



# City of Phoenix Housing Department

Administrative Plan February 2025

FY 2025-2026 **DRAFT**



e #1

COPHD Administrative Plan

Quadel Consulting and Training, LLC

Proprietary Document



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# CHAPTER 1: Program Authority and Objectives

Link: United States Housing Act of 1937

The City of Phoenix Housing Department (COPHD) manages the Housing Choice Voucher (HCV) Program and other housing programs in the geographic area covering the City of Phoenix. The Section 8 and HCV programs are contracted to Arizona Quadel for administration. Through its assisted housing programs, eligible families are provided the opportunity to obtain decent, safe and sanitary housing.

Administration of COPHD's Housing Programs and the functions and responsibilities of COPHD staff are in compliance with COPHD's policies and procedures, the Department of Housing and Urban Development's (HUD) regulations, and all applicable Federal, State and local fair housing laws.

A copy of the Administrative Plan is available for review on the Housing Department's website at <https://www.phoenix.gov/housing/brochures-reports>.

## 1.1 Applicable Regulations

- [24 CFR Part 5](#): General Program Requirements
- [24 CFR Part 8](#): Nondiscrimination
- [24 CFR Part 35](#): Lead Safe Housing
- [24 CFR Part 903](#): Public Housing Agency Plans
- [24 CFR Part 982](#): Section 8 Tenant Based Assistance
- [24 CFR Part 983](#): Project Based Vouchers
- [24 CFR Part 985](#): Section 8 Management Assessment Program
- [24 CFR Part 100](#): Discriminatory Conduct Under the Fair Housing Act

## HOTMA: Housing through Modernization Act

Link: HOTMA Resources | HUD.gov / U.S. Department of Housing and Urban Development (HUD)

The Housing Opportunity through Modernization Act of 2016 (HOTMA) was enacted on July 29, 2016. On February 14, 2023, HUD issued the Final Rule Implementing HOTMA Sections 102, 103, and 104 which are effective January 1, 2024 and require compliance by January 1, 2025 or HUD extension date. These sections make changes to the United States Housing Act of 1937, particularly those affecting income calculation, reviews, and program eligibility. The COPHD will implement all areas required no later than January 1, 2025 or HUD extension date, allowing for changes to software to be upgraded and updated for compliance.

## 1.2 COPHD Mission

The COPHD provides quality affordable housing and a pathway to self-sufficiency. The Housing Department strives to meet the needs of all assisted housing residents through programs and services that make an impact on families, the community and the City of Phoenix.

## 1.3 Local Objectives

The Section 8 Housing Choice Voucher Program in the City of Phoenix is designed to achieve these

major objectives:

- To provide decent, safe and sanitary housing for very low-income families, while maintaining rent payments at affordable levels.
- To promote fair housing and the opportunity for very low-income families to have residential mobility and choice.
- To promote a housing program which maintains quality service and integrity while providing an incentive to private property owners to rent to very low- income families.

In addition, the Housing Department has the following goals for the program:

- To encourage self-sufficiency of participant families and assist in the expansion of opportunities which address educational, economic, and social integration.
- To create positive public awareness and expand the level of family, owner, and community support to further the department's mission.
- To administer the Section 8 Program and model the Housing Department on the Vision and Values Statement of the City of Phoenix:
  - We are dedicated to serving our customers.
  - We value and respect diversity.
  - We work as a team.
  - We each do all we can.
  - We learn, change and improve.
  - We focus on results.
  - We work with integrity.
  - We make Phoenix better!

#### 1.4 Purpose of the Administrative Plan

[Link: 24 CFR.982.54](#)

The Administrative Plan (Plan) establishes policies for implementation and administration of the Housing Choice Voucher Program administered by the COPHD. The Plan covers both admission to and continued participation in the Tenant Based, Project Based and RAD/PBV Housing Choice Voucher programs. The Plan also covers the following Section 8 voucher and certificate based programs: Moderate Rehabilitation, Single Room Occupancy, Housing Opportunities for People with AIDS (HOPWA) and others through the McKinney- Vento Act.

Issues not addressed in this document related to applicants, participants and owners are governed by the Department of Housing and Urban Development Code of Federal Regulations, HUD guidance, or other applicable law. When circumstances arise and are not addressed by provisions in this Plan, they will be reviewed on a case-by-case basis. If a conflict arises between or among the regulations identified in this Plan, the regulations specifically stated for the applicable program will take precedence.

#### 1.5 Approval of Plan and Use of Administrative Fee Reserves

[Link: 24 CFR 982.155](#)



Approval of the Administrative Plan and all expenditures from the COPHD held administrative fee reserve will be approved by the Assisted Housing Governing Board, City of Phoenix City Council, and Housing Department management and will be made in accordance with the approved budget.

## 1.6 Insufficient Funding

Factors that will be taken into consideration when determining which HAP contracts to terminate first due to insufficient funding are, but not limited to:

- Households with minor children, disabled persons, and/or elderly persons
- Households with veterans
- Households that were formerly homeless
- PBV households
- Households with vulnerable persons

## CHAPTER 2: General Administrative Provisions and Policies

### 2.1 Confidentiality and Privacy Policy

Link: [24 CFR 5.212](#); [HUD Form 9886](#)

It is the policy of COPHD to guard the privacy of applicants and participants, and ensure the protection of records in accordance with the Privacy Act of 1974.

COPHD will not disclose any personal information (including, but not limited to information on any disability) contained in its records to any person or agency unless the individual about whom the information is requested gives written consent to such disclosure, or as required by law.

This privacy policy does not limit COPHD's ability to collect such information as it may need to determine eligibility, compute housing assistance, and does not prohibit the COPHD from disclosing information to local law enforcement if the participant is suspected of being involved in criminal or legal activity.

All applicant and participant information will be kept in a secure location and access will be limited to authorized COPHD staff. COPHD staff will not discuss personal family information unless there is a business reason to do so.

The Department of Housing and Urban Development (HUD) collects information of family members' names and unit address, and owner's name and payment address. HUD may disclose this information to Federal, State and local agencies when relevant to civil, criminal, or regulatory investigations and prosecutions. It will not be otherwise disclosed or released outside of HUD, except as permitted or required by law.

## CHAPTER 3: Fair Housing Policies

### 3.1 Nondiscrimination Policy

Links: Fair Housing Act (42 U.S.C); Section 504 of the Rehabilitation Act of 1973; Joint Statement of HUD and DOJ 5/17/14 and [24 CFR 982.54\(d\) \(6\)](#); [982.301\(b\) \(10\)](#); [982.304](#)

COPHD will not discriminate because of race, color, sex (includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, as well as gender identity and gender expression), religion, marital or familial status, age, disability, medical condition, national origin, ancestry, genetic information, gender identity or expression or sexual orientation. Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18. COPHD provides information regarding Fair Housing and non-discrimination in housing on its website, in outreach materials, posters at its office, in the family briefing session and program packets, and owner meetings. When needed, COPHD will also assist with how to fill out and file a housing discrimination complaint.

### 3.2 Complying with Civil Rights Laws

It is the policy of the COPHD to comply with all federal, state, and local non-discrimination laws, rules and regulations governing fair housing and equal opportunity in housing and employment now in effect and subsequently enacted, including, but not limited to:

- Title VI of the Civil Rights Act of 1964, which forbids discrimination on the basis of race, color, religion, or national origin.
- Title VIII of the Civil Rights Act of 1968 (as amended by the 1974 HCDA and the Fair Housing Amendments Act of 1988), which extends protection against discrimination based on disability and familial status, and spell out forms of prohibited discrimination.
- Executive Order 11063 which prohibits discrimination in federally funded housing.
- Section 504 of the Rehabilitation Act of 1973, which describes specific housing rights of persons with disabilities.
- Age Discrimination Act of 1975 which prohibits discrimination based on age in programs or activities that receive federal financial assistance.
- Title II of the Americans with Disabilities Act, otherwise Section 504 and the Fair Housing Amendments govern (Title II deals with common areas and public space, not living units).
- Violence Against Women Reauthorization Act 2013 (VAWA) which provides housing protections for victims of domestic violence, dating violence, sexual assault, and stalking.
- Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity, also known as the “Equal Access Rule.”
- Executive Order 13166, which requires that recipients of Federal financial assistance provide meaningful access to their limited English proficiency applicants and beneficiaries.

- Any applicable State laws or local ordinances that may apply, including those pertaining to Fair Housing or any legislation protecting the individual rights of residents, applicants or staff which may be subsequently enacted.

COPHD’s housing programs are open to all eligible individuals regardless of sexual orientation, gender identity or marital status. COPHD will not inquire about the sexual orientation or gender identity of an applicant or participant for purposes of determining eligibility or otherwise making such housing available. However, the COPHD may inquire about a person’s sex in order to determine the number of bedrooms a household may be eligible for under the occupancy standards or to accurately complete HUD’s 50058. The COPHD will not discriminate because of race, color, marital status, sexual orientation, gender identify or expression, national or ethnic origin or ancestry, genetic information, sex, religion, age, familial status, source of income, or disability in the leasing, rental, occupancy, use, or other disposition of housing or related facilities.

Applicants or participant families who believe that they have been subject to unlawful discrimination may notify the COPHD either orally or in writing.

Notifications made orally will be documented in writing by COPHD staff including: complaint description, applicant/participant name, date, and COPHD staff taking complaint. COPHD will make every reasonable attempt to determine whether the applicant or participant assertions have merit and take any warranted corrective action. The COPHD will attempt to remedy discrimination complaints made against the COPHD through the existing informal review, informal hearing, or other reconsideration. In addition to internal procedures to remedy allegations of discrimination, the COPHD 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).

San Francisco Regional Office of FHEO  
U.S. Department of Housing and Urban Development  
One Sansome Street, Suite 1200  
San Francisco, CA 94104  
(415) 489-6524  
(800) 347-3739  
TTY (415) 436-6594

Citizens may file housing discrimination complaints directly with HUD at the address listed above or with the Arizona Attorney General’s Civil Rights Division by calling (602) 542- 5263 or emailing [civilrightsinfo@azag.gov](mailto:civilrightsinfo@azag.gov). The City of Phoenix Equal Opportunity Department (“EOD”) also publishes various pamphlets and brochures providing an overview of fair housing laws and investigates fair housing complaints. EOD may be reached by calling (602) 262-7486 or (7-1-1 FRIENDLY).



### 3.3 Owner Nondiscrimination Requirements

Link: [Form HUD 52641](#); [PIH 2014-20](#)

The COPHD requires owners to comply with all applicable laws and statutes. In agreeing to participate in COPHD's housing choice voucher programs, the owner must abide by the Housing Assistance Payments (HAP) contract which prohibits discrimination and requires that the owner:

- Not discriminate against any person because of race, color, religion, sex, national origin, genetic information, age, familial status, sexual orientation, gender identity or expression, or disability in connection with the HAP contract.
- Cooperate with the COPHD and HUD in conducting equal opportunity compliance reviews and investigations.

COPHD refers Fair Housing complaints to the local fair housing agency as well as to HUD on behalf of a family that claims that illegal discrimination has prevented the family from leasing a suitable unit.

### 3.4 Family Outreach and Affirmative Marketing

Link: [24 CFR 982.102](#)

The COPHD publicizes and disseminates information concerning the availability and nature of housing assistance to income eligible families. As part of the briefing process and on-going education, COPHD will provide information to HCV families about the opportunity to rent in a broad range of neighborhoods including:

- Information on general locations and characteristics of neighborhoods including: shopping centers, bus lines, etc.
- A listing of available rental property. The list, updated monthly, states: address, amenities, deposit information, etc. as provided by owners.
- A list of properties/owners who accept HCV, whose owners have notified COPHD that they accept HCV.
- A description of portability provisions available in the Housing Choice Voucher program.
- A map that identifies areas within the city of Phoenix that are areas of low poverty and minority concentrations.
- Other information as required.

When COPHD's waiting list is open, COPHD will publicize the availability and nature of housing assistance through a wide variety of sources including local and State newspapers, minority media and the City of Phoenix website. Efforts will be made to notify local officials, government agencies, and agencies that specifically address the needs of individuals with disabilities.

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

### 3.5 Owner Outreach

[Link: 24 CFR.982.54](#)

COPHD encourages program participation by owners of units located outside areas of poverty or minority concentration. The purpose of these activities is to provide more choices and better housing opportunities to families. Outreach to property owners is regularly conducted to develop interest in the program and to increase the number of units available in low-poverty areas. COPHD provides program information and printed materials to local realtors, agents, apartment associations and any interested landlords. COPHD staff will be available to make presentations about the Housing Choice Voucher Program to these groups.

### 3.6 Language Assistance Plan and Limited English Proficiency Policy

[Link: Federal Register 1/22/07, 24 CFR 1](#)

The COPHD is committed to providing meaningful access to its programs and services to all eligible persons, including those who have Limited English Proficiency. COPHD will take affirmative steps to communicate with people who need services or information in a language other than English. LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this policy, LEP persons are HCV program applicants and participant families. COPHD offers language assist at no cost to the LEP person.

COPHD has adopted a Language Access Plan (LAP) that it reviews annually to determine if there have been any significant changes in the composition or language needs of the LEP population. COPHD analyzes the various kinds of contacts it has with the public to assess language needs and decide what reasonable steps should be taken if the costs imposed do not substantially exceed the benefits. COPHD has determined that the majority of participants speak either: English and Spanish. The COPHD staff can communicate in English and Spanish. COPHD staff have specific knowledge of COPHD programs and policies and COPHD will utilize staff for translation services when possible.

#### *LEP Options*

- COPHD will utilize a language line for telephone interpreter services or in-person interpreter services as necessary.
- When LEP persons request, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by the COPHD. The interpreter may be a family member or friend.
- COPHD will inform applicants and participants of language assistance services.
- COPHD provides written translation of vital documents in Spanish. Written translation of vital documents in languages other than Spanish is available as needed. Translation may also be provided orally.

### 3.7 Reasonable Accommodation Policy

[Link: 24 CFR Part 8](#)

This policy applies to applicants and participants. A reasonable accommodation is a change,

modification, alteration or adaptation in a policy, procedure, practice, program or facility that is necessary for a qualified individual with a disability to have the opportunity to participate in, and benefit from a program or activity.

COPHD will ask all applicants and participant families if they require any type of accommodations, in writing, on the intake application, re-certification document and notice of adverse action. The notice will include the name and phone number of the COPHD contact person for requests for accommodation for persons with disabilities.

The COPHD will encourage the family to make its request in writing using a reasonable accommodation request form. However, the COPHD will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted. If the request is made orally, the COPHD will document the request in writing including: request specifications, family name, date, and COPHD staff taking request.

If a person with a disability requests an accommodation to an existing rule, policy, practice, or service in order to fully access and utilize the COPHD's housing programs and related services, the COPHD will verify and evaluate the request.

The COPHD will approve a request for an accommodation if the following three conditions are met:

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on the COPHD, or fundamentally alter the nature of the COPHD's HCV operations (including the obligation to comply with HUD requirements and regulations).

Requests for accommodations must be assessed on a case-by-case basis, taking into account factors such as the cost of the requested accommodation, the financial resources of the COPHD at the time of the request, the benefits that the accommodation would provide to the family, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

Before deciding whether to approve the request, the COPHD may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that the COPHD may verify the need for the requested accommodation.

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

### *Legal Authority*

This Policy follows the statutory COPHD listed below:

- Section 504 of the Rehabilitation Act of 1973 (Section 504);
- Title II and Title III of the Americans with Disabilities Act of 1990 (ADA);
- The Fair Housing Act of 1968, as amended (Fair Housing Act);
- The Architectural Barriers Act of 1968; and
- [24 C.F. R. Part 8](#)

Reasonable accommodations will not be approved if they are a violation of federal law. The COPHD does not permit the use of medical marijuana as a reasonable accommodation in any of its subsidized or assisted housing programs. (HUD General Counsel Opinions on Medical Marijuana, 2/10/2011, 12/29/2014)

### *Definition of Disability*

Person with disabilities is a person who:

- Has a disability, as defined in 42 U.S.C. 423;
- Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
  - Is expected to be of long-continued and indefinite duration;
  - Substantially impedes his or her ability to live independently, and
  - Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
  - Has a developmental disability as defined in 42 U.S.C. 6001.
- Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome;
- For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence; and
- Means “individual with handicaps”, as defined in § [8.3](#) of this title, for purposes of reasonable accommodation and program accessibility for persons with disabilities.

### *Examples of Reasonable Accommodations*

- Allowing a larger unit size
- Allowing a larger utility allowance, due to increased usage for medical appliance
- Allowing a live-in aide, with the owner’s approval
- Allowing a service animal, with the owner’s approval
- Alternative measures instead of program termination, if applicable based on the reason for termination
- Rescheduling appointments and/or hearings
- Attendance at a hearing of any other person approved by the COPHD
- Permitting an outside agency or family member to assist in an interview or meeting



### 3.8 Live in Aide Policy

Links: [24 CFR 5.403](#); [24 CFR 8](#); [24 CFR 5.609\(c\)\(5\)](#); [24 CFR 966.4\(d\)\(3\)\(I\)](#)

The COPHD will approve a live-in aide if needed for families with an elderly member, or as a reasonable accommodation to make the program accessible to and usable by a family member with disabilities. One additional bedroom will be added to the voucher for an approved live-in aide.

Live-in aide means a person who resides with one or more elderly persons or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons
- Is not obligated for the support of the persons, and
- Would not be living in the unit except to provide the necessary supportive services

A live-in aide is a member of the household, not the family, and the income of the aide is not considered in family income calculations. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and will not be considered a remaining member of a participant family.

A family's request for a live-in aide must be made in writing, include the owner's written approval, and is subject to COPHD's verification and approval. The live-in aide must pass the COPHD criminal background screening. For continued approval, the family must submit a new, written request, subject to the COPHD verification and approval at each annual reexamination. The owner must continue to approve the live-in aide residing in the unit.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is:

- Not obligated for the support of the person(s) needing the care, and
- Would not be living in the unit except to provide the necessary supportive services.

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

- Does not meet COPHD's eligibility criteria
- Would cause the current unit to become overcrowded according to COPHD standards and local codes
- Falls under any category listed in this Policy in the Denials of Admission Section
- Is on the COPHD Public Housing Trespass List

### 3.9 Physical Impairment Policy

Link: [24 CFR Part 8.6](#)

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication is available at the COPHD office.

When visual aids are used in meetings or presentations, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third-party representative (a friend, relative or advocate, named by the applicant or participant) to receive, interpret and explain housing materials and be present at all meetings.

### 3.10 Violence against Women Reauthorization Act Policy (VAWA)

Links: Violence Against Women Reauthorization Act 2013; [24 CFR 5.2005 \(b\), \(d\), \(e\)](#); [24 CFR 5.2003](#); [24 CFR 5.2009](#); [24 CFR 5.2007 \(a\)\(1\)](#); [Federal Register / Vol. 81, No. 221](#)

This policy is applicable to all federally subsidized public housing administered by COPHD, including the HCV program. COPHD will not discriminate against an applicant or participant on the basis of the rights or privileges provided under the VAWA. This policy is gender-neutral, and its protections are available to persons who are victims of domestic violence, dating violence, sexual assault or stalking.

Neither VAWA nor this policy implementing it will preempt or supersede any provision of Federal, State or local law that provides greater protection under VAWA for victims of domestic violence, dating violence, sexual assault or stalking (VAWA-protected acts or threatened acts of violence).

Per the requirements of the Violence Against Women Reauthorization Act of 2013 (VAWA), and as incorporated into the HAP Contract and Tenancy Addendum, COPHD will not consider an incident or incidents of actual or threatened domestic violence, dating violence, stalking or sexual assault as serious or repeated violations of the lease or other “good cause” for termination of the assistance, tenancy, or occupancy rights of a victim of abuse.

