~• In the five years prior to the date the PHA either issued the RFP under which the project was selected or the PHA selected the project without competition, the unit met at least one of the two following conditions:~~
 - ~~— The unit received Public Housing Capital or Operating Funds, Project-Based Rental Assistance, Housing for the Elderly (Section 303), Housing for Persons with Disabilities (Section 811), the Rental Supplement program;~~
 - ~~- The unit was subject to a rent restriction as a result of one of the following HUD loans or insurance programs: Section 236, Section 221(d)(3) or (d)(4) DMIR, Housing for the Elderly (Section 202), or Housing for Persons with Disabilities (Section 811)~~

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~~Units that were previously receiving PBV assistance are not covered by the exception. Both existing and rehabilitation units are eligible for this exception. Newly constructed units qualify if they meet the definition of *replacement unit* described in FR Notice 1/18/17.~~

HACCC Policy

HACCC will not impose any cap beyond HUD regulations on the number of PBV units assisted per project.

17-II.G. SITE SELECTION STANDARDS

PART III: DWELLING UNITS

17-III.A. OVERVIEW

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

17-III.B. HOUSING QUALITY STANDARDS

[24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

Lead-Based Paint [24 CFR 983.101(C)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

17-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. HACCC 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, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

17-III.D. INSPECTING UNITS

Pre-Selection Inspection [24 CFR 983.103(A)]

HACCC must examine the proposed site before the proposal selection date. If the units to be assisted already exist, HACCC 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 as defined above. However, HACCC may not execute the HAP contract until the units fully comply with HQS, unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions.

Pre-HAP Contract Inspections [24 CFR 983.103(B)]

HACCC must inspect each contract unit before execution of the HAP contract. HACCC may not enter into a HAP contract covering a unit until the unit fully complies with HQS.

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HACCC Policy

~~HACCC will not enter into a PBV HAP contract until all units that will be under contract fully comply with HQS.~~

Turnover Inspections [24 CFR 983.103(C), FR Notice 1/18/17, and Notice PIH 2017-20]

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Before providing assistance to a new family in a contract unit, HACCC must inspect the unit. HACCC may not provide assistance on behalf of the family until the unit fully complies with HQS, unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions or if the unit passed an alternative inspection.

PHA Policy

The PHA will not provide assistance in turnover units until the unit fully complies with HQS.

Annual/Biennial Inspections [24 CFR 983.103(D); FR Notice 6/25/14]

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At least biennially during the term of the HAP contract, HACCC must inspect a random sample, consisting of at least 20 percent of the contract units in each project to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this biennial inspection requirement.

If more than 20 percent of the biennial sample of inspected contract units in a project fails the initial inspection, HACCC must re-inspect 100 percent of the contract units in the project.

Other Inspections [24 CFR 983.103(E)]

HACCC must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. HACCC must take into account complaints and any other information coming to its attention in scheduling inspections.

HACCC must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting HACCC supervisory quality control HQS inspections, HACCC should include a representative sample of both tenant-based and project-based units.

Inspecting HACCC-Owned Units [24 CFR 983.103(F)]

In the case of HACCC-owned units, the inspections must be performed by an independent agency designated by HACCC and approved by HUD. The independent entity must furnish a

been offered placement on the converted project's initial waiting list. In all cases, HACCC has the discretion to determine the most appropriate means of informing applicants on the public housing community-wide waiting list given the number of applicants, HACCC resources, and admissions requirements of the projects being converted under RAD. HACCC may consider contacting every applicant on the public housing waiting list via direct mailing; advertising the availability of housing to the population that is less likely to apply, both minority and non-minority groups, through various forms of media (e.g., radio stations, posters, newspapers) within the marketing area; informing local non-profit entities and advocacy groups (e.g., disability rights groups); and conducting other outreach as appropriate. Applicants on the agency's public housing community-wide waiting list who wish to be placed onto the newly-established site-based waiting list must be placed in accordance with the date and time of their original application to the centralized public housing waiting list. Any activities to contact applicants on the public housing waiting list must be conducted in accordance with the requirements for effective communication with persons with disabilities at 24 CFR § 8.6 and with the obligation to provide meaningful access for persons with limited English proficiency (LEP).

HACCC must maintain any site-based waiting list in accordance with all applicable civil rights and fair housing laws and regulations unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies.

~~To implement this provision, HUD is specifying alternative requirements for 24 CFR § 983.251(c)(2). However, after the initial waiting list has been established, HACCC shall administer its waiting list for the converted project in accordance with 24 CFR § 983.251(c).~~

~~Site-based waiting lists for properties restricted to elderly households shall deny applicants who are not 62 years of age or older from being placed on the site-based waiting list for that property. Existing non-elderly applicants on these site-based waiting lists shall be removed from these lists and notified of the reason either when they reach the top of the waiting list or en-mass as part of a waiting list update effort.~~

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~~To implement this provision, HUD is specifying alternative requirements for 24 CFR § 983.251(c)(2). However, after the initial waiting list has been established, HACCC shall administer its waiting list for the converted project in accordance with 24 CFR § 983.251(c).~~

HACCC will establish and manage separate waiting lists for individual projects that are receiving PBV assistance. Site based waiting lists that are closed for general applications shall remain open for special needs applicants when there are units with additional restrictions in the PBV inventory for that property.

Site-based waiting lists for properties restricted to elderly households shall deny applicants who are not 62 years of age or older from being placed on the site-based waiting list for that property. Existing non-elderly applicants on these site-based waiting lists shall be removed from these lists and notified of the reason either when they reach the top of the waiting list or en-mass as part of a waiting list update effort.

In an effort to preserve potential eligibility for non-elderly applicants who had previously applied to elderly waiting lists, non-elderly applicants who, at the time they reach the top of a senior waiting list are 55 years of age or older and have applications for other senior developments in the PBV portfolio, will be removed from the list they reached the top of only. The other waiting lists applications will remain active until they reach the top of those waiting lists. At that time, if they are still not 62 years of age or older, they will be removed from that particular waiting list at that time.

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It is anticipated that HACCC shall have site-based wait lists for the following properties/projects:

Property Name	Address	Bedrooms						Number of PBVs leased	
		0	1	2	3	4	5		
Lakeside Apartments	1897 Oakmead Dr., Concord, CA 94520	0	6	12	12	0	0	30	Family Housing, Some disabled with HIV/AIDS
Brentwood Senior Apartments	750 Larkspur Lane, Brentwood, CA 94513	0	79	0	0	0	0	79	62 Yrs or Older Over-62 Yrs-Old
Samara Terrace Senior Apartments	102 Civic Dr, Hercules, CA 94547	0	51	0	0	0	0	50	62 Yrs or Older Over-62 Yrs-Old
Acalanes Court Apartments	1988 Trinity Ave, Walnut Creek, CA 94596	0	0	2	2	0	0	4	Family Housing
Hookston Senior Community	80 West Hookston Rd., Pleasant Hill, CA 94523	0	22	2	0	0	0	24	62 Yrs or Older Over-62 Yrs-Old
Giant Road Apartments	2832 Giant Rd., San Pablo, CA 94806	0	3	7	11	0	0	21	Family Housing
Belle Terre Apartments	3428 Mt. Diablo Blvd, Lafayette, CA	0	45	0	0	0	0	45	62 Yrs or Older Over-62 Yrs-Old, Verifiably Disabled
Monteverde Apartments	2 Irwin Place, Orinda, CA	0	66	0	0	0	0	66	62 Yrs or Older Over-62 Yrs-Old, Disabled
Berrellesa Palms Apartments	310 Berrellesa St., Martinez, CA	0	48	0	0	0	0	48	Frail elderly (over-62 Yrs or Older), Disabled with HIV/AIDS
Arboleda Apartments	3rd & Baldwin St., Walnut Creek, CA	0	15	6	8	0	0	29	Family Housing, Some for disabled with HIV/AIDS

Riley Court Apartments	2050-2060 Riley Ct., Concord, CA	0	11	4	0	0	0	15	Family Housing
Riviera Family Apartments	1515 Riviera St., Walnut Creek, CA 94596	4	2	2	1	0	0	9	Family Housing
Riviera Family Apartments	1716-38 Riviera St., Walnut Creek, CA 94596	1	5	0	3	0	0	9	Family Housing
Hana Gardens Senior Apartments	10860 San Pablo Ave., El Cerrito, CA 94530	0	62	0	0	0	0	62	Over-62 Yrs or Older
Tabora Gardens	3701 Tabora Dr., Antioch, CA 94509	0	2934	0	0	0	0	2934	Veterans; Family-Disabled/Elderly; Veterans
Garden Park Apartments	2387 Lisa Lane Pleasant Hill, CA 94523	0	22	5	0	0	0	27	Disabled, Family Housing
Robin Lane Apartments	1149 Meadow Lane Concord, CA 94520	0	2	6	0	0	0	8	Family Housing
Elaine Null Apartments	112 Alves Lane/300 Waters Street, Pittsburg, CA 94565	0	0	0	4	0	0	4	Family Housing
Church Lane Apartments	2555 Church Lane, San Pablo, CA 94806	0	4	3	2	1	0	10	Family Housing
St. Paul's Community Center and Apartments	1860 Trinity Ave., Walnut Creek, CA 94596	16	7	0	0	0	0	23	Family Housing
Terrace Glen Apartments (Antioch Scattered Site Renovation)	107 W. 20th St., Antioch, CA 94509	0	1	12	3	0	0	16	Family Housing
Pinecrest Apartments (Antioch Scattered Site Renovation)	1945 Cavallo Rd., Antioch, CA 94509	0	3	9	0	0	0	12	Family Housing
Hookston Senior Community Pt. 2	80 West Hookston Rd., Pleasant Hill, CA 94523	0	18	7	0	0	0	20	62 Yrs or Older
Heritage Point Apartments	1500 Fred Jackson Way, Richmond, CA 94801	12	16	13				41	Family Housing

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17-VI.D. SELECTION FROM THE WAITING LIST

[24 CFR 983.251(C)]

Applicants who will occupy units with PBV assistance must be selected from HACCC's site-based waiting list for that property. HACCC shall establish selection criteria or preferences for occupancy of particular PBV units. HACCC may place families referred by the PBV owner to their PBV site-based waiting list.

Continuum of Care Assisted Units

In addition to site-based waiting lists for each PBV property, HACCC shall maintain a separate wait list for units designated for assistance through the Continuum of Care's Coordinated Entry

This waiting list will not have a preference designation since all additions to the list will immediately be designated for specific units within the PBV portfolio. The only qualifier will be the date and time of the applicant's addition to the CES wait list.

Units eligible for CES assistance and priority are as follows:

- Garden Park Apartments - 2387 Lisa Lane, Pleasant Hill, CA
- Lakeside Apartments - 1897 Oakmead Dr., Concord, CA
 1. Unit A-10
 2. Unit B-3
 3. Unit B-5
 4. Unit C-1
 5. Unit C-7
 6. Unit C-8
 7. Unit D-2
 8. Unit D-16
 9. Unit E-1
 10. Unit E-143
 11. Unit G-9
- Robin Lane - 1149 Meadow Lane, Concord, CA
 1. M103
 2. M203
 3. R101
 4. R104
 - 4+. 5. R204

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This list may be modified from time to time to reflect new units added to the CES portfolio with PBV designations.

Income Targeting [24 CFR 983.251(C)(6)]

At least 75 percent of the families admitted to HACCC's tenant-based and project-based voucher programs from the waiting list must be extremely-low income families in accordance with HUD practice and regulations. The income targeting requirement applies to the total of admissions to both programs.

Units With Accessibility Features [24 CFR 983.251(C)(7)]

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, HACCC must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(D)]

HACCC may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units. HACCC must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above.

Although HACCC is prohibited from granting preferences to persons with a specific disability, HACCC may give preference to disabled families who need services offered at a particular project or site if the preference is limited to families (including individuals):

family must contact HACCC to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, HACCC 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, HACCC must give the family priority to receive the next available opportunity for continued tenant-based assistance.

The above policies do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, as provided in 24 CFR part 5, subpart L, and the move is needed to protect the health or safety of the family or family member, or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move. A PHA may not terminate assistance if the family, with or without prior notification to the PHA, moves out of a unit in violation of the lease, if such move occurs to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed he or she was threatened with imminent harm from further violence if he or she remained in the dwelling unit, or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move.

If a family breaks up as a result of an occurrence of domestic violence, dating violence, sexual assault, or stalking, as provided in 24 CFR part 5, subpart L, the PHA may offer the victim the opportunity for continued tenant-based rental 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.

If the family seeks to move with continued assistance but is not in good standing, HACCC may deny the request subject to the informal hearing process. Good standing is defined as not owing back rent, not the subject of documented program and lease violations, not under eviction for violation of lease terms or subject to a proposal for termination due to a violation of program obligations.

Rental Assistance Demonstration (RAD) Choice Mobility Alternative

HUD recognizes that it remains important for HACCC to still be able to use tenant-based vouchers to address the specific housing needs and priorities of the community. Therefore, HUD has established an alternative requirement for PHAs where, as a result of RAD, the total number of PBV units (including RAD PBV units) under HAP contract administered by HACCC exceeds 20 percent of the HACCC's authorized units under its HCV ACC with HUD.

HACCC Policy

HACCC shall not provide more than three-quarters of its turnover vouchers in any single year to the residents of RAD Covered Projects. While HACCC is not required to

17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.262]

As of April 17, 2018, the PHA may not pay housing assistance under a PBV HAP contract for more than the greater of 25 units or 25 percent of the number of dwelling units in a project unless:

- The units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project
- If the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project (FR Notice 7/14/17). ~~(40% Cap)~~

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If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined by HACCC and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit. However, if the FSS family fails to successfully complete the FSS contract of participation or supportive services objective and consequently is no longer eligible for the supportive services, the family must vacate the unit within a reasonable period of time established by the PHA, and the PHA shall cease paying HAP on behalf of the family.

Further, when a family (or remaining members of a family) residing in an excepted unit no longer meets the criteria for a "qualifying family" because the family is no longer an elderly due to a change in family composition, HACCC has the discretion to allow the family to remain in the excepted unit. If HACCC does not exercise this discretion, the family must vacate the unit within a reasonable period of time established by HACCC, and HACCC must cease paying housing assistance payments on behalf of the non-qualifying family.

Individuals in units with supportive services who choose to no longer participate in a service or who no longer qualify for services they qualified for at the time of initial occupancy cannot subsequently be denied continued housing opportunity because of this changed circumstance. A PHA or owner cannot determine that a participant's needs exceed the level of care offered by qualifying services or require that individuals be transitioned to different projects based on service needs.

If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the project in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by HACCC.

HACCC may allow a family that initially qualified for occupancy of an excepted unit based on elderly family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death of the elderly family member or long-term or permanent hospitalization or nursing care), the elderly family member no longer resides in the unit. In this case, the unit may continue to be counted as an excepted unit for as long as the

HACCC Policy

Upon written request by the owner, HACCC will consider using the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or re-determination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. HACCC 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, HACCC may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or re-determination of rent, if HACCC determines it is necessary due to HACCC budgetary constraints.

Use of Small Area FMRs (SAFMRs) [24 CFR 888.113(h)]

While small area FMRs (SAFMRs) do not apply to PBV projects, PHAs that operate a tenant-based program under SAFMRs ~~(either by HUD designation or because the PHA requested HUD approval to use SAFMRs)~~ may apply SAFMRs to all future PBV HAP contracts. If the PHA adopts this policy, it must apply to all future PBV projects and the PHA's entire jurisdiction. The PHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if the PHA subsequently changes its policy.

Further, the PHA may apply SAFMRs to current PBV projects where the notice of owner selection was made on or before the effective dates of ~~both the SAFMR designation and the PHA administrative plan policy implementation~~, provided the owner is willing to mutually agree to doing so and the application is prospective. The PHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if the PHA subsequently changes its policy. If rents increase as a result of the use of SAFMRs, the rent increase may not be effective until the first anniversary of the HAP contract.

HACCC Policy

HACCC will not apply SAFMRs to the PHA's PBV program.

Re-Determination Of Rent [24 CFR 983.302]

HACCC must re-determine the rent to owner upon the owner's request or when there is a five percent or greater decrease in the published FMR.