Criminal activity directly related to abuse, engaged in by a household member, guest or other person under the tenant’s control, will not be cause for denial of admission, termination of assistance, tenancy or occupancy rights if a member of the tenant’s immediate family is the victim or threatened victim of that abuse.

If an assisted household member engages in criminal acts of physical violence against family members or others, COPHD may terminate assistance to the offending household member, or an owner/manager may “bifurcate” a lease, or otherwise remove the household member from the lease, in order to evict, remove, terminate occupancy rights, or terminate assistance for any individual who is a tenant or lawful occupant. These actions may be taken without penalizing the victim.

These statements do not limit the authority or ability of a unit owner/manager to evict, or COPHD to terminate assistance to any tenant under program guidelines if either party can demonstrate an “actual and imminent threat” to other tenants or persons employed at or providing services to the property.

An assisted family may receive a voucher and move in violation of the lease under COPHD’s portability policy if the family has complied with all other obligations of the voucher program and



moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, stalking or sexual assault and who reasonably believed he or she was imminently threatened if he or she remained in the assisted dwelling unit.

COPHD will request in writing that a family that seeks to move to another unit or prevent eviction, removal, termination of occupancy rights, or termination of assistance under a claim of abuse complete HUD-Form 5382, Certification of Domestic Violence, Dating Violence, Stalking or Sexual Assault. The victim will provide the name of the perpetrator on the form only if the name of the perpetrator is safe to provide and is known to the victim. In lieu of, or in addition to the form, a victim may provide to COPHD:

- A document that is signed by the applicant, participant, or tenant and an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional who assisted the victim relating to domestic violence, dating violence, sexual assault, or stalking. The professional must state, under penalty of perjury, that he or she believes that the abuse meets the requirements under VAWA;
- A Federal, State, tribal, territorial, or local police or court record;
- A record of an administration agency; or
- A statement or other evidence provided by the applicant, participant, or tenant at the discretion of COPHD or the landlord.

The victim of the actual or threatened violence or stalking must complete the HUD Certification of Domestic Violence, Dating Violence, Stalking or Sexual Assault or other approved document within 14 business days of receiving the written request for the certification from COPHD. If the family member has not provided the requested certification by the 14th business day or any extension of the date

provided by COPHD, none of the protections afforded to victims of domestic violence, dating violence, stalking or sexual assault (collectively “domestic violence”) will apply.

COPHD, at its discretion, may extend the 14-day deadline.

All information provided by the victim to an COPHD employee relating to an incident of domestic violence, including the fact that an individual is a victim of domestic violence, dating violence, stalking or sexual assault must be retained in confidence and neither entered into any shared database nor provided to any related party, except to the extent that the disclosure is:

- Requested or consented by the individual in writing;
- Required for use in an eviction proceeding or termination of assistance; or,
- Otherwise required by applicable law.

COPHD will cooperate with organizations and entities that provide shelter or services to victims of domestic violence, dating violence, sexual assault, or stalking. If COPHD staff becomes aware that an assisted person is a victim of domestic violence, dating violence, sexual assault, or stalking, COPHD will refer the victim to shelter or other service providers as appropriate. This Policy does not create any legal obligation requiring COPHD to maintain a relationship with a particular shelter or service provider to victims or to make a referral in any case.

### *Bifurcating the Lease -VAWA*

The COPHD will allow the owner to bifurcate a family's lease and terminate the tenancy of a family member if the COPHD determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining, non-culpable family members. In making its decision, the COPHD will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the COPHD by the victim.

In the event that COPHD bifurcates a lease under VAWA, any remaining tenants who had not already established eligibility for assistance will be provided no less than 90 calendar days from the date of bifurcation of the lease or until expiration of the lease to establish eligibility for a voucher or find alternative housing.

COPHD may, on a case-by-case basis, choose not to allow bifurcating the lease. If necessary, the COPHD will also take steps to ensure that the remaining family members have a safe place to live during the termination process. For example, the COPHD may offer the remaining family members a voucher to move if the owner agrees to a mutual rescission of the lease; or it may refer them to a victim service provider or other agency with shelter facilities.

## CHAPTER 4: Applying to the Program and Waiting List

[Link: 24 CFR 982.201 to 207](#)

### 4.1 Opening and Closing the Waiting List

[Link: 24 CFR 982.206](#)

COPHD is responsible for establishing an application and selection process that treats applicants fairly and consistently and provides an effective method for determining eligibility. COPHD may choose to open or close the wait list based on: the number of applications on file, the number of anticipated available vouchers and the wait time for an available voucher. For targeted outreach efforts, if it has been determined that there is a specific need for applicants for a specific program the waiting list may be opened only for applicants to that program. Applications for any special program will only be accepted from those applicants that meet the criteria for the specific targeted population.

The COPHD will announce the opening of the waiting list at least 14 calendar days prior to the date applications will first be accepted. The closing date will be announced at the same time of the opening. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

COPHD will advertise through a wide variety of sources including local newspapers, COPHD's website (<https://www.phoenix.gov/housing>), minority media and suitable social media. An effort will also be made to notify elected officials, government agencies and other agencies that specifically address the needs of individuals with disabilities.

In all wait list outreach efforts, the COPHD will specify the application selection method in the outreach material and on the COPHD website and in local media.

All notices and advertisements announcing the opening of the waiting list will include:

- The dates the list will be open
- The means by which applications will be taken (paper; electronic; other)
- Eligibility guidelines
- Any limitations which may apply
- How to request reasonable accommodation

### 4.2 Application Process

Families wishing to apply for the Section 8 Housing Choice Voucher Program will be required to complete a pre-application. The application process will involve two phases.

#### *Phase I: The Pre-application*

The first phase is the initial application or the "pre-application." This first phase results in the family's placement on the waiting list. Pre-applications will be accepted in a manner as described in the public notice advertising the opening of the Section 8 Housing Choice Voucher waiting list.

When the wait list is opened, pre-applications may be obtained online, by email upon request, or paper based available at the COPHD offices located at 830 East Jefferson, Phoenix AZ 85034. Pre-applications may be submitted in person or by mail to the COPHD Offices at 830 East Jefferson, Phoenix AZ 85034 or electronically.

The Section 8 HCV program will place families on the wait list using the methods identified on the advertised public notice. The completed pre-application will be dated and time stamped upon receipt by the Housing Department. Applicants are selected when vouchers are available.

Persons with disabilities who require a reasonable accommodation may contact the Housing Department throughout the application period during regular business hours (8am to 5pm Monday through Friday) to make special arrangements, which can include assistance to complete and submit the pre-application by alternative means. The COPHD will provide interpreter services for hearing -impaired and oral language assistance for applicants with limited English proficiency upon request.

The pre-application will contain the following information necessary to determine the family's position on the waiting list:

- Name of Head of Household
- Address or contact information
- Family member names and relationship to the Head of Household
- Gender<sup>1</sup>
- Date of Birth
- Preferences
- Racial/Ethnic designation of household
- Estimated total income (earned and unearned income) of all adult family members
- Language preference
- Email is requested

#### *Phase II: The Full Application*

The second phase of the process is a full application, which will be taken at the time the family reaches the top of the waiting list and is a more detailed application.

The full application includes the following information:

- Family members expected to occupy the unit
- Anticipated sources and amounts of income
- Allowable expense information
- Mailing address (or contact mailing address where information may be sent to be provided to the family), phone and email contact information

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<sup>1</sup>Gender refers to the characteristics of women, men, girls and boys that are socially constructed. An individual's gender identity may not match the sex (male or female) assigned at birth or fall within the categories of male or female. While the COPHD acknowledges this, federal programs require every applicant to identify as either male or female and require the PHA to collect this information.

- Family data required for completion of the HUD Form 50058

The applicant must report changes in their applicant status including changes in family composition, income, or preference factors. The Housing Department will note the applicant's file and will update their place on the waiting list, if applicable. The changes will be confirmed with the family in writing (except as provided as a reasonable accommodation).

No one will be denied the right to request or submit a pre-application when the HCV waiting list is open. When the HCV waiting list is open, COPHD will offer all applicants the opportunity to apply to other COPHD waiting lists, if open. COPHD does not charge any fee for any part of the HCV pre-application or full application process.

Accommodations will be made for disabled applicants. If an applicant needs assistance completing or submitting the on-line application, assistance may be provided by other means as identified by COPHD.

Only those pre-applications received by the due date as specified by COPHD will be accepted as eligible pre- applications.

An applicant is deemed preliminarily ineligible and not placed on the COPHD waiting list if:

- Currently housed in the same program and listed as the head of household or co-head of household.
- The application is incomplete or missing required information.

#### 4.3 Waiting List Placement

The COPHD may utilize a random lottery selection for pre-application placement on the waiting list. Only applicants who submitted complete pre-applications prior to the deadline will be placed on the list for selection in the random selection process. Applicants who did not submit complete pre-applications or submitted the pre-application after the deadline will not be placed on the list for selection for the lottery selection process or to be added to the wait list (if the lottery selection process is not utilized). Applicants selected in the lottery selection process or who have been otherwise added to the wait list will receive notification from the COPHD of their application status.

The waiting list may consist of the pre-determined number of families to be selected, in numeric order based upon the random selection sequence of their pre-applications. Families will be selected from the waiting list in that numeric order, based on a family's assigned sequential number with consideration provided for eligible preference/s. When a family is selected from the waiting list, the family will be required to submit a full application and documentation to determine eligibility prior to housing assistance becoming available.

#### 4.4 Maintaining the Waiting List

The COPHD will not merge the housing choice voucher waiting list with the waiting list for any other program the COPHD operates.

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

- Name and address of head of household (address where the applicant may receive information related to the wait list)

- Family member name, date of birth and their relationship to the Head of Household
- Racial / Ethnicity information
- Amount of annual income for all adult family members
- Date and time of application / Randomized wait list selection number

#### 4.5 Updating the Waiting List

The waiting list will be updated as needed to ensure that all applicant information is current. When COPHD updates the Housing Choice Voucher waiting list, it will notify the applicants on the waiting list requesting updated information. The intent of the notification is also to determine whether the applicant is still interested in the Housing Choice Voucher Program.

The family's response must be in writing and received by the means identified by the COPHD in the request, which may include by mail or electronic submission. If the family fails to respond within the required time period, or the request is returned as undeliverable or with no forwarding address, the family will be removed from the waiting list without further notice.

When an applicant is removed from the waiting list during the update process for failure to respond, no informal review will be offered. Such failures to act on the part of the applicant prevent COPHD from making an eligibility determination; therefore, no informal review is required.

If the family is removed from the waiting list for failure to respond, they will not be entitled to reinstatement unless verification of the following is received within 30 calendar days from the response due date:

- The applicant provides evidence that a change of address was submitted to COPHD prior to the update notice being issued by COPHD;
- During the time of any waiting list update or, at the time of notification for an interview, the applicant could not respond. For example, the applicant was incapacitated due to hospitalization or was unavailable due to active participation on Jury Duty;
- As a result of a COPHD data entry error, the applicant address was incorrectly recorded;
- The applicant is a person with a disability who requires an alternative form of communication other than one normally used by COPHD, and the applicant informed COPHD, in advance, of the proper means of communication, as required by regulations.

At the time COPHD conducts an opening of the waiting list to establish a new waiting list, no further requests for re-instatement will be accepted or considered from applicants claiming to have been on any prior waiting list.

Notices will be made available in accessible format upon the request of a person with a disability. An extension to reply to the update notification will be considered as a reasonable accommodation if requested by a person with a disability.

#### 4.6 Change in Circumstances

##### *Preference Status*

Changes in an applicant's circumstances while on the wait list may affect the family's preference. Applicants are required to notify the COPHD in writing when their



circumstances change.

When an applicant claims an additional preference, they will be placed on the waiting list in the appropriate order determined by the newly claimed preference.

The exception to this is, if at the time the family applied, the waiting list was only open to families who claimed that preference. In such case, the applicant must verify that they were eligible for the first preference before they returned to the waiting list with the new preference.

#### *Change to the Family Composition*

Changes to the family composition after an application has been submitted include:

- Addition of family members born to, adopted or otherwise granted custody to the family by operation of the law, which may include foster children, live in aides and spouses, provided the additional family member(s) meet all applicable waiting list requirements and remain eligible for the waiting list.
- Changes to the family composition may be allowed for families in which one or more children less than eighteen years of age live with the designee of the parent or legal custodian, with the parent or custodians' written consent.
- Documentation can include but is not limited to court documents, school records, other state and federal public assistance documentation, or durable powers of attorney. All other additions to the family will be considered only on a case-by-case basis and must be documented at the time such changes occur. These additions may include immediate family members (sons, daughters, siblings, parents, grandparents, grandchildren) and may be made for humanitarian or extraordinary reasons.

#### 4.7 Local Preferences

Link: [24 CFR 982.207](#)

Preferences establish the order of applicants on the waiting list. An admission preference does not guarantee admission. Every applicant must still meet COPHD's Selection Criteria before being offered a voucher. COPHD has the following HCV preferences:

- Public Housing Resident Relocation, including RAD relocation
- Families referred by a law enforcement agency for witness protection or other safety concerns
- Families displaced by the City of Phoenix
- Families displaced by a federally declared disaster
- 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
- Applicant families who live, work or have been hired to work in the City of Phoenix
- Elderly families
- Disabled families and families that include a disabled member

The City of Phoenix Housing Department operates a number of programs which serve special populations, special needs or which were designed for special purposes. For these populations and programs, preference will be given to applicants that are referred from various community organizations or divisions of local government which are under a Memorandum of Understanding

(MOU), Memorandum of Agreement, or a Contract with the Housing Department in accordance with program regulations.

When adopting a new preference, COPHD will notify all applicants on the current waiting list to determine if any are eligible under the preference (24 CFR §5.655(c)). COPHD will specify in a public notice of a waiting list opening that current waiting list applicants may qualify for the preference. The notice will include any other information new applicants and current applicants on the waiting list will need to know about how to successfully apply and establish their preference status, including any partnering agencies with whom the owner may be working to receive referrals or determine preference eligibility.

If an applicant makes a false statement in order to qualify for a Local preference, COPHD will deny the preference. If the COPHD denies a preference, COPHD will notify the applicant in writing of the reasons why the preference was denied and place the applicant on the waiting list without the preference.

#### 4.8 Assistance Targeted by HUD

[Link: 24 CFR 982.203; 982.203 \(2\)\(b\)\(1-5\)](#)

COPHD will admit a family that is not on the waiting list, or without considering the family's waiting list position or preferences in certain circumstances prescribed by HUD. COPHD will maintain records showing that the family was admitted with HUD-targeted assistance.

The COPHD administers the following types of targeted funding:

- Family Unification Program
- Mainstream Housing Opportunities
  - The residency preference: *“Applicant families who live, work or have been hired to work in the City of Phoenix”*, does not apply to the Mainstream Program
  - The initial voucher term for the Mainstream program is 120 days plus an automatic 90-day extension. This includes applicants and movers.
- Veterans Affairs Supportive Housing (VASH)
  - The COPHD may admit applicants to the Veterans Affairs Supportive Housing (VASH) program who meet the low-income limits at 80% of the median income for the area, adjusted for family size.
- Emergency Housing Vouchers

#### 4.9 Continuously Assisted Families

[Link: 24 CFR 982.4; 982.203](#)

COPHD will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they either applied for a voucher (applicant) or were issued a voucher through portability with the COPHD. As noted in this Plan, families being relocated from the COPHD's public housing for RAD have first priority for vouchers and qualify as continually assisted. In addition, families assisted under the U.S. Housing Act (including all families occupying units in properties receiving Section 8 project-based assistance) are considered continually assisted.

#### 4.10 Income Targeting Policy

Link: [24 CFR 982.201](#)

The COPHD will monitor progress in meeting the Extremely Low Income (ELI) requirement throughout the fiscal year. Extremely-Low Income families are defined as families whose incomes do not exceed the higher of: Federal Poverty Level or 30 percent of Area Median Income. ELI families will be selected ahead of other eligible families on an as-needed basis to ensure that the income targeting requirement is met. Under limited circumstances (such as continuously assisted families noted above), HUD rules allow admission of low-income families.

If an applicant on the waiting list is skipped over, they will retain their original sequential number placement and be the first applicant offered an opportunity for assistance after the extremely low- income targeting requirement has been met.

#### 4.11 Selection from the Waiting List Notification

COPHD will notify the family in writing when it is selected from the waiting list. The notice will include the Eligibility Packet to be completed and returned by the applicant, along with all required documents. Applications will be processed based on first complete packet received by the COPHD.

If a notification is undeliverable or is returned to COPHD with no forwarding address, or not received within the specified time the family will be removed from the waiting list without further notice. Such failure to act on the part of the applicant prevents COPHD from making an eligibility determination; therefore, no informal review will be offered.

## CHAPTER 5: Initial and Continuing Eligibility

Link: [24 CFR 982.4](#); [982.203](#)

### 5.1 Qualifications for Admission

COPHD will admit only applicants who are qualified according to all the following criteria:

- Are a family as defined by HUD and COPHD.
- Qualify on the basis of citizenship or the eligible immigrant status of family members. Link [24 CFR Part 5, Subpart E](#)
- Provide documentation of Social Security numbers for all household members or certify that they do not have Social Security numbers. Link: [24 CFR Part 5, Subpart B](#)
- Have income at or below HUD-specified income limits. Link: [24 CFR Part 5, Subpart F](#)
- Consent to COPHD's collection and use of family information as provided for in COPHD consent forms.

#### *Income Eligibility*

Links: [24 CFR 982.201\(b\)](#); [982.4](#); [248.101](#) & [248.173 \(homeownership\)](#)

For admission to the Housing Choice Voucher Program, a family must be income eligible in the area where the family initially leases a unit with housing assistance. An applicant family porting into the city of Phoenix must be income eligible in the City of Phoenix. An applicant family porting out of COPHD must be income eligible in the area where the family leases an assisted unit.

To determine if the family is income eligible, the COPHD will compare the annual income of the family to the HUD published City of Phoenix jurisdictional income limit for the family's size.

#### *Social Security Number Disclosure*

Link: [24 CFR 5.216](#), [5.218](#); [Notice PIH 2018-24](#)

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. (These requirements do not apply to noncitizens who do not contend eligible immigration status).

If COPHD determines that the applicant is otherwise eligible to participate in a program, the applicant may retain its place on the waiting list for the program for up to 90 days but cannot become a participant until it can provide the documentation to verify the SSN of each member of the household.

If a child under the age of 6 years was added to the applicant household within the 6-month period prior to the household's date of admission, the applicant may become a participant, so long as the documentation required is provided to the COPHD within 90 calendar days from the date of admission into the program.

The COPHD will grant an extension of one additional 90-day period if the COPHD determines that, in its discretion, the applicant's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside the control of the applicant. If the applicant

family fails to produce the documentation required within the required time period, the COPHD must follow the provisions of [24 CFR § 5.218](#).

### *Citizenship Requirements*

Link: [24 CFR Part 5, Subpart E](#)

COPHD will verify the citizenship/immigration status of applicants at the time other eligibility factors are determined. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance. Each family member must declare whether the individual is a citizen, national or an eligible noncitizen. Family members who declare citizenship or national status will not be required to provide additional documentation supporting the individual's declaration of citizenship and national status unless COPHD receives information indicating that an individual's declaration may not be accurate, such as a birth certificate. All eligible noncitizens who are 62 years of age or older will be required to sign a declaration under penalty of perjury. They will also be required to show proof of age.

Prior to being admitted, all eligible noncitizens must sign a declaration of their status and a verification consent form and provide their original USCIS documentation. Family members who do not claim to be citizens, nationals or eligible noncitizens, or whose status cannot be confirmed, must be listed on a statement of non-eligible members and the list must be signed by the head of household.

## 5.2 Family Definition

Link: [24 CFR 5.403](#)

To be eligible for admission, an applicant must qualify as a family. Family as defined by HUD includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

- A single person, who may be an elderly person, displaced person, or any other single person
- A group of persons residing together, and such group includes, but is not limited to:
  - A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family); unborn children and children in the process of being adopted are considered family members for purposes of determining bedroom size, but are not considered family members for determining income limit.
  - Child (minor) relationship is determined only by: birth, adoption, a court order establishing custody, or a legal order from the social service agency, (i.e. Child Protective Services, DES, etc.).
  - An elderly family;
  - A disabled family;
  - A displaced family; and
  - The remaining member of a participant family.

For categorizing family as defined above, the terms disabled family and elderly family are:

- Disabled family means a family whose head (including co-head), spouse or sole

- member is a person with a disability.
- Elderly family means a family whose head (including co-head), spouse or sole member is a person who is at least 62 years of age.

The “Household” includes all family members. A family may have a spouse or co- head but not both. The co-head is an individual in the household who is equally responsible for the lease with the head of household. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

A family does not include:

- A housekeeper or live-in aide
- Foster children and/or foster adults
- A group of unrelated persons living together (friends, etc.)
- Aunt, uncle, sister, brother, cousin, friend, etc.
- An additional family to the household, i.e. a sister and her children, etc.

Each family must identify the individuals to be included in the family at the time of application and must notify the COPHD if the family’s composition changes within 14 calendar days.

*Foster Adults, Foster Children and Live In Aides* [§ 982.54\(d\)\(23\)](#)

Foster adults, foster children and Live-in aides are members of the household (and therefore will be considered when determining appropriate unit size and utility allowance), they are not considered members of the family for purposes of determining either annual and adjusted income or net family assets, nor are their assets taken into consideration for purposes of the asset limitations.

#### *Head of Household*

The family may designate any qualified adult family member as the head of household. The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.

#### *Joint Custody*

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

When more than one applicant or participant (regardless of program) is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or re- certification will be able to claim the dependents. If there is a dispute about which family should claim the dependent(s), the COPHD will make the determination based on court orders and social service agency orders showing which family has custody.

#### *Family Break Up*

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

If a participant family breaks up into two otherwise eligible families, only one of the new families will retain occupancy of the unit.

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

In the absence of a judicial decision or an agreement among the original family members, the COPHD will determine which family will retain their placement on the waiting list or continue in

occupancy. In making its determination, the COPHD will take into consideration the following factors:

- The interest of any minor children, including custody arrangements
- The interest of any ill, elderly, or disabled family members
- The interest of any family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and provides documentation in accordance with this Administrative Plan
- Any possible risks to family members as a result of criminal activity
- The recommendations of social service professionals.

#### *Remaining Family Member*

A remaining family member is defined by HUD and previously approved by COPHD to live in the unit as a household member. Live in aides, foster children and foster adults do not qualify as remaining family members.

If the head of household dies or is permanently absent from the unit, continued occupancy by remaining household members is permitted only if:

- The household reports the departure (or death) of the head of household in writing within 14 calendar days of the occurrence, and
- A replacement head of household is identified and reported to COPHD in writing within 30 calendar days of the occurrence, and:
  - The household member seeking to become the head of household must meet COPHD's eligibility requirements.
  - An adult who becomes the guardian or other caretaker of remaining household member(s) who are minors, may apply to become head of household and must meet COPHD's eligibility criteria.
  - Except in cases where the member seeking to become the head of household is the parent or legal guardian of a remaining minor(s), the proposed head of household has been listed on the lease for at least 12 consecutive months, or since the previous head of household's tenancy (if less than 12 consecutive months).
  - In cases where the household has a remaining member currently on the lease who can assume the Head of Household, this may result in a decrease in the voucher size at the next annual recertification.
  - The head of household agrees to a written repayment agreement for any rent or charges incurred by the former head of household.

COPHD may deny housing assistance if an action to terminate the former head of household's housing assistance began prior to the former head of household's departure from the unit.

### 5.3 Student Head of Household

Link: [24 CFR Section 5.612](#)

No assistance will be provided under Section 8 of the 1937 Housing Act to any individual who:

- Is enrolled as a student at an institution of higher education, as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)
- Is under 24 years of age
- Is not a veteran of the United States military
- Is unmarried
- Does not have a dependent child, and
- Is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible on the basis of income to receive assistance under section 8 of the 1937 Act.

The above restriction does not apply to a person with disabilities as such term is defined in section 3(b)(3)(E) of the 1937 Act and who was receiving Section 8 assistance on November 20, 2005.

### 5.4 Guests/Visitors

Guests/Visitors are permitted based on the terms in the owner's lease; the owner has provided approval for the guest/visitor; and the guest/visitor is not an unauthorized person living in the unit.

A guest can remain in the assisted unit no longer than 20 consecutive days or a total of 60 cumulative calendar days during any 12 – month period or COPHD will consider the person(s) unauthorized persons in the unit. A family may request an exception to this policy for valid reasons (e.g. care of a relative recovering from a medical procedure is expected to last 40 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

The family must notify the COPHD in writing of the child(ren) names and timeframes the children(ren) will be in the household if the participant has children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the unit more than 50 percent of the time.

In making the determination if the person is an unauthorized household member, COPHD will consider:

- Statements from neighbors and/or COPHD staff
- Vehicle license plate verification
- Post Office records
- Driver's license verification
- Law enforcement reports
- Credit reports

### 5.5 Eligibility Process

Families selected from the waiting list are required to submit a complete Eligibility Packet and all required documents. The family will be sent the Eligibility Packet to their last known address or email address provided by the family. The family must provide the information necessary to establish the family's eligibility, including criminal background consent, and to determine the appropriate amount of rent the family will pay.



Applications are processed based on first complete packet received by the COPHD. Incomplete packets will not be accepted. The family will be given a list of missing documents and the timeframe for submission. If the documents are not returned complete within the time specified, COPHD will send a notice of denial determining that the applicant is no longer interested in housing assistance and will be removed from the waiting list. Extensions to the timeframe may be allowed based on documented and verified extenuating circumstances (illness, hospitalization, etc.) and reasonable accommodations. An advocate, interpreter, or other assistant may assist the family with the application and the interview process.

### *Eligibility Notification*

The COPHD will notify a family in writing of their eligibility. If the COPHD determines that the family is ineligible, the COPHD will send written notification of the ineligibility determination. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal hearing and rights under the Violence Against Women's Act (VAWA).

### 5.6 Criminal Background Policy

Links: [24 CFR 5.903](#); [24 CFR 5.905\(d\)](#)

The COPHD is authorized to obtain criminal background information to screen applicants for admission to the HCV program. The COPHD will perform criminal records checks at application for all adult household members (defined as 18 years of age or older), and when:

- Adding an adult member to the household
- There are credible allegations of drug-related or violent criminal activity

The COPHD will conduct criminal records checks that will include a National Criminal History Check. Local/State checks will be conducted as needed. Checks will also include sex offender registration information. In order to obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex-offender registration records at application and on an annual basis.

If the COPHD proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, the COPHD will notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission.

The COPHD will ensure that any criminal record received is maintained confidentially, not misused, or improperly disseminated.

### *Drug Abuse Treatment Information*

Links: [24 CFR 960.205\(f\)](#)

The COPHD will obtain information from drug abuse treatment facilities to determine whether any applicant family's household members are currently engaging in illegal drug activity only when the COPHD has determined that the family will be denied admission based on a family member's drug-related criminal activity, and the family claims that the culpable family member has successfully completed a supervised drug or alcohol rehabilitation program. The COPHD will require the proposed family member to sign a consent form for the drug abuse treatment

facility to release information.

## 5.7 Duplicative Assistance

Link: [24 CFR 982.352\(c\)](#)

A family may not receive HCV assistance while receiving housing assistance of any of the following assistance types, for the same unit or for a different unit:

- Public or Indian housing assistance
- Other Section 8 assistance (including other participant-based assistance)
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974)
- Section 101 rent supplements
- Section 236 rental assistance payments
- Participant-based assistance under the HOME Program
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration)
- Any local or State rent subsidy
- Section 202 supportive housing for the elderly
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non- elderly persons with disabilities (Section 162 assistance)
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

## 5.8 Absences from the Unit

Link: [24 CFR 982.312](#)

### *Absent Family Member*

The COPHD will compute all applicable income of every family member who is on the lease, including those who are temporarily absent. It is the responsibility of the head of household to report changes in family composition and absences of family members.

Income of persons permanently absent will not be counted. If the spouse is temporarily absent and, in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

Generally an individual who is or is expected to be absent from the assisted unit for 3 consecutive months or 90 days or less in a 12 month period of time is considered temporarily absent and continues to be considered a family member.

Generally, an individual who is or is expected to be absent from the assisted unit for more than 90 consecutive days is considered permanently absent and no longer a family member. A person with a disability may request an extension of time up to a total of 180 days in a 12-month period as a reasonable accommodation.

The family must request COPHD approval for the return of any adult family members that the COPHD has determined to be permanently absent. The individual is subject to the eligibility requirements stated in this Administrative Plan.

### *Absence of Entire Family*

Notice is required when all family members will be absent from the unit for an extended period of time (greater than 30 calendar days). Families are required to give COPHD 30 days' notice before moving out of a unit. Absence means that no family member is residing the unit. In order to determine if the family is absent from the unit, the COPHD may:

- Conduct a special inspection
- Post letters on exterior door
- Telephone the family at the unit
- Interview neighbors
- Verify if utilities are in service
- Check with the Post Office for forwarding address
- Contact the emergency contact

The family must supply any information or certification requested by the COPHD to verify that the family is living in the unit, or relating to family absence from the unit.

If a family is absent from the unit for more than 30 consecutive days without advance notice and approval, the COPHD will terminate assistance.

### *Absent Student*

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

### *Absences Due to Placement in Foster Care*

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

If the child(ren) are removed from the home permanently, the unit size will be reduced in accordance with the COPHD's occupancy guidelines.

### *Caretaker for a Child*

If neither a parent nor a designated guardian remains in a household receiving assistance, the COPHD will take the following actions:

- If a responsible agency has determined that another adult is to be brought into the unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
- If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 consecutive days. After the 90 consecutive days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the COPHD will extend the caretaker's status as an eligible visitor.

- During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify for any deductions from income.
- If the caretaker is considered a family member, the caretaker must submit an eligibility application, pass all eligibility criteria, and his/her income will be counted as part of the household. Once eligibility is passed, the lease will be transferred to the caretaker as head of household.

#### *Absent Head or Spouse Due to Employment*

If an employed head, spouse, or co-head is absent from the unit more than 180 consecutive days due to employment, she/he will continue to be considered a family member.

#### *Individuals Absent (Confined) for Medical Reasons*

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member. If there is a question about the status of a family member, the COPHD will request verification from a responsible medical professional if the member will be gone less than 90 consecutive days (and up to 180 days after approval of the Section 8 Manager or authorized designee) and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

## CHAPTER 6: Tenant Rent and Housing Assistance Payment Calculation

### 6.1 Definition of Income

Link: [24 CR 5.609\(b\)](#)

COPHD uses HUD's definition of Annual Income. Should HUD's definition be revised, that current HUD definition will be used.

Annual income includes all amounts received from all sources by each member of the family who is 18 years of age or older, the head of household, or spouse of the head of household, in addition to unearned income received by or on behalf of each dependent who is under 18 years of age. Annual income does not include amounts specifically excluded.

All amounts received by the head of household, co-head, or spouse, including the income of a day laborer, independent contractor, and seasonal worker are included in annual income regardless of age, unless otherwise excluded in paragraph (b) of 24 CFR § 5.609.

Annual income also includes all actual anticipated income from assets even if the asset is excluded from net family assets but the income from the asset is not otherwise excluded. Annual income will include the income from assets, if known, for total family net assets less than the HUD determined amount (an amount to be adjusted annually by HUD). Imputed returns on net family assets are included in annual income only when net family assets exceed the HUD determined amount (an amount that HUD will annually adjust for inflation) and actual asset income cannot be calculated for all assets.

#### Earned Income

Link: [24 CFR § 5.100](#)

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

#### Unearned Income

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

#### Non-recurring Income

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. However, income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under § 5.609(b)(24), even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This does not include unemployment income and other types of periodic payments that are

received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

#### Incremental Earnings

The COPHD defines incremental earnings and benefits as the difference between:

- The total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and
- The total amount of welfare assistance and earnings of the family member after enrollment in the program.

In calculating the incremental difference, the COPHD will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the participant most recently completed HUD-50058.

## 6.2 Earned Income Disallowance (EID) Policy

Link: [24 CFR 5.100](#)

The following provision of 6.2 EID Policy will expire on the HOTMA Effective Date, January 1, 2024. Families enrolled in the EID policy on or before December 31, 2023 will be allowed to complete the income disallowance phase in periods as provided for below.

This disallowance applies only to disabled family members already participating in the housing choice voucher program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:

- Employment of a family member who was previously unemployed for one or more years prior to employment.
- Increased earnings by a family member whose earnings increase during participation in an economic self-sufficiency or job-training program.
- New employment or increased earnings by a family member who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months.

The baseline income is the annual income immediately prior to the implementation of the disallowance for a person who is a member of a qualified family. The family member's baseline (qualifying) income remains constant throughout the period that he/she is receiving the EID.

#### *Disallowance of Earned Income*

Link: [24 CFR §5.617, 960.255](#); [PIH Notice 2016-05](#)

Initial 12-month exclusion: During the 12-month period beginning on the date on which a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the COPHD will exclude from the annual income of a qualified family any increase in the income of the family member as a result of employment over the baseline income of that family member.

Phase-in of rent increase: Upon the expiration of the 12-month period and for the subsequent 12-month period, the COPHD will exclude from the annual income of a qualified family at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.

Maximum 2-year disallowance: The disallowance of increased income of an individual family member is limited to a lifetime 24-month period. It applies for a maximum of 12 months for disallowance (initial 12 months) and a maximum of 12 months (second 12 months), during the 24-month period starting from the initial exclusion.

Families eligible for and participating in the disallowance of earned income prior to May 9, 2016 will continue to be governed by HUD regulations in effect immediately prior to that date. Those procedures are stated in the COPHD Management Procedure.

### 6.3 Self Employment Income

Link: [24 CFR 5.609\(b\)\(2\)](#)

Gross income received through self-employment or operation of a business; with the exception of the following which is considered income:

- Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness will not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in IRS regulations; and
- Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

Note: gross income is the total income that a business brings in and is not reflective of the costs of operating a business or of being self-employed.

#### 6.3.1 Co-Owned Businesses

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

### 6.4 Excluded Income

Link: [24 CFR 5.609\(c\)](#)

COPHD uses HUD's definition of Excluded Income. Should HUD's definition be revised, the current HUD definition will be used.

### 6.5 Assets

Link: [24 CFR 5.609\(b\) and \(c\)](#)

COPHD uses HUD's definition of Assets. Should HUD's definition be revised, the current HUD definition will be used.

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

If the Household has net assets valued in excess the maximum amount currently set by HUD annually, the annual income will include the greater of the actual income derived from all assets or a percentage of the value of such assets based on the current passbook savings rate as determined by HUD.

#### *Jointly Owned Assets*

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the COPHD will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the COPHD will prorate the asset according to the

percentage of ownership. If no percentage is specified or provided for by state or local law, the COPHD will prorate the asset evenly among all owners.

#### *Disposed Assets*

The COPHD will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than the highest HUD allowable amount.

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two- year period ends between annual re-certifications, the family may request an interim re-certification to eliminate consideration of the asset(s).

Assets placed by the family in non-revocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments. All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Families must sign a declaration form at initial certification and each annual re- certification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value.

Asset Owned by Business Entity



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

Necessary and Non-Necessary Personal Property

Link: [24 CFR § 5.603](#)

Necessary personal property is excluded from net family assets. Non-necessary personal property with a combined value greater than the current amount determined by HUD and adjusted annually, is considered part of net family assets. When the combined value of all non-necessary personal property does not exceed the annual maximum amount, all non-necessary personal property is excluded from net family assets.

Necessary personal property are items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items.

Trusts as Net Family Assets

Link: [24 CFR §§ 5.603 and 5.609](#)

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

Revocable trust that is under the control of the family or household (e.g., the grantor is a member of the assisted family or household) is included in net family assets, and, therefore, income earned on the trust is included in the family's income from assets.

COPHD will calculate imputed income on the revocable trust if net family assets are more than the highest HUD allowable amount, as adjusted by inflation, and actual income from the trust cannot be calculated (e.g., if the trust is comprised of farmland that is not in use)

Trust Distributions and Annual Income

If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family. If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.

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

#### Excluded Assets

COPHD uses HUD’s definition of excluded assets. Should HUD’s definition be revised, the current HUD definition will be used. If the family owns an excluded asset, its value does not count toward the restriction due to net family assets.

#### Income from Training Programs

Incremental earnings and benefits from training programs funded by HUD or qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff.

Excluded amounts must be received under employment training programs with clearly defined goals and objectives and only excluded during participation in the program unless the amounts are excluded as Federal Financial Aid (§ 5.609(b)(9)(i)).

#### Student Financial Assistance (24 CFR 5.609(9)(i), (ii))

##### Title IV HEA Assistance

Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires to be excluded from a family’s income including Bureau of Indian Affairs or Department of Education student assistance programs. These amounts are only excluded up to the cost that covers tuition and other required fees in households if the student is the head of household or that person’s spouse.

##### Other Student Financial Assistance

Student financial assistance, not excluded under the HEA for “actual covered costs” of higher education paid directly to the student or to the educational institution on the student’s behalf.

##### State Payments to Allow Individuals with Disabilities to Live at Home

These payments must be made by or authorized by a state Medicaid managed care system or other state agency (includes: state Medicaid-managed care system, other state agency, or authorized entity) to a family to enable a family member who has a disability to reside in the family’s assisted unit.

## 6.6 Deductions from Income

Link: [24 CFR 5.611](#)

### *Anticipating Expenses*

Generally, the COPHD will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., childcare during school and non-school periods and cyclical medical expenses), the COPHD will estimate costs based on historic data and

known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, the COPHD will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The COPHD may require the family to provide documentation of payments made in the preceding year.

#### *Medical and Dental Expenses*

COPHD will use the most current IRS Publication 502, Medical and Dental Expenses, to determine the costs that qualify as medical expenses.

#### *Disability Assistance Expenses*

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense.

However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the COPHD will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

The COPHD determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the COPHD will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the COPHD will consider, the family's justification for costs that exceed typical costs in the area.

#### *Both Medical and Disability Expenses*

This policy applies only to families in which the head, spouse, or co-head is 62 or older or is a person with disabilities. When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the COPHD will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the COPHD will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work. When the COPHD determines that the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members' incomes.

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

#### *Childcare Expense*

Childcare is allowed as a deduction from income for children less than 13 years of age. The family must identify the family member(s) enabled to pursue an eligible activity: seeking work, pursuing an education or being gainfully employed.

#### *Allowable Childcare Activities and Expenses*

For school-age children under 13 years of age, costs attributable to public or private school activities during standard school hours are not considered allowable childcare expenses. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of childcare.

The costs of general housekeeping and personal services are not eligible. Childcare expenses paid to a family member who lives in the family's unit are not eligible; however, payments for childcare to relatives who do not live in the unit are eligible.