Rent Increase

If an owner wishes to request an increase in the rent to owner from HACCC, it must be requested at the annual anniversary of the HAP contract (see Section 17-V.D.). The request must be in writing and in the form and manner required by HACCC. HACCC may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

Chapter 18

PROJECT BASED VOUCHERS (PBV) UNDER THE RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM

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INTRODUCTION

This chapter describes HUD regulations and PHA policies related to the Project-Based Voucher (PBV) program under the Rental Assistance Demonstration (RAD) program in eight parts:

Part I: General Requirements. This part describes general provisions of the PBV program, including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Project Selection. This part describes the cap on assistance at projects receiving PBV assistance, ownership and control, and site selection standards.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution and term of the HAP contract.

Part V: Selection of PBV Program Participants. This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

Part VI: Occupancy. This part discusses occupancy requirements related to the lease, and describes under what conditions families are allowed or required to move.

Part VII: Determining Contract Rent. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract.

Part VIII: Payments to Owner. This part describes the types of payments owners may receive under this program.

PART I: GENERAL REQUIREMENTS

18-1.A. OVERVIEW AND HISTORY OF THE RAD PROGRAM

The Rental Assistance Demonstration (RAD) program was authorized in 2012 in order to assess the effectiveness of converting public housing, moderate rehabilitation properties, and units under the rent supplement and rental assistance payments programs to long-term, project-based Section 8 rental assistance. The program's four primary objectives are to:

Preserve and improve public and other assisted housing.

Standardize the administration of the plethora of federally subsidized housing programs and rules. The conversions are intended to promote operating efficiency by using a Section 8 project-based assistance model that has proven successful and effective for over 30 years. In other words, RAD aligns eligible properties more closely with other affordable housing programs.

Attract private market capital for property renovations. Through the use of this model, properties may be able to leverage private debt and equity to make capital repairs.

Increase tenant mobility opportunities.

Under the first component, a PHA with public housing units may submit an application to HUD to convert some or all of their public housing units to long-term, project-based Section 8 HAP contracts under either:

Project-based rental assistance (PBRA) under HUD's Office of Multifamily Housing Programs.

Project-based vouchers (PBVs) under HUD's Office of Public and Indian Housing (PIH).

This chapter will focus on public housing conversions to the PBV program under RAD. In order to distinguish between requirements for public housing conversion under RAD and PBV units under the standard PBV program, we will refer to the standard PBV program and the RAD PBV program.

18-1.B. APPLICABLE REGULATIONS

On the whole, the regulations for both the standard and RAD PBV programs generally follow the regulations for the tenant-based HCV program found at 24 CFR Part 982. However, important parts of the tenant-based regulations do not apply to the project-based program. 24 CFR Part 983 outlines the sections of 24 CFR Part 982 that are not applicable to the project-based program.

For the RAD PBV program, Congress authorized HUD to waive certain statutory and regulatory provisions or establish alternative requirements from the standard PBV program. These provisions are identified in Notice PHH 2012-32, REV-2 (issued June 15, 2015) and Notice PHH 2012-32, REV-3 (issued January 12, 2017).

Otherwise, all regulatory and statutory requirements for the standard PBV program in 24 CFR Part 983 and Section 8(o)(13) of the Housing Act of 1937, and all applicable standing and subsequent Office of Public and Indian Housing (PHI) guidance, including related handbooks, apply to RAD PBV. This includes environmental review, Davis-Bacon, and fair housing requirements.

RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 (Public Law 112-55, approved November 18, 2011), as amended by the Consolidated Appropriations Act of 2014 (Public Law 113-76, approved January 17, 2014), and the Consolidated and Further Continuing Appropriations Act of 2015 (Public Law 113-235, approved December 6, 2014), and Division I, Title II, Section 237 of the Consolidated Appropriations Act (Public Law 114-113, enacted December 18, 2015) collectively, the "RAD Statute." Requirements specific to the RAD program may be found in the following:

Generally, public housing projects converting assistance under RAD are bound by the terms of the notice in effect at the time of closing. Notice PHH 2012-32, REV-3 is applicable to projects converting assistance through RAD, including those where a CHAP has already been issued, upon the expiration of the 30-day comment period after publication of the notice. Notice PHH 2012-32, REV-3 was published January 12, 2017.

Notice PHH 2012-32, REV-2, RAD – Final Implementation, REV-2 is applicable to projects converting assistance through RAD upon the expiration of the 30-day comment period after publication of the Notice. PHH Notice 2012-32, REV-2 was published June 15, 2015.

NOTE: The policies in this chapter follow Notice PHH 2012-32, REV-3. If your project falls under REV-2, applicable policies may be found in the applicable sections of the Instruction Guide for Chapter 18.

RAD Quick Reference Guide for Public Housing Converting to PBV Assistance (10/14)

RAD Welcome Guide for New Awardees: RAD 1st Component (3/15)

Notice PIH 2016-17, Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component – Public Housing Conversions.

- This Notice applies to all projects that have applied for RAD conversion but have not yet converted as of November 10, 2016.

Notice PIH 2014-17, Relocation Requirements under the RAD Program, Public Housing in the First Component.

- This notice may apply to projects that have converted to RAD prior to November 10, 2016, AND who have requested and received approval from HUD to be governed by this notice. See PIH Notice 2016-17, Section 1, Paragraph 1.3 for applicability.

NOTE: The policies in this chapter follow Notice PIH 2016-17. If your project falls under PIH 2014-17, applicable policies may be found in Section 18-1.D.

RAD FAQs (<http://www.radresource.net/search.cfm>)

In other words, the standard PBV program follows many of the same regulations as the tenant-based HCV program, but not all of them, and the RAD PBV program follows many of the same regulations as the standard PBV program, but not all of them.

MTW agencies are able to apply activities impacting the PBV program that are approved in the MTW Plan to properties converting under RAD, provided they do not conflict with RAD requirements.

18-1.C. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE
24 CFR 983.2]

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the PHA policies related to tenant-based assistance also apply to RAD PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

HACCC Policy

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the HACCC policies for the tenant-based voucher program contained in this administrative plan also apply to the RAD PBV program and its participants. This chapter is intended to address requirements specific to the RAD PBV program only.

18-1.D. RELOCATION REQUIREMENTS [Notice PIH 2016-17]

In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed.

Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements. Sample informing notices are provided in Appendices 2-5 of Notice PIH 2014-17. A written relocation plan is required if the RAD conversion involves permanent relocation (including a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than a year. While the PHA is not required to have a written relocation plan for temporary relocation lasting one year or less, HUD strongly encourages PHAs to prepare one. Appendix II of Notice PIH 2016-17 contains recommended contents for a relocation plan.

In addition, PHAs must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24. The obligation due to relocating residents under RAD are broader than URA relocation assistance and payments.

Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to either: a) a unit at the development once rehabilitation or construction is completed, provided the resident's household is not under-housed; or b) a unit in the development which provides the same major features as the resident's unit in the development prior to the implementation of the RAD conversion.

Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete.

If the PHA's proposed plans for conversion would preclude a resident from returning to the development, the resident must be given an opportunity to comment and/or object to such plans. PHAs must alter the project plans to accommodate the resident's right to return to the development if the resident would be precluded from returning to the development.

Examples of project plans that may preclude a resident from returning to the development include, but are not limited to:

- Changes in the development's bedroom distribution that decrease the size of the units, resulting in the resident being under-housed;
- The resident cannot be accommodated in the remaining assisted units due to a reduction in the number of assisted units at the development;
- Income limit eligibility requirements associated with the LIHTC program or another program; and
- Failure to provide a reasonable accommodation, in violation of applicable law, where reasonable accommodation may include installation of accessibility features that are needed by the resident.

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Residents of a development undergoing conversion that would be precluded from returning to the development may voluntarily accept a PHA or owner's offer to permanently relocate to alternative housing, and thereby waive their right to return to the development after rehabilitation or construction is completed. In this event, the PHA must secure the resident's written consent to a voluntary permanent relocation in lieu of returning to the development. PHAs are prohibited from employing any tactics to pressure residents into relinquishing their right to return or accepting other housing options. Additionally, a PHA may not terminate a resident's lease if the PHA fails to obtain the resident's consent and the resident seeks to exercise the right to return.