If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, the COPHD will prorate the costs and allow only that portion of the expenses that is attributable to childcare for eligible activities. Unless otherwise specified by the childcare provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time.

For childcare that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of childcare costs, the COPHD will use the schedule of childcare costs from the local welfare agency. Families may present, and the COPHD will consider, justification for costs that exceed typical costs in the area.

#### *Seeking Work*

If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each re-certification. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the childcare expense being allowed by the COPHD.

#### *Furthering Education*

If the childcare expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time

spent in educational activities must be commensurate with the childcare claimed.

#### Being Gainfully Employed

If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that childcare is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time.

When more than one family member works during a given period, the COPHD generally will limit allowable childcare expenses to the earned income of the

lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

#### 6.7 Anticipating Income

When the COPHD cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the COPHD will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income. The family file will be documented with a clear record of the reason for the decision, and how the COPHD anticipated income.

Any time current circumstances are not used to project annual income, the decision will be documented in the file. In all such cases the family may present information and documentation to the COPHD to show why the historic pattern does not represent the family's anticipated income.

#### 6.8 Future Changes

If the COPHD verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period. The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family.

In such cases the COPHD will calculate annual income using current circumstances and then require an interim re-certification when the change actually occurs. This requirement will be imposed even if the COPHD's policy on re-certifications does not require interim re-certifications for other types of changes.

When participant-provided third-party documents are used to anticipate annual income, they will be dated within 120 days of the documentation request.

#### 6.9 Total Tenant Rent and HAP

Links: [24 CFR 5.628](#); [5.630](#); [5.634](#)

COPHD follows HUD regulations for determining the family's portion of rent and the HAP subsidy to the owner.

Total Tenant Payment is the higher of:

- 30% of adjusted monthly income; or

- 10% of monthly income;
- Not less than the Minimum Rent of \$50

#### *Tenant Rent*

Tenant rent is calculated by subtracting the utility allowance for participant supplied utilities (if applicable) from the Total Tenant Payment.

Where the owner pays for all utilities and provides the stove and refrigerator, Tenant Rent equals Total Tenant Payment.

#### *6.10 Rent to Owner*

Rent to owner is the greater of:

- The Payment Standard less the Housing Assistance Payment; or
- The Gross Rent less the Housing Assistance Payment
- Minimum rent

#### *6.11 Payment Standards*

Link: [24 CFR 982.505](#)

The payment standard is used in the calculation of the housing assistance payment for a family. The payment standard for the family is the lower of:

- The unit size shown on the voucher, or
- The size of the actual unit selected by the family.

#### *Establishment of Payment Standards*

Link: [24 CFR 982.503\(b\),\(c\),\(g\);](#)  
[§ 982.505\(c\)\(3\)](#)

The payment standard is set by COPHD between 90% and 110% of the HUD published Fair Market Rent, which includes HUD Small Area FMR's for the tenant-based program. COPHD will review the payment standards at least annually to determine whether an adjustment should be made. As a reasonable accommodation, COPHD may establish an exception payment standard of not more than 120% of the published FMR. The COPHD will not reduce the payment standard amount used to calculate the subsidy for a family for as long as the family continues to reside in the unit for which the family is receiving assistance.

#### *6.12 Utility Allowances and Utility Reimbursements*

Link: [24 CFR 982.517](#); [Notice PIH 2016-05](#)

COPHD maintains a Utility Allowance Schedule which is used in the housing assistance payment calculation to assist with the cost of utilities not included in the rent. The utility allowance calculation is based on the lower of:

- The voucher unit size based on COPHD subsidy standards
- The size of the actual unit leased by the family
- In the case of a reasonable accommodation, COPHD may use utility allowance for the unit size actually leased by the family.

When the utility allowance exceeds the family's Total Participant Payment, COPHD will provide the family a utility reimbursement payment.

An allowance for participant paid air conditioning will be calculated when central air-conditioning or a portable air conditioner is present in the unit.

COPHD will review the utility allowance schedule annually and revise it when needed. Revised utility allowances will be applied in a family's rent calculation at the next transaction.

The COPHD has the option of making utility reimbursement payments not less than once per calendar- year quarter, for reimbursements totaling \$45 or less per quarter. In the event a family leaves the program in advance of its next quarterly reimbursement, the COPHD will reimburse the family for a prorated share of the applicable reimbursement.

COPHD may make reimbursement payments retroactively or prospectively. In the event that COPHD chooses to make the reimbursement payments retroactively, COPHD will allow a family to request a hardship exemption from the quarterly payments if it results in a financial hardship for the family.

If a family receives a hardship exemption, the COPHD may either reimburse the family on a monthly basis or it may make prospective payments to the family, on a quarterly basis.

COPHD also has the option to provide the utility reimbursement payment directly to the utility company on behalf of the family.

### 6.13 Minimum Rent and Hardship Exemptions

Link: [24 CFR 5.630](#)

Participants in the housing choice voucher program are eligible for the hardship exception to minimum rent if they meet at least one of the following criteria:

- The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent. For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following:  
(1) implementation of assistance, if approved; or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances. To make a claim under this hardship exemption, the family must provide COPHD with proof of application for assistance, or termination of assistance. The proof would be provided by the agency responsible for granting assistance or terminating assistance.
- The family would be evicted because it is unable to pay the minimum rent. For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or participant-paid utilities. The family must be able to document inability to pay the minimum rent at the time of the request.
- The family income has decreased because of changed family circumstances,

including the loss of employment. To make a claim under this criteria the loss of employment must not be the result of failure to meet employment requirements by the participant. Changed circumstance as defined in this section includes, but is not limited to:

- Reduction in work hours
- Reduction in pay rate
- Reduction in work force
- If a death has occurred in the family. In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income). The deceased family member must be an income-producing member of the household, which contribute to the 30% of income used to calculate the participant's rent.

To make a claim under these provisions the applicant or participant must submit a request, in writing, to the COPHD office. The applicant/participant must provide documentation to support the request for a hardship exemption.

- The COPHD will make the determination of hardship within 30 calendar days.
- The COPHD will require the family to repay the suspended amount within 30 calendar days of the COPHD's notice that a hardship exemption has not been granted. The COPHD will enter into a repayment agreement in accordance with the COPHD's repayment agreement policy.
- If the COPHD determines that a qualifying financial hardship is temporary, the COPHD will reinstate the minimum rent from the beginning of the first of the month following the date of the family's request for a hardship exemption.

The COPHD defines temporary hardship as a hardship expected to last 90 consecutive days or less. Long term hardship is defined as a hardship expected to last more than 90 consecutive days.

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

- At an interim or annual re-certification, the family's calculated TTP is greater than the minimum rent.
- For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost.
- For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.



## CHAPTER 7: Request for Tenancy Approval and Leasing

After families are issued a voucher, they may search for a unit within the jurisdiction of COPHD, or outside of COPHD's jurisdiction if they qualify for portability. The family must find an eligible unit under the program rules, with an owner/landlord who is willing to enter into a Housing Assistance Payments (HAP) contract with COPHD within the timeframe listed on the voucher.

### 7.1 Voucher Briefing

When eligibility has been determined, the COPHD will conduct a mandatory briefing to ensure that families understand how the program works. The briefing will provide a broad description of owner and family responsibilities, COPHD procedures and how to lease a unit. The family will also receive a briefing packet, which provides more detailed information about the program, including the benefits of moving outside areas of poverty and minority concentration.

The COPHD may conduct briefings telephonically, via video-teleconferencing, or through other virtual platforms provided that the family has not requested in-person briefing. Prior to scheduling a remote program briefing, the COPHD will survey the family to determine if technology barriers exist that would limit the family's ability to participate in the briefing. If the participant does not have proper technology access, then the remote briefing will either be postponed until the COPHD can resolve the access issue(s), or an in-person alternative will be provided.

If the family cannot attend the originally scheduled briefing the family must notify the COPHD before the scheduled briefing. If the family fails to attend a briefing twice without good cause, they will be denied admission to the Section 8 Housing Choice Voucher Program. Families unable to attend a briefing due to a disability may request a reasonable accommodation.

Briefings will be conducted in English. For Limited English proficient (LEP) applicants, the COPHD will provide translation services in accordance with the LEP Access Guide as needed. COPHD follows HUD regulations [24 CFR 982.301](#) regarding information presented at the briefing and information.

### 7.2 Voucher Term

Link: [24 CFR 982.303\(a\)](#)

The initial voucher term is 120 calendar days with an automatic 60-day extension . The family must submit a Request for Tenancy Approval that is complete and a proposed lease within the 180 day period unless the COPHD grants another extension. \*The initial voucher term for the Mainstream Program is 120 days with an automatic 90-day extension.

#### *Voucher Extensions*

Link: [24 CFR 982.303\(b\)](#)

Extensions, in addition to the automatic 60-day extension (or 90-day automatic extension for the Mainstream Program), are permissible when requested as a reasonable accommodation is granted for persons with disabilities or to find new housing when an assisted household has to be divided as a result of the violence or abuse covered by VAWA.

- Reasonable accommodation for a member of the family with a disability
- Violence Against Women's Act (VAWA)

The COPHD will promptly decide whether to approve or deny an extension request and will notify the family of its decision and notate the extension date in the applicant/participant file.

### *Voucher Suspension*

The COPHD will suspend the term of the voucher from the date a complete Request for Tenancy Approval and proposed lease is accepted by the COPHD until the date the COPHD makes a final determination with respect to that Request for Tenancy Approval. If the family chooses to cancel the Request for Tenancy Approval (RFTA), the term of the voucher will be reinstated the date the COPHD receives notice the RFTA is cancelled by the family.

### 7.3 Subsidy Standards

Link: [24 CFR 982.402](#)

COPHD does not determine who shares a bedroom or sleeping room. The unit size on the voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented.

### *Subsidy Standards Occupancy Standards*

Link: [24 CFR 982.402](#)

The Housing Department will issue a voucher for a particular bedroom size. The bedroom size is a factor in determining the family's level of assistance. The following guidelines will determine each family's unit size without overcrowding or over- housing.

The living room may be used for sleeping quarters and room additions may be used as sleeping quarters per HUD Housing Quality Standard HQS regulations.

<b>Unit Size</b>	<b>Persons in Household Minimum Number</b>	<b>Persons in Household Maximum Number</b>
1-BR	1	2
2-BR	2	4
3-BR	4	6
4-BR	6	8
5-BR	8	10

COPHD generally assigns one bedroom to two people and will also consider the following conditions when determining the bedroom size designated for the family's voucher:

- Single person families will be allocated a one-bedroom voucher.
- Authorized live-in aides will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family.
- Foster children will be included in determining voucher size only if they will be in the unit for at least six (6) consecutive months.
- Space may be provided for a child who is away at school, but who lives with the family during school recess.
- A household in which the parent shares joint custody of a dependent child will include



the child on the lease and will be counted for purposes of establishing occupancy standards for unit size if:

- The head of household is legally entitled to physical possession of the child more than 50% of the time; and
- The child actually physically resides in the unit with the head of household more than 50% of the time; and
- If the child is school age, the head of household is listed as the legal guardian on the child's school enrollment documentation, and the address of record is the head of household's address.

A total of two additional members per living/sleeping area may be approved. COPHD will only grant increases in voucher size in cases of birth, adoption, court awarded or other legally documented custody.

COPHD will consider exceptions to the occupancy standards as a reasonable accommodation. All requests for exceptions to the occupancy standards must be submitted in writing and verified by a qualified third party.

#### *Exceptions to Subsidy Standards*

A participating family may request a subsidy exception at any time.

#### *Unit Size Selected by Family*

The family may select a different size unit than that listed on the voucher; however, the unit must meet housing quality standards, have a reasonable rent, and the rent must be less than 40% of the family's adjusted income at initial leasing. When calculating the Housing Assistance Payment (HAP), COPHD will apply the payment standard and utility allowance for the lower of:

- The unit size shown on the voucher, or
- The size of the actual unit selected by the family.

#### *Under-Housed and Over-Housed Families*

If a unit does not meet HQS space standards due to an increase in family size or change in family composition, COPHD will issue the family a voucher to move to an appropriately sized unit and the family must move within the timeframe of the voucher term. HQS requirements permit a maximum of two persons per living or sleeping room in the units.

Families will not be required to use rooms other than bedrooms for sleeping purposes in the subsidy voucher size determination. Participants may elect to use other areas of the unit as living/sleeping areas in determining the total number of persons eligible to live in the unit as a result of the family's request to add legally documented custody and as a reasonable accommodation.

## 7.4 Allowable Housing Types

Link: [24 CFR 982.601\(b\)\(2\)](#)

The following types of rental units may be leased in the Housing Choice Voucher program, unless designated otherwise:

- Single family detached homes
- Duplexes
- Multi-plexus
- Apartments
- Condominiums, townhouses
- High-rises
- Shared housing
- Manufactured Housing
- Other multi-family rental housing structures

The following types of housing are not permitted in the HCV program:

- Hotels
- Motels
- Nursing homes
- College or school dormitories
- Other types disallowed by HUD regulations
- Unit occupied by its owner or a person with any interest in the dwelling unit unless specifically otherwise permitted
- Unless its lease was effective prior to June 17, 1998, a family may not lease a property owned by relatives, i.e.: sister, brother, mother, father, spouse, son, daughter, grandmother, grandfather

COPHD may permit use of any of the following types of special housing if needed for a person with a disability:

- Group Home
- Congregate Housing
- Single Room Occupancy Facilities
- Cooperative housing (excluding families that are not cooperative members)

## 7.5 Request for Tenancy Approval (RFTA)

Link [24 CFR 982.352\(2\)](#); [982.305](#) & [308](#) & [309](#); [982.401](#); [982.507](#) & [508](#); [982 Subpart M](#); [Form HUD-52517](#)

Before a family leases a unit, COPHD must approve the unit selected by the family. The voucher holder and the owner/landlord must submit the following:

- Complete RFTA, signed by both the family and the owner, including:
  - Dwelling lease
  - Proof of ownership of the unit to be leased (e.g. deed of trust, most recent year tax statement, warranty deed and management agreement, if applicable);
  - The Owner's EIN or social security number;
  - A W-9 form completed by the owner.

- If the property is in a corporation, the names of all parties
- Current street mailing address
- Business and home telephone number
- For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead based paint disclosure statement.

[§ 982.302\(b\)](#)

The RFTA and all associated documents must be submitted in-person, by mail, by fax, or email. The family may submit only one RFTA at a time. When the family submits the RFTA the COPHD will review the RFTA for completeness. If the RFTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RFTA, the COPHD will notify the family and the owner. The owner must submit an approvable RFTA by the date specified on the notification or the RFTA will be denied.

*Tenancy Addendum*

Link: [24 CFR 982.308](#); [HUD Form 52641](#)

The owner must use the HUD Tenancy Addendum or all provisions in the HUD- required Tenancy Addendum must be added to the owner's lease. If there is a conflict between the owner's lease and the Tenancy Addendum, the terms of the Tenancy Addendum will prevail over any other provisions of the lease.

*Dwelling Lease*

Link: [24 CFR 982.308\(d\)](#)

When the RFTA and proposed lease are submitted, the COPHD will review the terms of the RFTA for consistency with the terms of the proposed lease. If the terms of the RFTA are not consistent with the terms of the proposed lease, the COPHD will notify the family and the owner of the discrepancies. The proposed lease must comply with HUD requirements, as well as State and local law. The COPHD does not provide a model or standard dwelling lease for owners to use in the HCV program.

- Owners that use a standard lease for units rented to unassisted families must use the same lease, plus the HUD prescribed tenancy addendum for HCV assisted families.
- COPHD will review the owner's lease, any optional charges, compliance with regulations, and any house rules.
- Responsibility for utilities, appliances and optional services must correspond to those provided on the RFTA.
- The initial lease term must be for one year.
- The owner must be approved and there must be no conflicts of interest (e.g. owner may not be a relative, etc.).

*New Lease Required*

- If there are any changes in lease requirements governing tenant or owner responsibilities for utilities or appliances;
- If there are any changes in lease provisions governing the term of the lease;
- If the family moves to a new unit, even if the unit is in the same building or complex.



## 7.6 Approval and Disapproval of RFTA

The COPHD will approve a lease if all of the following conditions are met:

- The unit is eligible
- The unit is inspected and passes HQS
- The lease includes the attachment Tenancy Addendum
- The rent to owner is reasonable
- The family's share of rent does not exceed 40% of their monthly adjusted income if the initial rent exceeds the Payment Standard
- The owner has not been found to be debarred, suspended or subject to a limited denial of participation by HUD or the COPHD
- The family continues to meet all eligibility and screening criteria.

The lease term may begin when all of the following conditions are met:

- The unit passes the HQS inspection
- The family's share of rent does not exceed 40% of their monthly adjusted income if the initial rent exceeds the Payment Standard
- The landlord and tenant sign the lease to include the HUD required Tenancy Addendum

The COPHD will prepare a Housing Assistance Payment (HAP) contract for landlord signature upon receipt of the executed lease. The COPHD will not pay any housing assistance to the owner until the HAP contract is executed.

If COPHD determines that the Request for Tenancy Approval cannot be approved for any reason the owner and the family will be notified. COPHD will instruct the family of the steps that are necessary to approve the RFTA.

If an RFTA is not approved and the voucher has not expired, COPHD will furnish another RFTA to the family to continue searching for eligible housing within the time remaining on the voucher.

## 7.7 Information to Owners

Link: [24 CFR 982.307\(a\)\(112\); \(b\)\(1\)](#)

It is the responsibility of the owner to determine the suitability of prospective families as the COPHD does not screen for suitability as participants. Owners are encouraged to screen applicants for rent payment and eviction history, credit history, prior rental references and damage to units, and other factors related to the family's suitability as a renter. Owners may not discriminate on the basis of race, religion, sex, color, national origin, disability, sexual orientation, gender identity or familial status.

If requested by an owner, COPHD will provide any of the following information in writing regarding a family's tenancy history, based on existing documentation relating to:

- Previous owner name, address and phone number
- Current owner name, address and phone number

COPHD's policy on providing information to owners is included in the briefing packet and will apply uniformly to all families and owners. COPHD will make an exception to this policy if the

family's whereabouts must be protected due to domestic abuse or witness protection, and the protection requirements are documented.

#### 7.8 Security Deposit

Links: [24 CFR 982.313 \(a\) and \(b\)](#)

The owner may collect a security deposit from the participant. The deposit must be reasonable based on local security deposits charged and those charged by the owner for other assisted and non-assisted units.

#### 7.9 Separate Agreements

Links: [24 CFR 982.451\(b\)\(4\)](#); [24 CFR 982.510\(c\)](#)

The COPHD permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease. Any items, appliances, or other services that are not customarily provided to unassisted families as part of

the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate

non-lease agreement between the owner and the family. Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

#### 7.10 Initial Rent Burden

At initial lease, the family's rent cannot be more than 40% of the family's adjusted income. At the family's request, COPHD will negotiate with the owner to reduce the rent. If the rent is not lowered to at or below 40% of the adjusted income, the family may not lease the unit.

#### 7.11 Owner Disapproval

Links: [24 CFR 982.54d\(8\)](#); [982.306](#); [982.161\(a\)](#)

COPHD may disapprove the owner for any of the following reasons:

- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
- The owner has engaged in any drug-related criminal activity or any violent criminal activity
- The owner has a history or practice of non-compliance with the HQS for units leased under the participant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program
- The owner has a history or practice of failing to terminate tenancy of participants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the participant, any member of the household, a guest or another person

under the control of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other participants; (ii) Threatens the health or safety of other participants, of employees of the COPHD, or of owner employees or other persons engaged in management of the housing; (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug- related criminal activity or violent criminal activity

- The owner has a history or practice of renting units that fail to meet state or local housing codes
- The owner has not paid state or local real estate taxes, fines, or assessment

When HUD has informed COPHD that disapproval is required because:

- Owner has been disbarred, suspended, or subject to a limited denial of participation
- Federal government has instituted an administrative or judicial action against the owner for violating the Fair Housing Act or other federal equal opportunity requirements and such action is pending
- Court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements

Before imposing any penalty against an owner, COPHD will review all relevant factors pertaining to the case and will consider such factors as the owner's record of compliance and the number of violations.

If an owner commits fraud or abuse or is guilty of frequent or serious contract violations, COPHD may debar or suspend the owner from future participation in the. COPHD may terminate some or all contracts with the owner.

The COPHD must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of the COPHD (except a participant commissioner)
- Any employee of the COPHD, or any contractor, subcontractor or agent of the COPHD, who formulates policy or who influences decisions with respect to the programs
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs
- Any member of the Congress of the United States

HUD may waive the conflict-of-interest requirements, except for members of Congress, for good cause. The COPHD must submit a waiver request to the appropriate HUD Field Office for determination. Any waiver request submitted by the COPHD must include the following:

- Complete statement of the facts of the case
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived
- Analysis of and statement of consistency with state and local laws. The local HUD office, the COPHD, or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted



- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives
- If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the HCV program
- If the case involves employment of a family member by the COPHD or assistance under the HCV program for an eligible COPHD employee, explanation of the responsibilities and duties of the position, including any related to the HCV program
- If the case involves an investment on the part of a member, officer, or employee of the COPHD, description of the nature of the investment, including disclosure/divestiture plans.

In considering whether to request a conflict of interest waiver from HUD, the COPHD will consider certain factors such as consistency of the waiver with state and local laws, the existence of alternative housing available to families, the individual circumstances of a particular family, the specific duties of individuals whose positions present a possible conflict of interest, the nature of any financial investment in the property and plans for disclosure/divestiture, and the possible appearance of impropriety. Where the COPHD has requested a conflict-of-interest waiver, the COPHD may not execute the HAP contract until HUD has made a decision on the waiver request.

## CHAPTER 8: Housing Quality Standards Inspections and Rent Reasonableness

[§ 982.4, 24 CFR 5.703, 24 CFR 5.705\(a\)\(3\).](#)

COPHD performs four types of inspections:

- Initial Inspections
- Annual / Biennial Inspections
- Special/Complaint Inspections
- Quality Control Inspections

COPHD adheres to Housing Quality Standards (HQS) standards as established in 24 CFR 982.401 to perform all required inspections. COPHD may also accept an alternate inspection for the tenant-based program from COPHD- approved entities (e.g. city code) if COPHD can reasonably determine from the result of that inspection that the unit would meet Housing Quality Standards.

COPHD may rely on an alternative inspection for the tenant-based program (an inspection conducted for another housing program) provided COPHD obtains the results of the alternative inspection and if HCV units are included in the population of that housing program's unit population. Alternative housing program inspections include:

- HOME Investment Partnerships
- Low-Income Housing Tax Credits housing
- Inspections performed by HUD

Units in mixed-finance properties assisted with project based vouchers will be inspected at least triennially. COPHD will maintain reports for inspections conducted using an alternative inspection method for at least three years from the date of the latest inspection.

At the time COPHD implements this policy, the policy will include: how applied to initial and periodic inspections, the specific alternative inspection method, the specific properties or types of properties where alternative inspections will occur, for initial inspections the maximum amount of time COPHD will withhold HAP if the owner does not correct the HQS deficiencies, and when COPHD will terminate the HAP contract for the owner's failure to correct deficiencies. COPHD will determine the re-inspection fee policy.

### 8.1 Inspection Charges

Link: [PIH Notice 2016-05; 24 CFR §982.405](#)

COPHD has established a reasonable fee of \$100.00 to owners for a second re- inspection if an owner notifies COPHD that a repair has been made or the timeframe to make the repair has passed, and a re- inspection reveals any deficiency cited in the previous inspection that the owner is responsible for repairing. The owner may not pass this fee on to the participant. The owner must pay COPHD the fee within 30 days of the fee notice or the HAP contract may be terminated.

### 8.2 Initial Inspections

The owner or owner's representative should be present at the initial inspection and any re-

inspection. If the owner is unable to be present at the initial inspection or re-inspection and has provided COPHD a lock box code and email authorization to enter the unit, the unit may be inspected. The applicant is permitted but not required to be present. All utilities must be in service at the initial inspection, or the inspection will fail. For the re-inspection, the utilities must be turned on.

The unit must have an operating oven, a stove or range, and refrigerator, which may be supplied by the owner or family. If the participant is responsible for providing the stove and/or refrigerator, COPHD will allow the stove and/or refrigerator to be placed in the unit after the passed inspection. The COPHD will only execute the HAP contract following receipt of a signed certification from the family that the appliances are in the unit and working. COPHD may conduct a confirmatory inspection to check the appliances.

COPHD will conduct the initial inspection generally within 15 calendar days after receiving a completed RFTA from the family and the unit is ready for inspection.

If the unit fails the initial HQS inspection, the owner will be notified of the deficiencies. The owner is required to contact COPHD within 10 days of the initial inspection to advise the repairs have been made. If the unit fails the re-inspection, the family must select another unit. COPHD may agree to conduct a second re-inspection when requested by both family and owner and there is good cause to grant the request.

#### *Initial occupancy of unit prior to HQS*

[Link: PIH Notice 2017-20](#)

The COPHD may approve the assisted tenancy and begin paying housing assistance payments (HAP) on a unit that fails to meet the HQS, provided the deficiencies are not life-threatening. The COPHD will ensure that the unit does not have any life-threatening deficiencies before approving the unit and executing the HAP contract (or, in the case of PBV, approves occupancy and the execution of a lease). At the time COPHD implements this policy for the tenant-based program, the policy will include which units will apply and how those units will be selected.

The COPHD will document that the unit passes all components of the inspection that relate to any life-threatening conditions identified below (including those on HUD's list) before approving the assisted tenancy and executing the HAP contract. If a unit's completed inspection form has no noted life-threatening conditions, the COPHD will certify that the unit was free of life-threatening deficiencies at the time of the initial inspection.

The COPHD will notify the owner and the family of any HQS deficiencies that are non-life threatening at the time of the inspection. If the non-life threatening conditions are not corrected within 30 days of the COPHD notifying the owner of the unit's failure of HQS, the COPHD will withhold any further HAPs until those conditions are addressed and the unit complies with HQS.

#### [Definition of Non-Life-Threatening Conditions.](#)

A non-life-threatening condition is defined as any condition that would fail to meet the housing quality standards and is not a life-threatening condition as defined by HUD.

#### [Definition of Life-Threatening Conditions.](#)

COPHD follows the HUD definition for life-threatening deficiencies.

COPHD designated life-threatening deficiencies:

1. Any condition that jeopardizes the security of the unit
2. Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
3. Utilities not in service, including hot water heater not working
4. Conditions that present the imminent possibility of injury
5. Absence of a functioning toilet in the unit
6. Lack of functioning air conditioning: Cooling requirements. Every rental housing unit where such systems are installed shall have cooling capable of safely cooling all habitable rooms, bathrooms and flushing toilet rooms to a temperature no greater than 86 degrees Fahrenheit, if cooled by evaporative cooling, or 82 degrees Fahrenheit, if cooled by air conditioning. Temperature measurements shall be taken at a distance three feet above the floor in the center of the room. Required cooling shall be provided by permanently installed cooling facilities.

[Link: Phoenix City Code, Chapter 39-5 B.1.b.](#)

A landlord normally has ten (10) days to repair problems in the premises but that time is shortened to five (5) days if the situation involves a health or safety issue. The question, therefore, depends on the temperature outside. If it is 85 degrees outside, the landlord will have up to ten (10) days to repair the problem. However, if it is 100 degrees outside, the landlord will have five (5) days to repair the problem.

[Link: Azcourts.gov, Arizona Judicial Branch, Landlord/Tenant Disputes and Evictions #2](#)

### 8.3 Biennial HQS Inspections

Link: [24 CFR 982.405\(a\)](#)

COPHD will inspect the unit no less often than biennially. The COPHD may determine that a unit with a history of failed HQS inspections may be inspected annually. An adult family member must be present at the inspection. If an adult family member cannot be present on the scheduled date, the family must contact COPHD to reschedule the inspection. Inspections may be rescheduled once.

If the family misses the first scheduled appointment without notifying COPHD before the inspection, the COPHD will automatically schedule a second inspection. If the family misses two scheduled inspections without COPHD approval, the COPHD will consider the family to have violated its obligation to make the unit available for inspection and proceed with intent to terminate assistance.

### 8.4 Special Inspections

The COPHD will conduct a special inspection if the owner, family, or another source reports HQS violations in the unit. An adult family member must be present for the inspection. During a



special inspection, COPHD generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the biennial inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled the COPHD may elect to conduct a full inspection.

### 8.5 Quality Control Inspections

Link: [24 CFR 982.405\(b\)](#)

COPHD will conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS. An adult family member must be present for the inspection.

### 8.6 Scheduling Inspections and Family Attendance

Link: [24 CFR 982.551\(d\)](#)

The family must allow the COPHD to inspect the unit at reasonable times with reasonable notice. The family and owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:00 a.m. and 4:00 p.m., Monday through Friday. In the case of a life-threatening emergency, the COPHD will give as much notice as possible, depending on the nature of the emergency.

#### *Missed and Rescheduled Inspections*

An owner is not allowed to cancel an annual, special or quality control inspection. The family may only request to cancel and reschedule the annual inspection for good cause: e.g. unavoidable conflict, which seriously affects the health, safety or welfare of the family. COPHD may require the family provide documentation in support of the request. The family may only cancel and reschedule the annual inspection and/or any subsequent re-inspections once.

COPHD will process termination of family program assistance and inform the owner of contract unit termination when the following occurs:

- The family cancels, does not allow entry, or fails to have an adult present on two consecutive scheduled inspections.
- The family cancels or fails to be present at the first scheduled inspection and fails to reschedule the inspection.
- If the family does not allow entry, is not present for the inspection, or fails to have an adult present, the attempted inspection is considered a failed inspection.

### 8.7 Emergency Inspections

If a participant or government official reports a condition that is life-threatening, COPHD will inspect the unit within 24 hours.

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the COPHD will determine if the failure is a life-threatening

condition.

When life-threatening conditions are identified, the COPHD will immediately notify both parties by telephone, fax or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the COPHD's notice.

When failures that are not life-threatening are identified, the COPHD will send the owner and the family a written notification of the inspection results. The written notice will state the day and timeframe the re-inspection will occur.

## 8.8 Abatements

The notice of inspection results will inform the owner that if life-threatening conditions are not corrected within 24 hours, and non-life-threatening conditions are not corrected within the specified time frame (or any COPHD-approved extension), the owner's HAP will be abated in accordance with COPHD policy.

The COPHD will make all HAP abatements effective the first of the month following the expiration of the COPHD specified correction period (including any extension). The COPHD will inspect abated units within five business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

The maximum length of time that HAP may be abated is 90 days. However, if the owner completes corrections and notifies the COPHD before the termination date of the HAP contract, the COPHD may rescind the termination notice if (1) the family still resides in the unit and (2) the unit passes inspection.

During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction. If the unit has not passed inspection in the approved abatement timeframe, the HAP contract will be terminated and the family will be issued a voucher to move to a new unit.

If the owner is unable to gain access to the unit to make repairs due to the family's lack of cooperation, the owner must enforce the lease and advise COPHD of the lease violation.

In the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any COPHD-approved extension, if applicable) the family's assistance will be terminated in accordance with COPHD policy and HUD regulations.

The COPHD will give any family residing in a unit, for which the HAP contract is terminated due to a failure to correct HQS deficiencies, at least 90 days (or a longer period if COPHD determines it is reasonably necessary) following the termination of the HAP contract to lease a new unit.

[§ 982.404\(e\)\(3\)](#); [982.54\(d\)\(23\)](#)

If the family is unable to lease a new unit within the period provided, COPHD will offer, and, if accepted, provide the family a selection preference for an appropriate-size public housing unit that first becomes available for occupancy after the time period expires.

When issuing a voucher to a family which includes an individual with handicaps COPHD will provide a current listing of available accessible units known to COPHD and, if necessary, otherwise assist the family in locating an available accessible unit.

A voucher will be issued to a participant due to the result of a failed reinspection with owner deficiencies, and the participant will be allowed to move. In the event the deficiencies are corrected and verified by the PHA prior to a family moving and before the termination of a HAP contract, the voucher will be expired and the participant can only move in accordance with the lease since the lease and HAP contract will resume.

## 8.9 HQS Certifications

Link: [24 CFR 982.404\(a\)\(3\)](#); [Notice PIH 2011-29](#)

At COPHD's sole discretion, COPHD will either complete a re-inspection or allow the owner and participant to submit a Certification of Work Completed Notice.

If the owner is eligible to submit a Certification of Work Completed Notice and will contain the participant's signature. The COPHD may require documentation of the completed work be attached to the Certification, i.e. receipts, pictures, etc.

It is the owner's responsibility to obtain the participant's signature on the Certification and to submit the form to COPHD within 30 days of the date of the first inspection, unless an extension is granted.

COPHD may utilize a Certification of Work Completed Notice when the repairs required are minor. The unit is not eligible for a Certification and must be re-inspected in the following circumstances:

- Initial Inspection
- The unit has numerous failed items
- The fail is an emergency, 24-hour repair item
- The failed item(s) are of a serious or suspicious nature

## 8.10 Extensions

Link: [24 CFR 982.404](#)

COPHD will not grant extensions for life-threatening conditions. For conditions that are not life-threatening, the COPHD may grant an exception for correcting the failed item(s), if the COPHD determines that an extension is appropriate.

Extensions will be granted in cases where the COPHD has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's

control. Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case-by-case basis in the case of delays caused by weather conditions or other extreme situations;

### 8.11 Family Responsibilities

Link: [24 CFR 982.551\(d\)](#), [24 CFR 982.404\(b\)](#)

The family is responsible for correcting inspection failures caused by:

- Family-paid utilities not in service
- Failure to provide or maintain family-supplied appliances
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear.
- Infestation and damage to the unit caused by infestation due to housekeeping.

COPHD will terminate the family's assistance if the family:

- Fails to correct a violation within the period allowed by the COPHD (and any extensions);
- Fails to allow the owner entry into the unit to complete repairs.

### 8.12 Owner Responsibilities

Link: [CFR 985.3\(f\)](#)

The owner is responsible for all HQS violations not listed as a family responsibility above. In order for a unit that has failed two consecutive inspections to be scheduled for a third inspection the owner must provide COPHD with written/email certification that all deficiencies have been corrected. Only upon receipt of this certification will additional inspections be scheduled. When inspection deficiencies are the Owner's responsibility, the COPHD will charge the Owner a non-refundable reasonable fee of \$100.00 for conducting a third re-inspection. The reasonable fee must be paid to COPHD prior to scheduling the third re-inspection and any other inspections after that inspection. COPHD requires that the Owner or an authorized representative of the Owner participate in such re-inspections.

#### *Lead Safe Homes Rule*

Link: [HUD PIH Notice 2017-13](#)

For Housing Choice Voucher (HCV) units, when a child under 6 is identified with an elevated blood lead level (EBLL), the Owner is responsible for:

- Initial notification of a confirmed case to HUD: In the event that the owner becomes aware of the above, the Owner must notify COPHD, who will collaborate with notification to the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes of the case – that is, the child's address – within 5 business days.



- Initial notification of the public health department, when necessary: When the Owner is notified of the case by any medical health care professional other than the public health department, the owner will notify COPHD, who will notify the public health department of the name and address of the child within 5 business days.
- Verification of the case, when necessary: When the Owner receives information from a person who is not a medical health care provider that a case may have occurred, the

owner should immediately convey the information to COPHD so the COPHD may notify the public health department, if COPHD has indicated, or indicates at this time, that it wishes to collaborate with the owner on implementation of the rule, as described in PIH Notice 2017-13 and as follows.

- Control of lead-based paint hazards: Completing the reduction of lead-based paint hazards in the index unit and common areas servicing that unit that were identified by the environmental investigation conducted by the PHA within 30 calendar days, using a certified lead-based paint abatement firm or certified lead renovation firm. Work will include occupant protection, and clearance of the unit and common areas servicing that unit by an independent certified risk assessor or a trained dust sampling technician working under the risk assessor in accordance with section 35.1340.
- Notification to other residents: As already required by the LSHR, in a multiunit property, the owner must notify all residents of lead evaluation and hazard control activities.
- Ongoing maintenance: Maintaining covered housing without deteriorated paint if there is child under 6 in the family in accordance with sections 35.1220 and 35.1355(a).

### 8.13 Rent Reasonableness

Link: [24 CFR 982.507](#); [982.305\(a\)](#); [982.505 9\(c\)\(3\)](#)

At all times during the assisted tenancy, the rent to Owner may not exceed the reasonable rent determined by COPHD. Rent reasonableness determinations may be completed by COPHD at any time and will be completed:

- At initial lease up
- When an owner requests a rent increase.
- If the FMR is decreased by 10%
- When directed by HUD

COPHD will determine and document on a case-by-case basis that the approved rent:

- Is reasonable in comparison to rent for other comparable, unassisted units in the market, and
- Does not exceed rents currently charged by the same owner for an equivalent assisted or unassisted unit in the same building or complex.

*Decreases in the Fair Market Rent*

Link: [PIH Notice 2018-01](#):

In the event that HUD FMRS' decrease, COPHD will allow families that are currently under a HAP contract to continue to use the payment standard in effect for the current lease. However, in the event that the family moves to a new unit or in the event that the owner requests a rent increase, the new or current payment standard will be applied to the voucher.



### *Methodology*

The COPHD contracts with a third party to conduct rent reasonableness. The system has a database that contains real-time data based on housing searches and lease-ups within the system. Based on rental lease-up activity, housing surveys are conducted to verify and collect details of lease-up information, including how much a unit was actually leased for. Based on the date it was rented, the data remains in the system for a year in order to be used for rent reasonableness determinations. The system does conduct surveys on units approaching expiration to see if the data can be updated and be used for another year. For units that cannot be updated, they expire out of the system and are no longer used in rent reasonableness determinations for other units. There is also a system research team that does rental unit research and populates the system based on the results.

The information entered ultimately helps to identify and consider the following information of the unit, which is required for rent reasonableness determinations: size, location, quality, amenities, housing services, age, unit type, maintenance, and utility responsibilities. Subject units will be compared to the most reasonable units in the system within a local range.

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable unassisted units in the same market area.

The COPHD will notify the owner of the unit's rent reasonableness amount. The owner may submit information about other comparable units in the market area. The COPHD will consider this additional information when making final rent reasonableness determinations.

By signing the HAP contract and accepting each monthly HAP payment, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. COPHD will not consider rent increase requests until after the initial occupancy period and only if the unit is not in failed HQS status.

## CHAPTER 9: Housing Assistance Payment Contract

Link: [Form HUD 52641-a](#)

COPHD makes every effort to execute the HAP contract with the owner as quickly as possible on or after the date the unit passes inspection and all required documents have been submitted.