In the case of multi-phase RAD transactions, the resident has a right to return to the development or to other converted phases of the development that are available for occupancy at the time the resident is eligible to exercise their right of return. Generally, the resident's right to return must be accommodated within the development associated with the resident's original unit, however, the PHA may treat multiple converted developments on the same site as one for purposes of right to return. Should the PHA seek to have the resident exercise the right to return at a future phase, the PHA must secure the resident's consent in writing.

Alternative housing options may involve a variety of housing options, including but not limited to:

- Transfers to public housing
- Admission to other affordable housing properties subject to the applicable program rules
- Housing choice voucher (HCV) assistance
- Homeownership programs subject to the applicable program rules
- Other options identified by the PHA

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18-LE. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8; Notice PIH 2012-32, REV-3]

RAD conversions are governed by the same civil rights authorities that govern HUD-assisted activities in general. PIAs must comply with all applicable fair housing and civil rights laws, including but not limited to the Fair Housing Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973, when conducting relocation planning and providing relocation assistance. For example, persons with disabilities returning to the RAD project may not be turned away or placed on a waiting list due to a lack of accessible units. Their need for an accessible unit must be accommodated.

PART II: PBV PROJECT SELECTION

18-II.A. OVERVIEW

Unlike in the standard PBV program where the PHA typically selects the property through an owner proposal selection process, projects selected for assistance under RAD PBV are selected in accordance with the provisions in Notice PIH 2012-32, REV-3. Therefore, 24 CFR 983.51 does not apply since HUD selects RAD properties through a competitive selection process.

18-II.B. OWNERSHIP AND CONTROL [Notice PIH 2012-32, REV-3]

Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or non-profit entity. The requirement for a public or non-profit entity is satisfied if a public or non-profit entity (or entities), directly or through a wholly-owned affiliate (1) holds a fee simple interest in the property; (2) is the lessor under a ground lease with the property owner; (3) has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units; (4) owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable; (5) owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD; (6) owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or (7) other ownership and control arrangements approved by HUD.

If low-income housing tax credits will be used, HUD may allow ownership of the property to be transferred to a tax credit entity controlled by a for-profit entity if HUD determines that the PHA preserves its interest in the property. Preservation of PHA interest in the property includes but is not limited to the following:

- The PHA, or an affiliate under its sole control, is the general partner or managing member;
- The PHA retains fee ownership and leases the real estate to the tax credit entity pursuant to a long-term ground lease;
- The PHA retains control over leasing the property and determining program eligibility;
- The PHA enters into a control agreement by which the PHA retains consent rights over certain acts of the project owner and retains certain rights over the project;
- Other means that HUD finds acceptable

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18-ILC. PHA-OWNED UNITS [24 CFR 983.59, Notice PHH 2012-32, REV-3; ER Notice 1/18/17, and Notice PHH 2017-21]

If the project is PHA-owned, rent-setting and inspection functions set out in 24 CFR 983.59 must be conducted by an independent entity approved by HUD.

The definition of control/ownership provided under Notice PHH 2012-32, REV-3 (listed above) is used specifically to determine whether a PHA retains control over a project for purposes of HUD's requirement for ownership or control of the covered project under RAD. For purposes of determining whether an independent entity will perform certain functions for the project, the definition of PHA-owned under Notice PHH 2017-21 is used. This is the same definition used for standard PBV units. In some cases, a project may meet the RAD definition of ownership or control, but may not be considered PHA-owned for purposes of requiring an independent entity.

The independent entity that performs these program services may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government), or another HUD-approved public or private independent entity.

The PHA may compensate the independent entity from PHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The PHA may not use other program receipts to compensate the independent entity for its services. The PHA, and the independent entity, may not charge the family any fee for the services provided by the independent entity.

18-II.D. SUBSIDY LAYERING REQUIREMENTS [Notice PIH 2012-32, REV-3]

In the case of a PHA that is converting all of its ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project at closing; the PHA may convey all program funds to the covered projects. In order to cover the cost of administrative activities required to terminate the ACC, once it no longer has units under the ACC and has no plans to develop additional public housing, the PHA may:

- Designate that a reserve associated with the project be available to fund any public housing closeout costs (such as an operating deficit reserve or a specific PHA close-out reserve). Any funds not needed for public housing close-out costs would remain in such reserve or may be transferred to another reserve associated with the project (such as the replacement reserve). Thereafter, these funds may be used at the project pursuant to the authorized use of the applicable reserve; or
- Retain funds under the public housing program for this purpose. However, HUD will recapture any public housing funds that a PHA does not expend for closeout costs.

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In the case where the PHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.

In addition, following execution of the HAP contract, PHAs are authorized to use operating and capital funds to make HAP payments for the remainder of the first calendar year in which the HAP contract is effective. Otherwise, a PHA may not contribute public housing program funds to the covered project unless such funding has been identified in the approved financing plan and included in the approved "sources and uses" attached to the RCC.

18-II.E. PBV PERCENTAGE LIMITATION [Notice PIH 2012-32, REV-3]

Covered projects do not count against the maximum amount of assistance a PHA may utilize for the PBV program, which under the standard PBV program is set at 20 percent of the authorized units allocated to a PHA under the HCV program. To implement this provision, HUD is waiving section 8(a)(13)(B) of the 1937 Act as well as 24 CFR 983.6.

There is no cap on the number of units that may receive PBV assistance in a project.

**18-II.F. SITE SELECTION STANDARDS [Notice PHH 2012-32, REV-3;
Notice PHH 2016-17]**

Site selection requirements set forth in 24 CFR 983.57 apply to RAD PBV, with the exception of 983.57(b)(1) and (c)(2). HUD waives the provisions regarding deconcentration of poverty and expanding housing and economic opportunity for existing housing sites.

HUD will conduct a front-end civil rights review of the PHA's proposed site in certain circumstances. For RAD PBV conversions that involve new construction located in an area of minority concentration (whether on the existing public housing site or on a new site) HUD will determine whether it meets one of the exceptions that would allow for new construction in an area of minority concentration.

The PHA must ensure that its RAD PBV conversion, including any associated new construction, is consistent with its certification to affirmatively further fair housing and complies with civil rights laws.

18-II.G. ENVIRONMENTAL REVIEW [Notice PHH 2012-32, REV-3]

HUD cannot approve an applicant's financing plan submission unless and until the required environmental review has been completed for the applicant's proposed conversion project and found to meet environmental review requirements. Environmental documents must be submitted as part of the financing plan. HUD will not issue a RAD Conversion Commitment (RCC) if the project plan does not meet the environmental review requirements described in Attachment EA of Notice PHH 2012-32, REV-3.

PART III: DWELLING UNITS

18-III.A. OVERVIEW

This part identifies the special housing quality standards that apply to the RAD PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

18-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

Lead-based Paint [24 CFR 983.101(c)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, the Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

18-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The PHA 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, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

18-III.D. INSPECTING UNITS

Initial Inspection [Notice PHH 2012-32, REV-3]

Under RAD, all units must meet HQS no later than the date of completion of the work as indicated in the RCC.

Turnover Inspections [24 CFR 983.103(e), FR Notice 1/18/17, and Notice PHH 2017-20]

Before providing assistance to a new family in a contract unit, the PHA must inspect the unit. The PHA may not provide assistance on behalf of the family until the unit fully complies with HQS, unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions or if the unit passed an alternative inspection.

HACCC Policy

HACCC will not provide assistance in turnover units until the unit fully complies with HQS.

Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14]

At least once every 24 months during the term of the HAP contract, the PHA must inspect a random sample consisting of at least 20 percent of the contract units in each building, to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement.

HACCC Policy

HACCC will inspect, on a biennial basis, all RAD PBV-assisted units to determine if the contract units and the premises are maintained in accordance with HQS.

If more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, the PHA must reinspect 100 percent of the contract units in the building.

Other Inspections [24 CFR 983.103(e)]

The PHA must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections.

The PHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting PHA supervisory quality control HQS inspections, the PHA should include a representative sample of both tenant-based and project-based units.

Inspecting PHA-Owned Units [24 CFR 983.103(f)]

In the case of PHA-owned units, the inspections must be performed by an independent agency designated by the PHA and approved by HUD. The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located. The PHA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the PHA-owner.

PART IV: HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT

18-IV.A. OVERVIEW

Public housing projects converting under RAD do not employ the PBV Agreement to Enter into a Housing Assistance Payments (AHAP) contract. Instead, following the execution of all requirements contained in the Commitment to Enter into a HAP (CHAP) contract and the RAD Conversion Commitment (RCC), a project is converted immediately to the RAD PBV HAP contract following the closing of any construction financing. Owners of public housing projects converted to PBV assistance via RAD enter into a HAP contract with the PHA that will administer the PBV assistance. Units assisted under a RAD PBV HAP contract must be subject to long-term, renewable use and affordability restrictions.

18-IV.B. HAP CONTRACT REQUIREMENTS

Contract Information [PBV Quick Reference Guide (10/14)]

The RAD PBV program uses the PBV HAP contract for new construction or rehabilitated housing (Form HUD-52530A), as modified by the RAD rider (Form HUD-52621). The distinction between "existing housing" and "rehabilitated and newly constructed housing" is overridden by RAD requirements. The RAD rider must be attached to the PBV HAP contract and effectuates the conversion of public housing to PBV under RAD PBV. The project must also have an initial RAD use agreement. All public housing RAD conversion properties financed with LIHTC are also required to include an LIHTC rider.

Execution and Effective date of the HAP Contract [RAD Blast! 7/11/16]

RAD PBV projects do not employ an Agreement to Enter into a Housing Assistance Payments (AHAP) contract like in the standard PBV program. Rather, when the conditions of the CHAP and the RCC are met and the conversion has closed, the PHA executes the HAP contract. Project owners may select the effective date of the HAP contract as the first day of either of the two months following the completed closing.

Term of HAP Contract [Notice PIH 2012-32, REV-3]

The initial term of the HAP contract may not be for less than 15 years, and may be for a term of up to 20 years upon request of the owner and with approval of the administering voucher agency. Upon expiration of the initial term of the contract, and upon each renewal term of the contract, the owner must accept each offer to renew the contract, subject to the terms and conditions applicable at the time of each offer, and further subject to the availability of appropriations for each year of each such renewal. To implement this provision, HUD is waiving section 8(o)(13)(F) of The United States Housing Act of 1937, which established a maximum term of 15 years, as well as 24 CFR 983.205(a), which governs the contract term.

Agreement to Enter into a HAP (AHAP) Contract [Notice PIH 2012-32, REV-3]

For public housing conversions to PBV, there will be no agreement to enter into a Housing Assistance Payments (AHAP) contract. Therefore, all regulatory references to the Agreement (AHAP), including regulations under 24 CFR Part 983 Subpart D, are waived. The definitions

for proposal selection date, new construction, rehabilitation, and existing housing are not applicable.

Mandatory Contract Renewal [Notice PH1 2012-32, REV-3]

By statute, upon contract expiration, the agency administering the vouchers will offer, and the PHA will accept, renewal of the contract subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal. Consequently 24 CFR 983.205(b), governing the PHA discretion to renew the contract for term of up to 15 years, will not apply.

In the event that the HAP contract is removed due to breach, non-compliance or insufficiency of appropriations, for all units previously covered under the HAP contract, new tenants must have incomes at or below 80 percent of the area median income at the time of admission and rents may not exceed 30 percent of 80 percent of median income for an appropriate size unit for the remainder of the term of the RAD use agreement.

Remedies for HQS Violations [24 CFR 983.208(b)]

The PHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the PHA determines that a contract does not comply with HQS, the PHA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

HACCC Policy

HACCC will abate and terminate PBV HAP contracts for noncompliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-ILG, Enforcing Owner Compliance.

18-IV.C. AMENDMENTS TO THE HAP CONTRACT

Floating Units [Notice PHH 2012-32, REV-3]

In certain mixed-finance projects, the PHA may ask HUD permission to have assistance float among units within the project that are the same bedroom size. The unit to which assistance is floated must be comparable to the unit being replaced in quality and amenities.

If the PHA chooses to float units, units are not specifically identified on the HAP contract, rather the HAP contract must specify the number and type of units in the property that are RAD PBV units, including any excepted units. The property must maintain the same number and type of RAD units from the time of the initial HAP contract execution forward.

HACCC Policy

HACCC will not float assistance among unoccupied units within the project.

Reduction in HAP Contract Units [Notice PHH 2012-32, REV-3]

Project owners are required to make available for occupancy by eligible tenants the number of assisted units under the terms of the HAP contract.

The PHA may not reduce the number of assisted units without HUD approval. Any HUD approval of a PHA's request to reduce the number of assisted units under contract is subject to conditions that HUD may impose. MTW agencies may not alter this requirement.

If units are removed from the HAP contract because a new admission's FFP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, the PHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207, or where "floating" units have been permitted.

18-IV.D. HAP CONTRACT YEAR AND ANNIVERSARY DATES [24 CFR 983.302(e)]

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year. There is a single annual anniversary date for all units under a particular HAP contract.

18-IV.E. OWNER RESPONSIBILITIES UNDER THE HAP CONTRACT
[24 CFR 983.210]

When the owner executes the HAP contract, he or she certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HOS;
- The owner is providing all services, maintenance, equipment, and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP is leased to an eligible family referred by the PHA, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge, the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit;
- The family does not own or have any interest in the contract unit (this does not apply to the family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP contract execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

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18-IV.F. VACANCY PAYMENTS [24 CFR 983.352(b)]

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner, including amounts available from the tenant's security deposit.

HACCC Policy

HACCC will provide vacancy payments to the owner. The HAP contract with the owner will contain the amount of the vacancy payment and the period for which the owner will qualify for these payments.

PART V: SELECTION OF PBV PROGRAM PARTICIPANTS

18-V.A. OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

18-V.B. PROHIBITED RESCREENING OF EXISTING TENANTS UPON CONVERSION [Notice PHH 2012-32, REV-3]

Current households cannot be excluded from occupancy at the covered project based on any rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. Post-conversion, the tenure of all residents of the covered project is protected pursuant to PBV requirements regarding continued occupancy unless explicitly modified by Notice PHH 2012-32, REV-3 (e.g., rent phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR 982.201, concerning eligibility and targeting, will not apply for current households. Once that remaining household moves out, the unit must be leased to an eligible family. Existing residents at the time of conversion may not be rescreened for citizenship status or have their social security numbers re-verified.

Further, so as to facilitate the right to return to the assisted property, this provision must apply to current public housing residents of the converting project that will reside in non-RAD PBV units placed in a project that contain RAD PBV units. Such families and such contract units will otherwise be subject to all requirements of the applicable program, specifically 24 CFR 983 for non-RAD PBV.

For the RAD PBV program, *in-place family* means a family who lived in a pre-conversion property at the time assistance was converted from public housing to PBV under RAD.

18-V.C. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the PHA, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the PHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. The PHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

HACCC Policy

HACCC will determine an applicant family's eligibility for the RAD PBV program in accordance with the policies in Chapter 3.

**18-V.D. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c);
Notice PIH 2012-32, REV-3]**

The standard PBV regulations at 24 CFR 983.251 set out program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents will be admitted. These provisions will apply unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies.

HACCC Policy.

HACCC will establish and manage separate waiting lists for individual projects or buildings that are receiving RAD PBV assistance. The PHA currently has waiting lists for the following RAD PBV projects:

Labora Gardens	3791 Labora Dr., Antioch, CA 94509	Veterans, Family, Disabled
Garden Park Apartments	2387 Lisa Lane Pleasant Hill, CA 94523	Disabled, Family Housing
Robin Lane Apartments	1119 Meadow Lane Concord, CA 94520	Family Housing
Flame Null Apartments	112 Alves Lane/300 Waters Street Pittsburg, CA 94565	Family Housing
Church Lane Apartments	2555 Church Lane, San Pablo, CA 94806	Family Housing
Hana Gardens Senior Apartments	10860 San Pablo Ave., El Cerrito, CA 94530	62 Yrs or older
Hookston Senior Homes	80 W Hookston Street, Pleasant Hill, CA 94523	62 Yrs or older
Heritage Point Apartments	1510 Fred Jackson Way, Richmond, CA 94801	Family Housing
Antioch Scattered Site Renovations	1945 Cavallo Rd., Antioch, CA 94509 107 W. 20th Street, Antioch, CA 94509	Family Housing
St. Paul's Commons	1860 Trinity Ave, Walnut Creek, CA 94596	Family Housing

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For any applicants on the public housing waiting list that are likely to be ineligible for admission to a covered project converting to PBV because the household's FTP is likely to exceed the RAD gross rent, the PHA will consider transferring such household, consistent with program requirements for administration of waiting lists, to the PHA's remaining public housing waiting lists or to another voucher waiting list, in addition to transferring such household to the waiting list for the covered project.