Required documents include:

- Executed lease between the owner and the participant
- Ownership and tax documents stated in the RFTA section of this Plan

### 9.1 HAP Payments

Link: [24 CFR 982.451\(a\)\(5\)](#)

Once the HAP Contract is executed, COPHD will process housing assistance payments to the owner. The earliest the HAP contract can be effective is the day the unit has passed HQS. COPHD is not responsible for any part of the rent prior to the date the unit passes inspection, and the HAP contract is fully executed.

COPHD will make Housing Assistance Payments to the owner in accordance with the HAP Contract, as long as the family continues to occupy the unit and the contract is not in violation. By accepting the monthly HAP payment, the owner certifies that: the family still resides in the unit, the owner is in compliance with the contract, the unit is HQS compliant, and that the rent to the owner is not more than the rent charged by the owner for comparable unassisted units.

The Housing Assistance Payment to the owner may never exceed the rent charged by the owner, and is the lower of the:

- Payment Standard minus the Total Participant Payment, or
- Gross rent minus the Total Participant Payment.

Late payment of HAP to the owner is subject to the late fees specified in the owner's lease.

COPHD is not responsible for payment of late fees caused by:

- The participant's late payment of rent
- Late HUD fund transfer
- HAP payments on hold (HQS, etc.)
- Any other HUD allowed reason and circumstances beyond COPHD control.

Owner payments will be placed on hold if:

- Ownership of the unit has changed
- Unit ownership is in question
- Any other reason COPHD determines that the HAP contract may have been breached

## 9.2 Owner Rent Increases

Link: [24 CFR 982.308\(g\)\(4\)](#); [982.309\(a\)\(3\)](#)

After the initial lease period, the owner may request a rent increase according to the terms in the lease. All rent increases must be submitted in writing to COPHD by the owner, along with a copy of the rent increase notice to the participant. The owner must provide 60 days advance notice to the participant and the COPHD, and the rent increase must be requested on the COPHD Rent Increase Form.

If approved, the rent adjustment will be effective the first day of month on or after the contract anniversary date or 60 days following receipt of the owner request on the first of that month, whichever is later. If the rent is not reasonable and the owner is unwilling to negotiate an approvable rent amount, the participant will be issued a voucher to move, and the HAP contract will be terminated.

COPHD may, due to HUD funding constraints, limit and/or suspend rent increases.

## 9.3 Unit Ownership Changes

COPHD must receive a written request by the initial owner in order to change the HAP Contract payee and/or the address to which payment is to be sent. COPHD will process a change of ownership provided the following documents are received from the new owner:

- Proof of ownership, i.e. copy of escrow statement, deed of trust, or other document showing the transfer of title.
- Completed W9 with Social Security, Tax Identification, or Employee Identification Number
- In cases where the owner has elected to utilize the services of a property management company or has otherwise designated an agent to act on his/her behalf, COPHD will require a copy of the management or agent agreement, a statement from the owner identifying the individual/s authorized to execute HAP Contracts on his/her behalf in addition to proof of ownership documentation.
- COPHD utilizes direct deposit as the method of payment of HAP obligations. Owners are required to provide a Tax Identification Number (TIN) or a Social Security Number that matches their banking information. COPHD will not enter into a contract where the owner is unable to establish a TIN/SSN that matches names or entities identified on ownership documents.
- The following documents are required with an owner change request:
  - Owner Certification
  - The effective date of the HAP contract assignment
  - A written agreement to comply with the terms of the HAP contract
  - A certification that the new owner is not a prohibited relative.
  - When a change in ownership occurs, the new owner legally assumes the current lease and the current HAP contract. At COPHD's or the new owner's request a new HAP contract may be executed, however the lease terms remain the same and new HAP term matches the existing lease.

## 9.4 HAP Contract Terminations

Link: [24 CFR 982.311\(b\)](#)

All terminations of a HAP contract initiated by COPHD will be sent in writing to the owner and family. Automatic termination of HAP payments will result when:

- A family vacates the unit either in violation of the lease or by mutual agreement with the owner before termination of the lease/contact
- The lease is terminated by the owner or the family
- The owner will not renew the HAP contract or extend the current lease
- The sole participant dies
- There has been no HAP for 180 calendar days
- COPHD terminates assistance for the family
- HQS space requirements are not met or the unit failed HQS and has not been repaired in the required timeframe
- Owner violations of the HAP contract
- Family obligation violations

COPHD may terminate the HAP contract when HUD funding is insufficient.

No future subsidy payments on behalf of the family will be made by COPHD to the owner after the month in which the Contract is terminated. The owner must reimburse COPHD for any subsidies paid by COPHD for any period after the contract termination date. If any subsidies are paid by COPHD for any period after contract termination date, and the owner has other participants on the program, COPHD will collect the overpaid HAP amounts.

If the family continues to occupy the unit after the HAP contract is terminated, the family is responsible for the total amount of rent due to the owner.

The owner may terminate the lease at the end of the lease term or at any time for lease violations. The owner must use the termination proceedings as prescribed in the lease and contract; the owner may:

- Institute court action, using the grounds for eviction cited in the lease
- Try to obtain a mutual rescission of the lease with the participant. The mutual rescission must be signed by both parties and indicate the reason for the rescission
- Issue proper notice not to renew the Lease Agreement

If the owner has begun eviction and the family continues to reside in the unit, COPHD will continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the family. HAP payment will stop the first of the month following the legal eviction or the date the family moves from the unit whichever is earlier.

If an eviction is due to other than lease violations and if COPHD has no other grounds for the family's termination of assistance, and if the family is eligible to move; COPHD may issue a new voucher to the family.

The owner may not terminate tenancy for the COPHD's failure to pay the housing assistance payment.



## CHAPTER 10: Verifications

Links: [24 CFR 982.516](#), [24 CFR 982.551](#), [24 CFR 5.230](#), [24 CFR 5.609\(d\)](#); [Notice PIH 2010-19](#); [Notice PIH 2018-18](#); [HCV GB p5-17](#),

The family must supply any information that COPHD or HUD determines necessary to the administration of the program and must consent to the COPHD verification of that information. All adult applicants and participants must sign the [HUD-9886, Authorization for Release of Information](#). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Failure to sign consent forms will result in denial of admission for applicants and lease termination for participants. The family will be informed of the denial or termination in accordance with COPHD policies, and will be provided information on requesting an informal hearing.

### 10.1 Methods of Verification

Link: [Notice PIH 2018-18](#),

COPHD uses HUD's hierarchy of verifications, in the following order:

- Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Up-front Income Verification (UIV) using a non-HUD system
- Written Third Party Verification provided by applicant or participant
- Written Third-party Verification Form
- Oral Third-party Verification
- Self-Certification

#### *EIV Verification Process*

Link: [24 CFR 5.233](#); [Notice PIH 2018-18](#),

The COPHD uses HUD's Enterprise Income Verification (EIV) system to verify participant employment, earned income, unemployment benefits, and social security (SS), and supplement security income (SS) benefits information at annual and interim re-certifications. The COPHD will also use HUD's EIV system to monitor potential duplicate subsidies, deceased individuals, household member identity, under and non-reported income, and immigration status.

The COPHD will inform all applicants and participants of its use of the following Up Front Income Verification resources during the admission and reexamination process: HUD's EIV system.

The COPHD is not required to use EIV to verify tenant employment and income information during an interim reexamination of family composition and income, but may choose to do so if the COPHD has reason to believe the report would be useful to identify income or a discrepancy in the amounts reported by the family.

#### *Requirements for Non-EIV Verifications*

The COPHD's requirements for non-EIV verifications provided by the applicant or participant are:



- Any third party documents supplied by the applicant or participant used for verification must be original or authentic documents and must be dated within **120 days** of the request date. The documents must not be damaged, altered or in any way illegible.
- Print-outs from web pages are considered acceptable documents.
- The COPHD staff member who views the document will make a photocopy, note the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.

#### *Third Party Written Verifications*

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by the COPHD and will be sent directly to the third party.

The COPHD will use review of documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than \$5,000 annually.

The COPHD also will determine that third-party verification for an asset or expense over \$5,000 is not available when there is a service charge for verifying an asset or expense and the family has documents that provide the necessary information.

#### *Third Party Oral Verifications*

COPHD staff will record in the family's file: the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, the facts provided, and the COPHD staff person's name taking the oral verification.

#### *Family Self-Certifications*

Link: Notice [PIH 2013-03](#)

The documents in the application packet and annual re-certification packet serve as the family's self-certifications. When the COPHD is unable to obtain third-party verification, the COPHD will document in the family file the reason that third-party verification was not available. When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the COPHD. COPHD may require the family to certify that a family member does not receive a particular type of income or benefit. The self-certification must be made in a format acceptable to the COPHD and must be signed by the family member whose information or status is being verified.

The COPHD will accept a self-certification from a family as verification of assets disposed of for less than fair market value and will accept self-certification of ownership in real property.

## 10.2 Eligibility Verifications

The following information will be verified to determine qualification for admission and continued occupancy to COPHD's housing:

- Household composition, demographics, and type (Elderly/Disabled/Non-elderly)

- Annual Income
- Assets and Asset Income
- Deductions from Income
- Social Security Numbers of all household members
  - Pending disclosure and documentation of social security numbers, the COPHD will allow the family to retain its place on the waiting list for 90 days. If not all household members have disclosed their SSNs at the next time a voucher becomes available, the COPHD will offer a voucher to the next eligible applicant family on the waiting list.
  - Citizens and lawfully present noncitizens who state that they have not been assigned an SSN by the SSA will make such declaration in writing and under penalties of perjury to COPHD.
  - If the family provides an unacceptable document, the COPHD will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the COPHD within 60 days.
  - If the family certifies that the required evidence is temporarily unavailable and it needs more time, the COPHD may provide an extension of up to 30 days to submit evidence of eligible status, if the family has submitted the required declaration of eligible immigration status. To obtain an extension, the family must also certify that prompt and diligent efforts will be undertaken to obtain the evidence.
  - Once an individual's status is classified as "verified" in HUD's EIV system, the COPHD may remove and destroy copies of documentation accepted as evidence of social security numbers.
- Applicant Criminal History Information
- Citizenship or eligible immigration status

### 10.3 Legal Identity Verification

The COPHD will require families to furnish verification of legal identity for each household member. A photo ID is required for each adult family member. Legal identity will be verified at application and on an as needed basis. Only the following identify documents are acceptable, in addition to the photo ID for each adult:

- Adults: Driver's license or State identification card
- Children: Birth Certificate, Adoption Papers, Court Award documents, Social Service Agency Award documents

#### *Marriage Verification*

A marriage certificate is required to verify that a couple is married. In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (filing joint income tax returns, joint bank statements, etc.).

#### *Separation or Divorce Verification*

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation. If no court document is available, documentation from a community-based agency will be accepted.

#### *Adult Member Absence Verification*

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., lease at another address or utility bill).

#### *Foster Children and Foster Adults Verification*

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

#### *Student Status Verification*

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

- The family claims full-time student status for an adult other than the head, spouse, or co-head; or
- The family claims a childcare deduction to enable a family member to further his or her education; or
- The family includes a student enrolled in an institution of higher education.

#### *Student Heads of Household*

Link: [Eligibility of Independent Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937](#)

COPHD may provide housing assistance to Independent Student Head of Households who are defined by meeting one of the following characteristics:

- The individual is 24 years of age or older;
- The individual is an orphan, in foster care, or a ward of the court or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older;
- The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence;
- The individual is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1) of HEA) or is currently serving on active duty in the Armed Forces for other than training purposes;
- The individual is a graduate or professional student;
- The individual is a married individual
- The individual has legal dependents other than a spouse;
- The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth (as such terms are defined in section 725 of the McKinney-Vento Homeless Assistance Act)(42

U.S.C. 11431 et seq.), or as unaccompanied, at risk of homelessness, and self-supporting, by-a local educational agency homeless liaison, designated pursuant to section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act; t director of a program funded under the Runaway and Homeless Youth Act or a designee of the director; the director of a program funded under subtitle B of title IV of the McKinney- Vento Homeless Assistance Act (relating to emergency shelter grants) or a designee of the director; or a financial aid administrator; or the individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances COPHD will verify the Student Head of Household using the following:

- Previous address information to determine evidence of a separate household, or verifying the student meets the U.S. Department of Education’s definition of “independent student”;
- Reviewing a student’s prior year income tax returns to verify the student is independent or verifying the student meets the U.S. Department of Education’s definition of “independent student”; and
- Written certification from the individual providing the support. Certification is also required if the parent is providing no support to the student. Financial assistance that is provided by persons not living in the unit is part of annual income. (Except if the student meets the Department of Education’s definition of “independent student.

#### *Disabled Status Verification*

For family members claiming disability who receive disability payments from the SSA, the COPHD will use HUD’s EIV system to verify the disability. If documentation from HUD’s EIV System is not available, the COPHD will request a current (dated within the last 120 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the COPHD will ask the family to request a benefit verification letter by either calling the SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov).

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability.

#### *US Citizens and Nationals*

Family members who claim US citizenship or national status will be required to provide additional documentation such as a birth certificate.

## 10.4 Verification of Income

Link: [24 CFR 960.259](#), [982.516](#)

#### *Wage Verification*

The EIV Income Report may be used to verify and calculate income if the family self-certifies that the amount is accurate and representative of current income. The family will be provided with the information from EIV.

The COPHD requires two current and consecutive paystubs for determining annual income from wages. If paystubs are not available, the COPHD will accept an authentic document on employer letter head that states wages for previous 60 days, or an employer payroll print out.

#### *TIP Income Verification*

Unless TIP income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certification of tips received for the prior year and estimated tips anticipated to be received in the coming year.

#### *Bonus Income Verification*

For persons who regularly receive bonuses or commissions, the COPHD will verify, and then average amounts received for one year preceding admission or re- certification. The COPHD will consider justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the COPHD will count only the amount estimated by the employer.

#### *Business and Self Employment Income Verification*

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

- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.
- All schedules completed for filing federal and local taxes in the preceding year. If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.
- The COPHD will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.
- At any re-certification the COPHD may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.
- If a family member has been self-employed less than three months, the COPHD will accept the family member's certified estimate of income and schedule an interim reexamination in three months.
- If the family member has been self-employed for three to twelve months, the COPHD will require the family to provide documentation of income and expenses for this period and use that information to project income.

#### *Social Security and SSI Benefits Verification*

To verify the SS/SSI benefits of participants, the COPHD will obtain information about social

security/SSI benefits through HUD's EIV system. If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, the COPHD will request a current SSA benefit verification letter from each family member that receives social security benefits.

If a family member is unable to provide the document, the COPHD will help the participant request a benefit verification letter from SSA's Web site at [www.socialsecurity.gov](http://www.socialsecurity.gov) or ask the family to request one by calling SSA at 1-800- 772-1213. Once the family has received the benefit verification letter, it will be required to provide the letter to the COPHD.

#### *Alimony and Child Support Verification*

COPHD verifies alimony and child support differently depending on whether the family declares that it receives regular payments. If the family declares that it receives regular payments, verification will be sought in the following order.

- If payments are made through a state or local entity, COPHD will request copy of payments.
- Copy of the latest check and/or payment stubs
- Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.
- Third-party verification form from the person paying the support
- Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received

If the family declares that it receives irregular or no payments, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

- A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts
- If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts.

#### *Zero Income Verification*

The COPHD will check EIV to determine zero income. COPHD will require all adult family members to execute the annual recertification form attesting, under penalty of law and risk of voucher termination if false, that correct information has been provided to the COPHD.

#### *Student Financial Assistance*

Link: [24 CFR 5.609\(b\)\(9\)](#)

For a student subject to having a portion of his/her student financial assistance included in annual income, the COPHD will request written third-party verification of both the source and the amount. Documents requested include:

- Family provided documents from the educational institution attended by the student
- Documents generated by any other person or entity providing such assistance, as reported by the student.

- Written verification of the student’s tuition amount.

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

If the COPHD is required to determine the income eligibility of a student’s parents, the COPHD will request an income declaration and certification of income from the appropriate parent(s). The COPHD will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to the COPHD. The required information must be postmarked within the time period specified in COPHD’s request or within any extended timeframe approved by the COPHD.

The COPHD reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to

Internal Revenue Service tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters and other official and authentic documents from a federal, state, or local agency.

#### 10.5 Verification of Assets

Link: [24 CFR 960.259](#), [982.516](#),

For a family with net assets equal to or less than \$5,000, the COPHD may accept the family’s declaration that it has net assets equal to or less than \$5,000, without taking additional steps to verify the accuracy of the declaration. The declaration must state the amount of income the family expects to receive from such assets; this amount will be included in the family’s income. The COPHD will verify asset value no less often than every 3 years.

#### *Assets Disposed of for Less Than Fair Market Value Verification.*

COPHD accepts the family’s self-certification of whether any assets have been disposed of for less than fair market value in the past two years. The COPHD needs to verify only those certifications that warrant documentation. The COPHD will verify the value of assets disposed of only if:

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

#### *Income from Rental Verification The family must provide:*

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



maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

#### *Retirement Account Verifications*

The COPHD will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

Before retirement, the COPHD will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

Upon retirement, the COPHD will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

After retirement, the COPHD will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

### 10.6 Verification of Expenses

#### *Medical Expenses*

Medical expenses will be verified by written third-party documents provided by the family, such as pharmacy printouts or receipts. The COPHD will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The COPHD will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

COPHD will also accept written third-party verification forms. The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

When anticipated costs are related to on-going payment of medical bills incurred in past years, the COPHD will verify:

- The anticipated repayment schedule
- The amounts paid in the past, and
- Whether the amounts to be repaid have been deducted from the family's annual income in past years.

#### *Disability Assistance Expenses*

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelled checks.
- Third-party verification form signed by the provider, if family-provided documents are not available.



Expenses for auxiliary apparatus will be verified through:

- Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.
- Third-party verification form signed by the provider, if family-provided documents are not available.

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

To verify the family member enabled to work, the COPHD will verify that the expenses claimed enable a family member, or members, (including the person with disabilities) to work. COPHD will request third- party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member(s) to work. To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

#### *Childcare Expense Verification*

The family is required to certify that the childcare expenses are not paid by or reimbursed to the family from any source. The COPHD will verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are pursuing those activities.

If a family member is seeking work, COPHD will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment) or the COPHD will request family- provided verification from the agency of the member's job seeking efforts to date and require the family to submit to the COPHD any reports provided to that agency.

In the event third-party verification is not available, the COPHD will provide the family with a form on which the family member must record job search efforts. The COPHD will review this information at each subsequent re-certification for which this deduction is claimed.

If the family member is furthering education, the COPHD will request third-party documentation to verify that the person permitted to further his or her education by the childcare is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

The COPHD will seek third-party verification of the work schedule of the person who is permitted to work by the childcare. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

The type of care to be provided is determined by the family but must fall within certain guidelines.

- The COPHD will verify that the type of childcare selected by the family is allowable.
- The COPHD will verify that the fees paid to the childcare provider cover only childcare costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).
- The COPHD will verify that the childcare provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.
- The actual costs the family incurs will be compared with the COPHD's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable. If the family presents a justification for costs that exceed typical costs in the area, the COPHD will request additional documentation to support a determination that the higher cost is appropriate.

## CHAPTER 11: Ongoing Program Operations

### 11.1 Annual Re-Certifications

Links: [24 CFR 982.516](#); [24 CFR 5.612](#)

The COPHD will conduct a re-certification of income and family composition annually. The COPHD may conduct biennial re-certifications as allowed by HUD regulations. The COPHD will begin the annual re-certification process approximately 120 days in advance of the scheduled effective date. If the family size has changed, COPHD will increase or decrease the voucher size as appropriate at the annual re-certification. The annual re-certification will be effective on the first of the month.