To the extent any wait list relies on the date and time of application, the applicants shall have priority on the wait lists to which their application was transferred in accordance with the date and time of their application to the original waiting list.

The PHA will maintain the project-specific waiting list in accordance with all applicable civil rights and fair housing regulations found at 24 CFR 903.7(b)(2)(ii)-(iv). The PHA will provide applicants full information about each development, including an estimate of the wait time, location, occupancy, number and size of accessible units, and amenities like day care, security, transportation, and training programs at each development with a

site-based waiting list. The system for selection will be consistent with all applicable civil rights and fair housing laws and regulations and may not be in conflict with any imposed or pending court order, settlement agreement, or complaint brought by HUD.

The PHA will assess any changes in racial, ethnic or disability-related tenant composition at each PHA site that may have occurred during the implementation of the site-based waiting list, based on confirmed and accurate PIC occupancy data. At least every three years, the PHA will use independent testers to assure that the site-based system is not being implemented in a discriminatory manner.

18-V.E. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

After conversion to RAD PBV, applicants who will occupy units with RAD PBV assistance must be selected from the PHA's waiting list. The PHA may establish selection criteria or preferences for occupancy of particular PBV units.

Income Targeting [24 CFR 983.251(c)(6); Notice PHH 2012-32, REV-3]

At least 75 percent of the families admitted to the PHA's tenant-based and project-based voucher programs during the PHA fiscal year from the waiting list must be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs.

Families in place at the time of the conversion are exempt from income targeting requirements. New admissions follow standard PBV requirements.

Units with Accessibility Features [24 CFR 983.251(c)(7)]

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d); FR Notice 11/24/08; Notice PHH 2012-32, REV-3]

The PHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units.

The PHA may establish a selection preference for families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units, provided that preference is consistent with the PHA plan. The PHA may not, however, grant a preference to a person with a specific disability [FR Notice 1/18/17].

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible persons with disabilities who may benefit from services provided in the project. In these projects, residents with disabilities may not be required to accept the particular services offered as a condition of occupancy.

HACCC Policy

HACCC will offer the same preferences for the RAD PBV program that it does for the regular PBV program as outlined in Chapter 17 of this Administrative Plan.

18-V.F. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

The PHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refusing to list the applicant on the waiting list for tenant-based voucher assistance
- Denying any admission preference for which the applicant qualifies
- Changing the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the PHA's selection policy
- Removing the applicant from the tenant-based voucher waiting list

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Disapproval by Landlord [24 CFR 983.251(e)(2)]

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.

Acceptance of Offer [24 CFR 983.252]

Family Briefing

When a family accepts an offer for PBV assistance, the PHA must 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 PHA must provide a briefing packet that explains how the PHA 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 PHA 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). In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

The PHA 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).

18-V.G. 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. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(a)(2) and (a)(3)].

Leasing [24 CFR 983.253(a)]

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the PHA from the PHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the PHA's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the PHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The PHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

HACCC Policy

The owner must notify HACCC in writing (mail, fax, or e-mail) within five business days of learning about any vacancy or expected vacancy.

HACCC will make every reasonable effort to refer families to the owner within 10 business days of receiving such notice from the owner.

18-V.II. TENANT SCREENING [24 CFR 983.255]

PIA Responsibility

The PIA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the PIA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

HACCC Policy

HACCC will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The PIA must provide the owner with an applicant family's current and prior address (as shown in PIA records) and the name and address (if known by the PIA) of the family's current landlord and any prior landlords.

In addition, the PIA may offer the owner other information the PIA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The PIA must provide applicant families a description of the PIA policy on providing information to owners, and the PIA must give the same types of information to all owners.

The PIA may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence, sexual assault, or stalking, except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(e)].

HACCC Policy

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

Owner Responsibility

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills
- Caring for a unit and premises
- Respecting the rights of other residents to the peaceful enjoyment of their housing
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others
- Compliance with other essential conditions of tenancy

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PART VI: OCCUPANCY

18-VI.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by the PIA, referred to an owner, and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

18-VI.B. LEASE [24 CFR 983.256; Notice PHH 2012-32, REV-3]

The tenant must have legal capacity to enter into a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

The tenant and the owner must enter into a written lease agreement that is signed by both parties. The tenancy addendum must include, word-for-word, all provisions required by HUD.

Lease Requirements [24 CFR 983.256(e); Notice PHH 2012-32, REV-3]

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provided by the owner; and
- The amount of any charges for food, furniture, or supportive services.

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The PIA must include resident procedural rights for termination notification and grievance procedures in the owner's lease. These requirements are not part of the regular PBV program but are required under RAD. An example of language that may be included can be found in Attachment-1E of Notice PHH 2012-32, REV-2.

Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

- The program tenancy requirements
- The composition of the household as approved by the PIA (the names of family members and any PIA-approved live-in aide)

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All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

Initial Term and Lease Renewal [24 CFR 983.256(f); PBV Quick Reference Guide (10/14)]

Leases for residents who will remain in place (i.e., who will not be relocated solely as a result of conversion) must have an effective date that coincides with—and must be signed on or before—the effective date of the RAD PBV HAP contract.

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g., month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- The owner terminates the lease for good cause
- The tenant terminates the lease
- The owner and tenant agree to terminate the lease
- The PHA terminates the HAP contract
- The PHA terminates assistance for the family

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Changes in the Lease [24 CFR 983.256(e)]

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the PHA a copy of all changes.

The owner must notify the PHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the PHA and in accordance with the terms of the lease relating to its amendment. The PHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy [24 CFR 983.257; Notice PIH 2012-32, REV-3]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B, and 24 CFR 982.310). In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Projects converting from public housing to PBV under RAD have additional procedural rights that do not apply to the standard PBV program. These procedural rights must be included in the owner's lease as well as the PHA's administrative plan. In addition to the regulations at 24 CFR 983.257 related to project owner termination of tenancy and eviction (which MTW agencies may not alter) the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease which may not be less than:

A reasonable period of time, but not to exceed 30 days:

- If the health or safety of other tenants, PHA employees, or persons residing in the immediate vicinity of the premises is threatened; or
- In the event of any drug-related or violent criminal activity or any felony conviction

14 days in the case of nonpayment of rent

30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply

Unlike in the standard PBV program, residents in converted projects have the right to request an informal hearing for issues that adversely affect the resident's rights, obligations, welfare, or status with both the PHA and the project owner. See Chapter 16 Part III: Informal Reviews and Hearings for more information.

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(u)]

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 982.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

Continuation of Housing Assistance Payments [24 CFR 983.258;
Notice PHH 2012-32, REV-3]

Current residents living in the property prior to conversion are placed on and remain under the HAP contract when TIP equals or exceeds gross rent. In this case, until such time as the family's TIP falls below the gross rent, the family will pay the owner the lesser of their TIP minus the utility allowance or any applicable maximum rent under the LIHTC program. The family will continue to pay this amount until/if circumstances change and HAP is paid on their behalf. In other words, assistance may subsequently be reinstated if the tenant becomes eligible for assistance. In such cases, the resident is still considered a program participant. All of the family obligations and protections under RAD and standard PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP contract.

Following conversion, 24 CFR 983.53(d) applies, and any new families referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program. Further, for any new families admitted after the conversion, assistance will be terminated 180 days after the last housing assistance payment on their behalf. The cessation of housing assistance payments does not affect the family's other rights under its lease, nor does it preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within the 180 day window. If a family's assistance is terminated as a result of their zero HAP status, the PHA must remove the unit from the HAP contract. If the project is fully assisted, the PHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207.

HACC Policy

If a participating family who was admitted after the RAD conversion receive zero assistance and subsequently experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the PHA of the change and request an interim reexamination before the expiration of the 180-day period.

Security Deposits [24 CFR 983.259; PBV Quick Reference Guide (10/14)]

Owners are permitted to recognize security deposit amounts that have been previously provided by tenants who are in-place at the time of the RAD conversion. Otherwise the security deposit requirements for standard PBV apply.

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

HACCC Policy

HACCC will allow the owner to collect a security deposit amount the owner determines is appropriate and commensurate with local and California rental laws.