COPHD conducts re-certifications by mail or electronically. As needed for a reasonable accommodation, a re-certification may also be completed in person. COPHD will provide the participant with all required certification materials to be completed within the specified time period. The participant and all adult family members must complete and submit all the required documents within the specified period of time.

The current utility allowance schedule will be used to complete the annual re-certification.

If any documents are missing from the file (social security cards, birth certificates, citizen declaration forms, etc.) the participant is required to provide the documents upon request within the required timeframe (at annual re-certification, interim certification, or at any time requested by COPHD).

The annual re-certification will not re-verify eligibility income limits except where the Head of Household is a full-time student.

COPHD may follow up by telephone, email and/or require in-person appointments with participants, as needed to request additional information, seek clarification, review reexamination documents, and/or conduct quality control.

Participants will be provided up to two opportunities to complete the re-examination requirements within the prescribed timeframes. Persons with disabilities who require assistance completing required documents will be granted a reasonable accommodation to complete documents within prescribed timeframes. If all documents and information are not submitted to COPHD within the timeframe, and any allowed extensions, the voucher will be terminated.

#### *Streamlined Income Determinations*

Link: [Notice PIH 2016-05](#)

For any family member with a fixed source of income, the COPHD may determine that family member's income using a streamlined income determination by applying, for each fixed-income source, the verified cost of living adjustment (COLA) or current rate of interest to the previously verified or adjusted income amount.

A family member with a fixed source of income is a family member whose income includes periodic payments at reasonably predictable levels from one or more of the following sources: Social Security, Supplemental Security Income, Supplemental Disability Insurance; federal,

state, local, or private pension plans; annuities or other retirement benefit programs, insurance policies, disability or death benefits, or other similar types of periodic receipts; or any other source of income subject to adjustment by a verifiable COLA or current rate of interest.

COPHD will use a COLA or current rate of interest specific to the fixed source of income in order to adjust the income amount and will verify the COLA or current interest rate from a public source or through tenant-provided, third party-generated documentation. If no such verification is available, then the COPHD will obtain third-party verification of income amounts in order to calculate the change in income for the source.

For any family member whose income is determined by a streamlined income determination, the COPHD will obtain third-party verification of all income amounts every 3 years.

### 11.2 Interim Reexaminations

Link: [24 CFR 960.257](#), [24 CFR 966.4](#)

#### *Changes to Household Composition*

The family must inform the COPHD of an addition of a family member as a result of birth, adoption, or court-awarded custody of a child or the removal of a family member from the household within 30 days.

Upon approval of the COPHD, a participant family may add additional adult family member(s) to the household under the following circumstances:

- A new family member: spouse, child, other child with guardianship via court documents.
- As a reasonable accommodation to provide care to a family member not currently on the voucher;
- Such member must be eligible for participation in the Housing Choice Voucher Program
- Such member has supplied documentation of Social Security Number prior to move-in. If the member is a child six or under, the household has 90 days after move-in to submit the documentation.
- Such member's income must be considered in calculation towards rent;

A criminal background check is required for all requests to add adult household members or live-in aides to the household. COPHD's prior approval of additions to the household is required.

The COPHD will not approve the addition of a new family member or household member unless the individual meets the COPHD's eligibility criteria and documentation requirements. The COPHD will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards. If COPHD approves the addition of the family member and the owner does not, the family will need to move from the current unit following all COPHD and HUD move requirements.

The COPHD will conduct interim re-certifications to account for any changes in household composition that occur between annual re-certifications. For changes in household composition

that impact the subsidy standards (voucher size), the COPHD will apply the updated voucher size effective upon next annual recertification. However, if the family reports the change in household composition at the annual recertification, the change in subsidy standard will be applied upon the recertification effective date.

#### *Interim Changes Affecting Income or Expenses*

Families are not required to report increases in income/assets except for those persons(s) having seasonal employment that is not annualized. A family participating in the FSS program may choose to report increases to build his/her escrow account.

A family must report an increase in income/assets that occurs during the recertification period (within 120 days of the anniversary date, if the increase occurs after the family has completed the recertification packet and was not included). Increases that occur during the recertification period will be effective on the anniversary date.

Seasonal employees such as school employees, agricultural workers, or construction trades that may typically work for fewer months depending on local conditions will be required to report all changes in their income for such employment if their income calculation is not annualized.

When the existing employment ends, the tenant is required to inform the COPHD within thirty (30) days of the occurrence. The COPHD will then conduct an interim reexamination, annualizing the new current income, except in cases where a history of the individual's income from past years is known. If future income sources are unknown or none, then an interim reexamination will be conducted.

The COPHD will annualize the current income and conduct an interim reexamination when the income changes. Decreases will take effect the month following the reported change and increases will take effect the first day of the month following thirty (30) days from when the tenant is notified by an amendment to change existing and/ or lease amendment.

#### *COPHD-Initiated Interim Re-certifications*

The COPHD will conduct interim re-certifications in each of the following instances:

- If at the time of the annual re-certification, participant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available which changes the family income, the COPHD will conduct an interim re-certification.
- The COPHD may conduct an interim re-certification at any time to correct an error in a previous re-certification, or to investigate a participant fraud complaint.

The family must complete an Interim Change form and provide necessary information within the time specified on the COPHD request.

#### *Interim Re-certification Effective Dates*

If the participant rent is to increase:

- The increase generally will be effective on the first of the month following 30 days' notice to the family.

- If a family fails to report a change within the required time frames or fails to provide all required information within the required time frames, the increase will be applied retroactively to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement.

If the participant rent is to decrease:

- The decrease will be effective on the first day of the month following the month in which the change was reported, and documentation was received.

### 11.3 Family Moves

Link: [24 CFR 982.1\(b\)\(2\)](#)

A family may request to move to a new unit if:

- The initial term of the lease has expired, and proper notice has been given to the landlord and to the COPHD.
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family. COPHD will accept a written statement of mutual termination with all the required documentation included (effective date, signatures of both owner and family and signature dates).
- For non-lease violations only: the owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family. The family must give the COPHD a copy of any owner eviction notice.
  - An eviction for a lease violation may result in termination from the program.
  - The family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member. This condition applies even when the family has moved out of its unit in violation of the lease, with or without prior notification to the COPHD, if the family or family member who is the victim reasonably believed that he or she was imminently threatened by harm from further violence if he or she remained in the unit.
- The COPHD has terminated the assisted lease for the family's unit for the owner's breach of the HAP contract.
- The COPHD determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition.
- The family is in good standing with COPHD.
- The family does not owe COPHD money.

#### [§ 982.354\(c\)](#)

Families are not permitted to move in the first term of the lease or while in any subsequent lease term unless the owner and family mutually agree to do so. Families will not be permitted to move more than once in a 12-month period unless required to do so by COPHD to meet HQS or other program objectives, to protect the health or safety, or in the case of an emergency.

Situations such as witness protection program, victim of violent crime, medical necessity,



employment necessity, and landlord caused failed HQS, may require a move in the first term of the lease, or in the term of a subsequent lease. The circumstances must be documented in writing and approved by COPHD. The owner and family must agree in writing to a mutual rescission of the lease in order for COPHD to approve a move during the lease term. If the owner refuses to a mutual rescission, the family will not be allowed to move unless COPHD otherwise determines VAWA or other health and safety provisions prevail.

### *Denial of Moves*

Link: [Notice PIH 2016-09](#)

The COPHD may prohibit more than one move by the family during any one-year period.

COPHD will deny moves in the following circumstances:

- Applicants who are seeking to move under Portability who are not income eligible in the receiving PHA's jurisdiction.
- Participant families that have moved out of their assisted unit in violation of the lease. COPHD will grant an exception to this in the situation where the only reason for the violation of the lease was due to circumstances surrounding being a victim or domestic abuse, dating violence or stalking.
- The COPHD will deny a family permission to move on grounds that the COPHD does not have sufficient funding for continued assistance if: (a) the move is to a higher cost unit (within COPHD jurisdiction) or to a higher cost area (for portability moves); (b) the receiving PHA is not absorbing the voucher (applicable only to portability moves); and (c) COPHD would be unable to avoid termination of current participants during the calendar year in order to remain within its budgetary allocation for housing assistance payments (including any available HAP reserves). This policy applies to moves within the COPHD's jurisdiction as well as to moves outside it under portability.

In the event that COPHD has denied a move due to insufficient funding, COPHD will provide written notification to the local HUD Field office and to the family denying the request to move for this reason. COPHD will advise the family that they may advise COPHD if the request to move is due to a request for a reasonable accommodation or for protection due to domestic violence, dating violence or stalking (VAWA).

COPHD will maintain a list of families who have been denied to move due to insufficient funding including the date of the original request and whether the request was due to a reasonable accommodation or VAWA. When funds become available, COPHD provide families notice and will begin to process requests to move in the order received – from oldest to newest – with preference to families whose request to move was due to a reasonable accommodation or VAWA.

Families who do not respond to the notification that funds are again available and may again request to move will be removed from the list held by COPHD.

### *Move Process*

If the COPHD has determined the family has met the conditions above, the family will be issued a voucher to move and provided any other necessary information. If the family and owner agree to

extend the move date, the extension must be submitted to COPHD in writing, signed by both the family and owner, must include the new effective date of the move, and must be submitted before the original effective date of the move notice.

All actions regarding moves (Request for Tenancy Approval, owner approval, initial inspection, initial rent burden, rent reasonableness, voucher term, voucher extensions, etc.) are the same as stated elsewhere in this Plan.

#### *Duplicate Housing Assistance Payments with a Move*

Link: [24 CFR 982.311\(d\)](#)

If a participant family moves from an assisted unit with continued participant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy. HAP payments to a former owner beyond the month of the move into a new unit must be recaptured by COPHD and may not be kept by the former owner.

#### 11.4 Portability

Link: [24 CFR 982.353\(b\)](#)

##### *Outgoing Portability*

Link: [24 CFR 982.353\(c\), \(d\)](#); [982.355\(c\)\(1\)](#)

If the applicant did not live in COPHD's jurisdiction at the time that the family's application for assistance was submitted, the family must lease a unit within the COPHD's jurisdiction for at least 12 months before requesting portability. The COPHD will consider exceptions to this policy for purposes of reasonable accommodation or reasons related to domestic violence, dating violence, sexual assault, or stalking.

Families must notify the COPHD when they want to move out of the COPHD's jurisdiction using the portability feature. Families that are new admissions to the HCV program must meet the income eligibility requirements both for COPHD and also in the jurisdiction where the family intends to move to (the Receiving PHA). Participant families must also meet the income eligibility requirements in the area to which the family plans to move only (they will not be required to re-verify income eligibility with COPHD). Families are informed of these requirements in the briefing session.

The COPHD will approve voucher extensions as stated in the Voucher Extension section of this Plan.

##### *Incoming Portables*

COPHD may absorb or administer some or all incoming portable vouchers based on funding available.

If the COPHD decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the COPHD will notify the initial housing authority by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.



The COPHD will not change its determination to bill or to absorb a voucher after that without giving the initial PHA proper notice.

For any family moving into its jurisdiction under portability, the COPHD will not conduct a new re- certification of family income and composition but will rely on the information provided by the initial PHA.



## CHAPTER 12: Emergency Housing Vouchers Program

The COPHD administers Emergency Housing Vouchers (EHV) provided by HUD in order to serve individuals and families who are (1) homeless; (2) at risk of homelessness; (3) fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking; or (4) recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability. HUD has closed the EHV program to new applicants. Current EHV program participants follow the same HCV policies as stated in this plan.



## CHAPTER 13: Project Based Vouchers

Link: [24 CFR 983](#)

Except as noted in this chapter, the Administrative Plan policies stated for the HCV program also apply to the PBV program.

### 13.1 Overview

The COPHD may use up to 20 percent of Housing Choice Voucher authorized units for project based assistance. The COPHD may increase the use of Project Based Vouchers additional 10 percent for homeless families, families with veterans, supportive housing for persons with disabilities or elderly persons, or in areas where vouchers are difficult to use.

The proposed location of any PBV units must comply with the goals of deconcentrating poverty, expanding housing opportunities, and affirmatively furthering fair housing.

The COPHD uses project-based vouchers to encourage new construction or rehabilitation, promote voucher utilization and increase supportive housing options.

### 13.2 Proposal Selection

Link: [24 CFR 983.52\(a\)\(b\)\(c\)](#); §8(o)(13)(B) of the 1937 Act

Prior to issuing a Request for Proposal or selecting a project without following a competition process where the PHA has ownership interest, COPHD will submit to the local field office all required information under §8(o)(13)(B) of the 1937 Act.

The COPHD will select proposals for PBV assistance using either the Request for Proposal (RFP) method or the Previous Competition method.

#### *COPHD Request for Proposals Method for Rehabilitated and Newly Constructed Units*

The COPHD will advertise request for proposals for rehabilitated and newly constructed housing in local newspaper(s) and on the COPHD web site. The advertisement will specify the number of units the COPHD estimates that it will be able to assist and the submission deadline. Incomplete proposals will not be considered.

The COPHD will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

- Owner experience and capability to build or rehabilitate housing as identified in the RFP.
- Extent to which the project furthers the COPHD goal of deconcentrating poverty and expanding housing and economic opportunities.
- The extent to which services for special populations are provided on site or in the immediate area for occupants of the property.
- Projects with less than 25 percent of the units assisted will be rated higher than projects with 25 percent of the units assisted. In the case of projects for occupancy by the elderly, persons with disabilities or families needing other services, the COPHD will rate partially assisted projects on the percent of units that are available to receive

assistance. Projects with the lowest percent of assisted units will receive the highest score.

#### *COPHD Requests for Proposals for Existing Housing Units*

The COPHD will advertise proposals for existing housing in local newspaper(s) and on the COPHD web site. The advertisement will specify the number of units the COPHD estimates that it will be able to assist. Owner proposals will be accepted on a first-come first-served basis and will be evaluated using the following criteria:

- Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program
- Extent to which the project furthers the COPHD goal of deconcentrating poverty and expanding housing and economic opportunities
- If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property
- Extent to which units are occupied by families that are eligible to participate in the PBV program.

#### 13.3 COPHD Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

The COPHD will accept proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits on an ongoing basis.

In addition to, or in place of advertising, the COPHD may also directly contact specific owners that have already been selected for Federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

Proposals will be reviewed on a first-come first-served basis. The COPHD will evaluate each proposal on its merits using the following factors:

- 13.3.1 Extent to which the project furthers the COPHD goal of deconcentrating poverty and expanding housing and economic opportunities
- 13.3.2 Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD- designated Enterprise Zone, Economic Community, or Renewal Community.

#### *Non-competitive Selection*

Link: [983.51\(a\)](#)

The COPHD will notify the public of an intent to non-competitively select one or more projects for PBV assistance through the 5-Year Plan. This may occur after engagement in an initiative to improve, develop, or replace a public housing property or site may select for PBV assistance an existing, newly constructed, or rehabilitated project in which the COPHD has an ownership interest or over which the COPHD has control without following a competitive process.

### 13.4 Notice of Owner Selection

Link: [24 CFR 983.51\(d\)](#)

COPHD will notify the selected owner in writing of the owner's selection for the PBV program pursuant to HUD requirements. COPHD will notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

The COPHD will make available its rating and ranking sheets and documents that identify the COPHD basis for selecting the proposal for one month after publication of the notice. The COPHD will not include sensitive owner information, such as financial statements, etc.

The COPHD will make these documents available for review at the COPHD during normal business hours. The cost for reproduction of allowable documents will be \$.25 per page.

### 13.5 Agreement to Enter into HAP Contract

Link: [24 CFR 983.152](#)

For rehabilitated or newly constructed units, COPHD will enter into an Agreement to Enter into a HAP Contract with the property owner. In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and the COPHD agrees that upon timely completion of development the COPHD will enter into a HAP Contract with the owner for the contract units.

The COPHD will enter into the Agreement with the owner after receiving both environmental review approval and notice that subsidy layering requirements have been met and before construction or rehabilitation work is started. Additional owner documents may be required. COPHD will specify any additional documentation requirements in the Agreement.

For existing housing, the HAP contract will be executed after COPHD determines that all units pass HQS.

COPHD will not enter into PBV HAP contract for newly constructed and rehabilitated housing without first entering into an Agreement.

### 13.6 Site Selection Standards

Link: [24 CFR 983.57\(b\)](#)

COPHD will follow HUD regulations regarding site selection requirements for existing housing, newly constructed housing and rehabilitated housing. Before entering into an agreement or HAP contract COPHD will determine that the PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities.

In developing standards to apply in determining whether a proposed PBV development will be selected, COPHD will consider the following:

- If the poverty rate in the proposed PBV development area is greater than 20%, COPHD will consider whether in the past five years there has been an overall decline in the poverty rate;

- A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;
- A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition;
- A census tract in which the proposed PBV development will be located is undergoing significant revitalization;
- A census tract where there are meaningful opportunities for educational and economic advancement.
- The site meets HQS standards.
- Other factors as determined by COPHD to meet the needs of the community.

### 13.7 COPHD Owned Units

Link: [24 CFR 983.51\(e\)](#), [983.59](#)

HUD or a HUD-approved independent entity will review the selection process for COPHD owned units to confirm appropriate selection. Initial rents and annual rent changes for COPHD-owned units will be determined by the independent entity based on PBV program requirements. The term of the HAP contract and any HAP contract renewal must be agreed upon by COPHD and the independent entity.

Housing Quality Standard inspections will be performed by the independent entity.

### 13.8 Eligible Units/Cap on PBV Units, Definition of Project

Link: [24CFR 983.52](#), [24 CFR 983.56\(a\)](#);

Link: [983.3\(b\)](#) – *(Definition of Project)*

Link: [983.6\(d\)\(1\)\(iii\)](#) – *Types and availability of services*

Link: [983.6\(d\)\(2\)\(ii\)](#) – *Family Unification Program*

Project based assistance may be attached to up to 25% of the total number of units in a project. Project is defined as a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land. Units occupied by the disabled, elderly or that are eligible for families to supportive services (whether actually receiving services or not) are exempt from this cap. Types of services are a range of services tailored to meet the needs of the residents and could include:

- Meal service adequate to meet nutritional need
- Housekeeping aid
- Personal assistance
- Transportation services

- Health-related services
- Educational and employment services
  - job training
  - computer skills
  - resume assistance
  - GED preparation
  - ESL Classes
  - financial literacy
- Services offered through the Family Self Sufficiency Program
- Other services designed to help the recipient live in the community as independently as possible.

Services may, or may not be provided on site, but must be reasonably available.

Supportive services will be offered throughout the family’s tenancy in the excepted unit. The family may continue to reside in the exempted unit following the successful completion of supportive services or when supportive services are no longer required. The COPHD will monitor the excepted family’s continued receipt of supportive services at each annual re-examination and will take appropriate action regarding those families that fail without good cause to complete their supportive services requirement.

The unit loses its excepted status if the family becomes ineligible for the supportive services during its tenancy, provided that: (i) the family becomes ineligible for all supportive services available to the family, and (ii) the family becomes ineligible for reasons other than successfully completing the supportive services objective. In such event, the COPHD may:

- Reduce the number of excepted units
- Substitute the excepted unit for a non-excepted unit
- Temporarily remove the unit from the PBV HAP contract and provide the family with tenant-based assistance

In the event units are exclusively made available to Family Unification eligible youth, the COPHD will document that the limitation of the units to youth is consistent with the local housing needs of both FUP families and youth.

### 13.9 Uniform Relocation Act

Link: [24 CFR 983.7](#), [49 CFR Part 24](#)

If as a result of the PBV selection, there are existing households that are determined to be ineligible for PBV; COPHD will require the owner to comply with the Uniform Relocation Act and the implementing HUD regulations of the Act.