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

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

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The PHA has no liability or responsibility for payment of any amount owed by the family to the owner.

18-VI.C. PUBLIC HOUSING FSS AND ROSS PARTICIPANTS [Notice PHH 2012-32, REV-3]

Current PH FSS participants will continue to be eligible for FSS once their housing is converted under RAD, and PHAs will be allowed to use any PH FSS funds granted previously or pursuant to the current fiscal year (FY) PH FSS notice of funding availability (NOFA), to serve those FSS participants who live in units converted to RAD and who will as a result be moving to the HCV FSS program. A PHA must convert the PH FSS program participants at the covered project to their HCV FSS program.

Residents who were converted from the PH FSS program to the HCV FSS program through RAD may not be terminated from the HCV FSS program or have HCV assistance withheld due to the participant's failure to comply with the contract of participation. Consequently, 24 CFR 984.303(b)(5)(iii) does not apply to FSS participants in converted properties.

At the completion of the FSS grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. If the PHA continues to run an FSS program that serves PH and/or HCV participants, the PHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding and may use that funding to serve PH, HCV, and PBRA participants in its FSS program.

Current Resident Opportunities and Self-Sufficiency–Service Coordinators (ROSS–SC) program grantees will be able to finish out their current ROSS–SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future public housing ROSS–SC grants.

At the completion of the ROSS-SC grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be a non-profit or local resident association and this consequence of a RAD conversion may impact those entities.

18-VI.D. RESIDENT PARTICIPATION AND FUNDING [Notice PHH 2012-32, REV-3]

Residents of covered projects converting assistance to PBVs will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding.

18-VLE. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260; Notice PIH 2012-32, REV-3]

All in-place tenants at the time of conversion are eligible to remain in the project. Over-housed families should be moved into appropriately sized units if such units are available in the new or rehabbed project. If appropriately sized units are not available, the existing tenants may continue to be over-housed until an appropriately sized unit becomes available or until the tenant leaves the project. Once the unit turns over, it must be leased to an appropriately sized family.

Following conversion, the standard PBV regulations apply. If the PHA determines that a family is occupying a wrong-size unit, based on the PHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the PHA must promptly notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

PHA Policy

The PHA 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 PHA's determination. The PHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

PBV assistance in the same building or project

PBV assistance in another project

Tenant-based voucher assistance

If the PHA offers the family a tenant-based voucher, the PHA must terminate the housing assistance payments for a wrong-size or accessible unit at the earlier of the expiration of the term of the family's voucher, including any extension granted by the PHA, or the date upon which the family vacates the unit. If the family does not move out of the wrong-size unit or accessible unit by the expiration of the term of the family's voucher, the PHA must remove the unit from the HAP contract.

If the PHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

HACCC Policy

When HACCC 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, HACCC will terminate the housing assistance payments at the expiration of this 30-day period.

HACCC 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 Right to Move [24 CFR 983.261]

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 PHA.

Choice Mobility [Notice P111 2012-32, REV-3]

If the family wishes to move with continued tenant-based assistance, the family must contact the PHA to request the rental assistance prior to providing notice to terminate the lease. If the family terminates the lease in accordance with lease requirements, the PHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If a voucher or other comparable tenant-based assistance is not immediately available, the PHA 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.

HACCC Policy:

Prior to providing notice to the owner to terminate the lease, the family may submit a written request to HACCC for a choice mobility voucher at any time after completing the 12-month occupancy requirement.

The family will remain eligible to request a choice mobility voucher as long as they continue living at the same covered project. If a family moves from one covered project to another covered project prior to completing their 12-month occupancy requirement, their 12-month clock will reset. The family must wait 12 months from the date of move at the new property before they may request another choice mobility voucher. If a family transfers to a different unit within the same covered project, the 12-month clock does not reset.

HACCC will maintain a combined, agency-wide waiting list for all standard PBV and RAD PBV families wishing to exercise mobility after one year of tenancy. This list will be maintained separately from the tenant-based HCV list. Families on the choice mobility waiting list will be given priority over families on the tenant-based waiting list. The choice mobility waiting list will be organized by date and time of the family's written request to exercise choice mobility. The list will also identify whether families live in standard or RAD PBV units.

Turnover Cap

If as a result of RAD, the total number of PBV units (including RAD PBV units) administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD, the PHA may establish a turnover cap. The PHA is not required to provide more than three-quarters of its turnover vouchers in any single year to the residents of covered projects. If the PHA chooses to establish a turnover cap and the cap is implemented, the PHA must create and maintain a waiting list in the order requests from eligible households were received.

HACCC Policy

As a result of RAD, the total number of PBV units (including RAD PBV units) administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD. Therefore, HACCC will establish a choice mobility cap. HACCC will not provide more than three-quarters of its turnover vouchers in a single year to residents of covered projects.

Families who requested a choice mobility voucher and are denied due to the cap will be given priority the following year when choice mobility vouchers are again issued since the choice mobility list will be organized by the date and time of the family's request.

Emergency Transfers under VAWA [Notice PHH 2017-08]

Except where special consideration is needed for the project-based voucher program, the PHA will follow VAWA policies as outlined in Chapter 16 Part IX of this administrative plan, including using the Emergency Transfer Plan as the basis for PBV transfers under VAWA (Exhibit 16-4).

HUD requires that the PHA include policies that address when a victim has been living in a unit for less than a year or when a victim seeks to move sooner than a tenant-based voucher is available.

HACCC Policy

When the victim of domestic violence, dating violence, sexual assault, or stalking has lived in the unit for less than one year, HACCC will provide several options for continued assistance.

HACCC will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where HACCC has PBV units. HACCC will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to either tenant-based rental assistance (TCV) or assistance in HACCC's public housing program. Such a decision will be made by HACCC based on the availability of tenant-based vouchers and/or vacancies in public housing units.

If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are available, the PHA will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where HACCC has PBV units. HACCC will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to HACCC's public housing program.

18-VI.F. REEXAMINATIONS [PBV Quick Reference Guide (10/14)]

A family living in a unit converted from public housing to RAD PBV may retain its certification date. Unless a family's annual reexamination is due at the same time as the effective date of the RAD PBV HAP contract, the PHA does not need to recertify tenants at the point of conversion. For each family residing in a unit undergoing conversion of assistance under RAD, the administering PHA will have to submit a form HUD-50058 reflecting the family's admission to the voucher program. The effective date of the new admission will be the same as the effective date of the RAD PBV HAP contract. The form should include the same information previously found on the public housing form 50058, including the next annual reexamination date.

18-VI.G. EARNED INCOME DISALLOWANCE [Notice PHH 2012-32, REV-3]

Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion, in accordance with regulations at 24 CFR 5.617. Upon the expiration of the EID for such families, the rent adjustment will not be subject to rent phase-in; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time.

Under the HCV program, the EID exclusion is limited to only persons with disabilities [24 CFR 5.617(b)]. In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in section 5.617(b) limiting EID to only persons with disabilities is waived. The waiver and resulting alternative requirement only applies to tenants receiving the EID at the time of conversion. No other tenant, such as tenants who at one time received the EID but are not receiving the EID exclusion at the time of conversion (e.g., due to loss of employment), tenants that move into the property following conversion, etc., is covered by this waiver.

18-VI.H. RESIDENTS' PROCEDURAL RIGHTS [Notice PHH 2012-32, REV-3]

HUD is incorporating additional termination notification requirements for public housing projects that convert assistance under RAD to PBV beyond those for the standard PBV program. In addition to the regulations at 24 CFR 983.257 related to owner termination of tenancy and eviction (which MHW agencies may not alter) the termination procedure for RAD conversions to PBV require that PHAs provide adequate written notice of termination of the lease, which is no less than:

A reasonable period of time, but not to exceed 30 days:

- If the health or safety of other tenants, project owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
- In the event of any drug-related or violent criminal activity or any felony conviction.

Not less than 14 days in the case of nonpayment of rent

Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply

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18-VI.I. INFORMAL REVIEWS AND HEARINGS [Notice PHI 2012-32, REV-3]

Unlike in the standard PBV program, residents in converted projects have the right to request an informal hearing for issues that adversely affect the resident's rights, obligations, welfare, or status with both the PHA and the project owner.

In addition to reasons for an informal hearing listed at 24 CFR 982.555(a)(1)(i)-(vi) (See 16-III.C. Informal Hearings for Participants), an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to an owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.

For any hearing required under 24 CFR 982.555(a)(1)(i)-(vi), the contract administrator will perform the hearing, as is the current standard in the program.

For any additional hearings required under RAD, the PHA (as owner) will perform the hearing.

An informal hearing will not be required for class grievances or for disputes between residents not involving the PHA (as owner) or contract administrator. This hearing requirement does not apply to and is not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and the PHA (as owner) or contract administrator.

The PHA (as owner) must give residents notice of their ability to request an informal hearing as outlined in 24 CFR 982.555(e)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR 982.555(a)(1)(i)-(vi). (See Chapter 16)

The PHA (as owner) must provide an opportunity for an informal hearing before an eviction.

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PART VII: DETERMINING CONTRACT RENT

18-VII.A. INITIAL CONTRACT RENTS [Notice PHH 2012-32, REV-3]

RAD conversions are intended to be cost-neutral, and therefore, should not exceed current public housing funding as adjusted for unit size. Since public housing units do not currently have contract rents, HUD provides an estimate of current contract rents for each PHA's public housing units based on current funding as adjusted by bedroom size. Current funding includes operating subsidy, tenant rents, capital funds, replacement housing factor funds (RHF), and demolition disposition transitional funding (DDTF). The funding may limit the amount of initial rent for a property. A detailed explanation of the determination of current funding may be found in Attachment 1C of Notice PHH 2012-32, REV-2. Once the current funding amount is calculated, the amount is adjusted by bedroom size to determine the current funding rent. HUD uses the same bedroom adjustment factors as in the metropolitan FMR schedules where the project is located.

PHAs may adjust subsidy (and contract rents) across multiple projects as long as the PHA does not exceed the aggregate subsidy for all of the projects the PHA has submitted for conversion under RAD. This use, which HUD refers to as "bundled" rents, is permissible when a PHA submits applications for two or more projects. There is no limit to the number of projects that a PHA may bundle.

Notwithstanding the current funding level, the initial rents are set at the lower of:

110 percent of the fair market rent (FMR) or the PHA's exception payment standard approved by HUD, or the alternate rent cap in a PHA's MTW agreement

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Reasonable rent in comparison to the unassisted housing market

An amount determined by current funding

- Adjusted through rent bundling or reconfiguration of units

**18-VII.B. ADJUSTING CONTRACT RENTS [Notice PHH 2012-32, REV-3;
PBV Quick Reference Guide (10/14)]**

Contract rents will be adjusted annually by HUD's operating cost adjustment factor (OCAF) at each anniversary of the HAP contract, subject to the availability of appropriations for each year of the contract term. As such, section 8 (or 13)(1) of the 1937 Act, and 24 CFR 983.301 and 983.302, concerning rent determinations, do not apply when adjusting rents. The rent to owner may at no time exceed the reasonable rent charged for comparable unassisted units in the private market, as determined by the contract administrator in accordance with 24 CFR 983.303.

Contract rents may not exceed the reasonable rent, with the exception that the contract rent for each unit may not be reduced below the initial contract rent under the initial HAP contract.

However, the rent to owner may fall below the initial contract rent in the following situations:

- To correct errors in calculations in accordance with HUD requirements
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 983.55 (prohibition of excess public assistance)
- If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant

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The contract rent adjustment will be the lesser of:

- The current contract rent increased by the operating cost adjustment factor (OCAF), which is published annually in the *Federal Register*; or
- The reasonable rent

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The administering PHA (or independent entity, if the project is PHA-owned) is responsible for processing rent adjustments, at each contract anniversary date, in accordance with the prevailing OCAF.

At least 120 days before the contract anniversary date, HUD recommends that the owner submit the OCAF rent adjustment worksheet (Form HUD-9625) to the PHA administering the PBV assistance (or the independent entity). The PHA will validate the data on the form and determine whether the rent exceeds the reasonable rent charged for comparable unassisted units in the private market, in accordance with 24 CFR 983.303. If rents would be unreasonable following application of the requested OCAF, then the rent can only be increased up to the reasonable rent. The approved rent adjustment will go into effect and the new rents to owner will take effect on the date of the contract anniversary.

Rent Decrease

Rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

**18-VII.C. UTILITY ALLOWANCES [Notice PHH 2012-32, REV-3;
PBV Quick Reference Guide (10/14); Notice PHH 2018-11]**

When contract rent amounts are set initially, the amount does not include a utility allowance. In general, the utility allowances that are used on the initial HAP contract at closing are the public housing utility allowances that are in effect prior to conversion. The CHAP must be updated prior to conversion to reflect current public housing utility allowances. At its discretion, a PHA may use the FMRs and utility allowances in effect during the 30-day period immediately before the beginning date of the HAP contract. A PHA may request a waiver from HUD in order to establish a site-specific utility allowance schedule.

After conversion, unless a waiver is requested and approved by HUD, the PHA must maintain a utility allowance schedule for tenant-paid utilities in accordance with standard PBV and HCV utility allowance regulations at 24 CFR 983.301(d)(2)(ii) and 24 CFR 982.517 respectively. The PHA may instead, however, apply site specific utility allowances in accordance with Notice PHH 2018-11. These utility allowances are effective for in-place families at recertification.

HACCC Policy

HACCC will use the HCV utility allowance schedule for the RAD developments unless an alternative utility allowance, such as the California Utility Allowance Calculator, has been adopted to accommodate HOME or other forms of assistance.

18-VII.D. REASONABLE RENT [24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA, except rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

How to Determine Reasonable Rent

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the PHA must 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.

Comparability Analysis

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the PHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

PHA-Owned Units

For PHA-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for PHA-owned units to the PHA and to the HUD field office where the project is located.

PART VIII: PAYMENTS TO OWNER

18-VIII.A. HOUSING ASSISTANCE PAYMENTS

During the term of the HAP contract, the PHA must 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 PHA agree on a later date.

Except for discretionary vacancy payments, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the PHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

18-VIII.B. VACANCY PAYMENTS [24 CFR 983.352]

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 PHA determines that the vacancy is the owner's fault.

HACCC Policy

If HACCC determines that the owner is responsible for a vacancy and as a result is not entitled to keep the housing assistance payment, HACCC will notify the landlord of the amount of housing assistance payment that the owner must repay. The PHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner. The PHA may only make vacancy payments if:

- The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

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The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payment.

HACCC Policy

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 HACCC of the vacancy in accordance with the policy in Section 18-V.G. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within 10 business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and HACCC may require the owner to provide documentation to support the request. If the owner does not provide the information requested by HACCC within 10 business days of HACCC's request, no vacancy payments will be made.

18-VIII.C. TENANT RENT TO OWNER [24 CFR 983.353]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the PHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the PHA notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the PHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess payment to the tenant.

Tenant and PHA Responsibilities

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 PHA.

Likewise, the PHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The PHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The PHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The PHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

HACCC Policy

HACCC will make utility reimbursements directly to the family.

18-VIIL.D. PHASE-IN OF TENANT RENT INCREASES [Notice PIH 2012-32, REV-3]

For in-place tenants, if a tenant's monthly rent increases by more than the greater of 10 percent or \$25 purely as a result of conversion, the rent increase will be phased in over three years. To implement this provision, HUD is waiving section 3(a)(1) of the 1937 Act, as well as 24 CFR 983.3 (definition of total tenant payment (TTP)) only to the extent necessary to allow for the phase-in of tenant rent increases. For families who were on LID at the time of conversion to RAD PBV, upon the expiration of the LID, the rent adjustment is not subject to rent phase-in.

HACCC Policy

HACCC will implement a three-year phase-in for in-place families whose rent increases by more than the greater of 10 percent or \$25 as a result of the conversion as follows:

Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion: 33 percent of the difference between the most recently paid TTP and the calculated PBV TTP

Year 2: Year 2 annual recertification (AR) and any interim recertification (IR): 50 percent of the difference between the most recently paid TTP and the calculated PBV TTP

Year 3: Year 3 AR and all subsequent recertifications: Full calculated TTP

Once the standard TTP is equal to or less than the previous TTP, the phase-in ends and tenants will pay full TTP from that point forward.

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18.VIIL.E. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.