### 13.10 Housing Assistance Payments (HAP) Contracts

Link: [24 CFR 983.152](#)

#### *Term of the HAP Contract*

The term of all PBV HAP contracts will be no less than one year, and no more than 20 years, and



will be negotiated with the owner on a case-by-case basis.

Contracts may be extended for an additional term(s) not to exceed a total of 20 years (40 cumulative years).

#### *Extending the HAP Contract*

When determining whether or not to extend an expiring PBV contract, the COPHD will consider several factors including, but not limited to:

- The cost of extending the contract and the amount of available budget authority;
- The condition of the contract units;
- The owner's record of compliance with obligations under the HAP contract and lease(s);
- Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities;
- The need for and availability of supportive services for the COPHD population; and
- Whether the funding could be used more appropriately for tenant- based assistance.

#### *Amendments to the HAP Contract*

The COPHD will consider HAP Contract amendments to add additional PBV units in the same building. The COPHD will consider adding contract units to the HAP contract when the COPHD determines that additional housing is needed to serve eligible low-income families.

Circumstances may include, but are not limited to:

- The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and
- Voucher holders are having difficulty finding units that meet program requirements.
- Adding additional PBV units which include supportive services.

### 13.11 Unit Inspections

Link: [24 CFR 983.103](#)

All contract units will be inspected and comply with Inspection Standards prior to HAP contract execution.

Unless otherwise noted below, Housing Quality Standards inspection policies for the Project Based Program are the same as stated in this Plan for the tenant-based program.

#### Initial and Periodic Inspections

Link: [983.103\(c\)\(1\)](#); [982.54\(d\)\(21\)\(ii\)](#) and [\(iii\)](#); [983.103\(c\)\(2\)](#) through [4](#) and [\(e\)\(3\)](#)

The COPHD will not adopt the non-life-threatening deficiencies option or the alternative inspection option for the Project Base Voucher program.



Initial and periodic inspections will occur on site. Initial re-inspections will occur on site. Periodic re-inspections may occur onsite or as stated for the tenant based program, utilizing the Owner Certification in the scenarios stated the tenant based inspection section of this Plan.

Periodic inspections will occur biennially for each unit.

In the case of COPHD-owned units, the inspections will be performed by an independent agency designated by COPHD and approved by HUD.

Inspections for the entire building will occur at the same time. COPHD will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program.

#### *Lead-based Paint*

Link: [24 CFR 983.101\(c\); HUD PIH Notice 2017-13](#)

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. Under Subpart H, owners of target housing properties receiving more than \$5,000 annually per unit in project-based assistance are required to ensure that target housing receives a lead risk assessment by a certified risk assessor, regardless of whether there is a child under age 6 in residence, and that occupants are notified of the results of the risk assessment.

#### 13.12 Initial Rent and Rent Increases

Link: [24 CFR 983, Subpart G](#)

##### *Initial Rent*

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP Contract term.

Except for certain tax credit units, the rent to owner must not exceed the lowest of:

- (1) An amount determined by the COPHD not to exceed 110 percent of the applicable fair market rent (or the amount of any applicable exception payment standard) for the unit bedroom size minus any utility allowance;
- (2) The reasonable rent; or
- (3) The rent requested by the owner.

##### *Rent Increases*

An owner's request for a rent increase must be submitted in writing to the COPHD at least 60 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

##### *Small Area Fair Market Rents*

The COPHD will not implement the Small Area Fair Market Rent for the Project Based

Program and will adhere to the HUD published City of Phoenix metropolitan Fair Market Rents.

### 13.13 Tenant Selection – Project Based Vouchers

Link: [NOTICE PIH 2024-19](#)

Currently, and except where stated below in this Administrative Plan regarding owner maintenance of the waiting lists for specific owners or projects, the COPHD's tenant selection procedures for its tenant-based programs apply for units assisted under the PBV Program. Except for units which are occupied by eligible tenants upon the commencement of the project based contract term, when a vacancy exists at a PBV site, the COPHD will notify the next families on the COPHD Project Based Voucher Waiting List for the property.

The Project Based Voucher waiting lists are site based waiting lists. COPHD's letter to the applicants will also state that if the applicant is interested in residing in the vacant PBV unit, that the applicant will not lose his/her place on the COPHD's HCV waiting list (if applicable and the applicant is currently on both waiting lists). An applicant who rejects an offer of a project-based unit or who is rejected by the owner of the housing unit will remain in the same position on the tenant-based assistance list (if currently on the tenant based waiting list), as if the offer had not been made. If a dwelling unit to which assistance is to be attached under the project-based voucher program is occupied at the time the project-based contract goes into effect, COPHD must determine whether the unit's occupants are eligible for assistance. If a unit is occupied by an eligible family and the unit is selected by COPHD, the family must be placed in an appropriately size project-based assisted unit in the project without requiring the family to be placed on the COPHD's waiting list.

Applicants must meet all of COPHD's applicable eligibility requirements. COPHD will refer qualified applicants to the owner for all vacancies. In the event that there are an insufficient number of eligible persons on the PBV site based waiting list, or if the COPHD referrals do not provide the owner with a suitable tenant for the unit within 30 days, the COPHD can place applicants referred by the owner on the waiting list for that particular site. Eligibility criteria for selection in the Project-based voucher program will be consistent with the COPHD's tenant-based and project-based assistance programs.

The owner chooses a tenant for occupancy from the qualified applicants referred by COPHD based on their written tenant selection policy. When a family is approved by the owner, they will execute a lease with the owner.

The owner must notify the COPHD in writing (mail, fax, or e-mail) within 10 calendar days of learning about any vacancy or expected vacancy. The COPHD will make every reasonable effort to promptly refer families to the owner after receiving a vacancy notice from the owner.

The COPHD uses separate waiting lists for PBV units in individual projects or buildings (or for sets of such units). Applicants who will occupy PBV units will be selected from the site-based waiting lists for the PBV program.

The PBV projects with separate waiting lists are listed below:

- Aeroterra II
- Aeroterra III (Referral-Based)
- Aeroterra Senior
- City Place (Referral-Based)
- Dunlap Pointe (Referral-Based)
- Encanto Pointe (Referral-Based)
- Encore on Northern (Referral-Based)
- Foothills Village
- Harmony at the Park
- Marcos De Niza
- McCarty on Monroe
- Monroe Gardens
- Parsons Village
- Sunrise Vista
- Parsons Village (Referral-Based)
- Pine Towers
- Rehoboth Place II
- Reserve at Thunderbird (Referral-Based)
- Soluna
- Stepping Stones (Referral-Based)
- Sunrise Circle (Referral-Based)
- Verde Villas (Referral-Based)
- Washington Manor

The COPHD may permit the owner to maintain the waiting lists for specific owners or projects. Under an owner-maintained waiting list, the owner is responsible for carrying out responsibilities including, but not limited to: processing changes in applicant information, removing an applicant's name from the waiting list, opening and closing the waiting list.

#### COPHD Waiting List Oversight Procedures

To ensure waiting lists are administered properly and in accordance with program requirements, COPHD will request copies of the waiting list semi-annually for review. COPHD's will include, but not limited to, ensuring all required information is captured on the waiting list and that applicants are being selected and housed in the appropriate order. Any deficiencies cited by COPHD will require immediate corrective action by the owner.

#### Approval Process of the Owner's Waiting List Policy: (including any preference)

The owner must develop and submit to COPHD a written owner waiting list policy for approval. The owner waiting list policy must include policies and procedures concerning waiting list management and selection of applicants from the project's waiting list, including any admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the waiting list. The owner must receive approval from the COPHD of its owner waiting list policy. The owner's waiting list policy will be incorporated in the COPHD Administrative Plan.

The owner must receive approval from the COPHD for any preferences that will be applicable to the project. The COPHD will approve such preferences as part of its approval of the owner's waiting list policy. Each project may have a different set of preferences. Preferences must be consistent with the COPHD Plan and listed in the owner's waiting list policy.

At the time the COPHD permits an owner to maintain the waiting lists for specific owners or projects, the owner's wait list policy will be incorporated in the COPHD's Administrative Plan. If owners wish to establish any preferences outside of COPHD's preferences, COPHD will review and approve the proposed preferences.

#### Opening and Closing the PBV Waiting List

The owner is responsible for opening and closing the waiting list, including providing public notice when the owner opens the waiting list in accordance with [24 CFR 982.206](#). If the owner-maintained waiting list is open and additional applicants are needed to fill vacant units, the owner must give public notice in accordance with the requirements of [24 CFR 982.206](#) and the owner waiting list policy.

The applicant may apply directly at the project. The applicant may request that the COPHD refer the applicant to the owner for placement on the project's waiting list. The COPHD will disclose to the applicant all the PBV projects available to the applicant, including the projects' contact information and other basic information about the project.

Applicants already on the COPHD's waiting list will be permitted to place their names on the project's waiting lists, if the lists are open.

At the discretion of the COPHD, the owner may make preliminary eligibility determinations for purposes of placing the family on the waiting list, and preference eligibility determinations. The owner is responsible for notifying the family of the owner's determination not to place the applicant on the waiting list and a determination that the family is not eligible for a preference. In such a case, the owner is responsible to provide the notice described at [24 CFR 982.554\(a\)](#). The COPHD will then conduct the informal review, if one is requested by the family.

Once an owner selects the family from the waiting list, the owner will refer the family to the COPHD, who then determines the family's final program eligibility. The owner may not offer a unit to the family until the COPHD determines that the family is eligible for the program.

All HCV waiting list administration requirements apply to the PBV program owner-maintained waiting lists.

The COPHD will provide oversight of owner-maintained waiting lists to ensure they are administered properly and in accordance with program requirements, including but not limited to nondiscrimination and equal opportunity requirements. The owner is responsible for maintaining complete and accurate records as described in [24 CFR 982.158](#). The owner must give the COPHD, HUD, and the Comptroller General full and free access to its offices and records concerning waiting list management.

An applicant to a PBV site will not lose his/her place on the COPHD's HCV tenant based waiting list

(if applicable and the applicant is currently on both waiting lists). An applicant who rejects an offer of a project-based unit or who is rejected by the owner of the PBV housing unit will remain in the same position on the tenant-based assistance list (if currently on the tenant based waiting list), as if the offer had not been made.

If a dwelling unit to which assistance is to be attached under the project-based voucher program is occupied, COPHD must determine whether the unit's occupants are eligible for assistance. If a unit is occupied by an eligible family and the unit is selected by COPHD, the family must be placed in an appropriately size project-based assisted unit in the project without requiring the family to be placed on the COPHD's waiting list.

Applicants referred by the site(s) must meet all of COPHD's applicable eligibility requirements. Eligibility criteria for selection in the Project-based voucher program will be consistent with the COPHD's tenant- based and project-based assistance programs.

The owner must notify the COPHD in writing (mail, fax, or e-mail) within 10 calendar days of learning about any vacancy or expected vacancy.

### 13.14 Unit Moves/Transfers

#### *Overcrowded, Under-Occupied, and Accessible Units*

Link: [24 CFR 983.260](#)

The COPHD will promptly notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit. The COPHD 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
- Public Housing assistance
- Tenant-based voucher assistance
- Other comparable tenant-based rental assistance

When the COPHD offers a family another form of assistance that is not a tenant- based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, the COPHD will terminate the housing assistance payments at the expiration of this 30-day period.

The COPHD 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, or as a reasonable accommodation.

If no continued housing assistance is available, the COPHD will remove the wrong-size or accessible unit from the HAP contract to make voucher assistance available to issue the family a tenant-based voucher.

#### *Moves Requested by the Tenant*

Link: [24 CFR 983.261](#)

PBV participants have choice mobility, after one-year families have the option to leave the PBV unit and receive a tenant-based voucher, if a voucher is available. In the event a PBV chooses mobility and moves with a tenant based vouchers, the COPHD will supply the owner with a referral for a new PBV tenant.

Families who wish to relocate with continued assistance must inform the owner and the COPHD in writing not less than 30 days prior to the date they plan to vacate the unit and in accordance with the lease. The COPHD will then place the family on a PBV-HCV Voucher program transfer list according to the date and time of receipt by the COPHD of written request for mobility and written notification of the family's 30 day notice of intent to vacate. The COPHD will issue the next available tenant based voucher to families on the PBV-HCV transfer list before proceeding to its regular HCV waiting list. Families from the regular HCV waiting list who have been notified of an eligibility appointment for a tenant based voucher will not be delayed from receiving their voucher.

#### *Moves from Excepted Units*

COPHD will allow families who initially qualified to live in an excepted unit to remain when circumstances change due to factors beyond the remaining family members' control.

In all other cases, when COPHD determines that a family no longer meets the criteria for a "qualifying family" in connection with the 25 percent per project cap exception, COPHD will provide written notice to the family and owner within 15 business days of making the determination. The family will be given 30 days from the date of the notice to move out of the PBV unit. If the family does not move out within this 30-day time frame, COPHD will terminate the housing assistance payments at the expiration of this 30-day period. COPHD 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.

COPHD may refer other eligible families to the excepted units. However, if there are no eligible families on the waiting list and the owner does not refer eligible families to COPHD, COPHD will amend the HAP contract to reduce the total number of units under contract.

#### 13.15 Vacancy Payments

Link: [24 CFR 983.352](#)

The COPHD will decide on a case-by-case basis if the COPHD will enter into any such agreement, including the amount of the vacancy payment and the period for which the owner will qualify for these payments, which will in no event exceed 60 days.

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

If the COPHD determines that the owner is responsible for a vacancy and, as a result, is not entitled to keep the housing assistance payment, the COPHD will notify the owner (or landlord) of the amount of housing assistance payment that the owner must repay. The COPHD will require the owner to repay the amount owed.

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must properly notify the COPHD in writing. In order for a vacancy payment request to be considered, it must be made within 15 days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the COPHD may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the COPHD within 15 days of the COPHD's request, no vacancy payments will be made.

### 13.16 Reduction in HAP Contract Due to Vacancies

Link: [24 CFR 983.254](#)

If any contract units have been vacant for 120 days, the COPHD will give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period. The COPHD will provide the notice to the owner within 15 business days of the 120th day of the vacancy. The amendment to the HAP contract will be effective the 1st day of the month following the date of the COPHD's notice.

#### Units no Longer Qualified

If a unit is no longer qualified for its excepted status or the increased program cap, the COPHD will:

- (i) Substitute the unit for another unit if it is possible to do, so that the overall number of excepted units or units under the increased program cap in the project is not reduced. COPHD may, in conjunction with such substitution, add the original unit to the HAP contract if it is possible to do so, including that such addition does not cause the COPHD to exceed the program cap or become non-compliant with the project cap.

#### Continued Occupancy Under Increased Program Cap

##### Persons with Disabilities or Elderly Persons

The COPHD will allow a family that initially qualified for supportive housing for persons with disabilities or elderly persons 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 family member with a disability or long term or permanent hospitalization or nursing care), the elderly family member or family member with a disability no longer resides in the unit. In this case, the unit may continue to count under the increased program cap category for as long as the family resides in that unit.

## Elderly Family or Disabled Family

The COPHD will allow a family that initially qualified for occupancy of an excepted unit based on elderly family status or disabled 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 count as an excepted unit for as long as the family resides in that unit.

## Family Unification Program

A unit is excepted from the project cap or qualifies under the increased program cap, as applicable, if the unit is occupied by an eligible youth receiving FUP assistance.

The youth must vacate the unit once the FUP assistance has expired. The unit loses its excepted status or no longer qualifies under the increased program cap, as applicable, if the youth does not move from the unit upon the expiration of the FUP assistance.



## CHAPTER 14: Rental Assistance Demonstration (RAD) Project Based Voucher Conversions

Link: [PIH Notice 2018-11](#); [PIH Notice 2016-17](#); [RAD Statute](#)

### 14.1 Overview

Public housing units converting to assistance under Rental Assistance Demonstration (RAD) long-term Project Based Voucher (PBV) contracts are no longer subject to the public housing program rules. The former public housing units which become PBV units are subject to the rules of the Section 8 program, as modified by rules specific to RAD converted units. These specific RAD-related rules apply important provisions of the public housing rules to the RAD converted units, even though they would not normally be applicable in the HCV context.

COPHD anticipates converting public housing units to PBV units using RAD conversions. Upon conversion to PBV, the COPHD will adopt the resident rights, participation, waiting list and grievance procedures applicable to the RAD PBV units. The units converted to PBV under the RAD program will be operated consistent with COPHD's PBV program rules referenced in this Administrative Plan to the extent not specifically required to operate in a different manner by the regulatory and statutory requirements of the RAD PBV program referenced above.

### 14.2 Resident Rights

#### *No Re-screening of Tenants upon Conversion*

Pursuant to the RAD statute, at conversion current households are not subject to rescreening, income eligibility, or income targeting provisions. Current households will be grandfathered for conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion.

A unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Once that remaining household moves out, the unit must be leased to an eligible family.

#### *Right to Return*

Any residents that need to be temporarily relocated due to rehabilitation or construction have a right to return to an assisted unit at the site once rehabilitation or construction is completed. If transferred, residents of the converting site have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete.

Residents of a site undergoing RAD conversion may voluntarily accept COPHD's offer to permanently relocate to another assisted unit, and thereby waive their right to return to the site after rehabilitation or construction is completed.

#### *Renewal of Lease*

Under RAD, the COPHD must renew all leases upon lease expiration, unless cause exists. This provision must be incorporated by the PBV owner into the tenant lease or tenancy addendum.

### *Phase-in of Tenant Rent Increases*

The COPHD has established a policy setting the length of the phase in period at three years. If a tenant's monthly rent increases by more than the greater of 10 percent or \$25 solely as a result of RAD conversion, the rent increase will be phased in over 3 years.

The below method explains the percentage-based phase-in the COPHD will follow. For purposes of this section "standard TTP" refers to the TTP calculated in accordance with regulations at 24 CFR §5.628 and the "most recently paid TTP" refers to the TTP recorded on line 9j of the family's most recent HUD Form 50058.

#### Three Year Phase-in:

- Year 1: Any recertification (interim or annual) performed prior to the second Annual Recertification (AR) after conversion – 33% of difference between most recently paid TTP and the standard TTP
- Year 2: Year 2 AR and any Interim Recertification (IR) prior to Year 3 AR – 66% of difference between most recently paid TTP and the standard TTP
- Year 3: Year 3 AR and all subsequent re-certifications – Full standard TTP Five Year Phase in:

In the three year phase-in, 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.

### *Family Self-Sufficiency*

Current FSS participants will continue to be eligible for FSS once their housing is converted under RAD, and COPHD is allowed to use any remaining Public Housing FSS funds to serve those FSS participants who live in units converted by RAD.

### *Choice-Mobility*

COPHD provides a Choice-Mobility option to residents of RAD projects based on the following:

- Resident Eligibility: Project based voucher Residents have a right to move with tenant-based rental assistance 12 months after the move-in date, subject to the availability of tenant-based vouchers. Households must submit a written request after the 12-month period has expired if they wish to be issued a tenant-based voucher and provide written 30 day notice to move to the owner and COPHD. Households requesting tenant-based vouchers will be reviewed and if the required 12-month PBV period has occurred and proper move out notice given, will be moved to the top of the HCV waiting list based on the date and time of their written request and required documents (move notice).
- If a resident is already a resident of the covered project at the time of conversion to PBV, the resident may request a tenant- based voucher after 12 months of PBV assistance, subject to the availability of tenant-based vouchers. When requests for tenant- based vouchers are made after 12 months of PBV residency, residents must submit a written request for a tenant-based voucher (and written move notice) which will be reviewed and if the required 12-month PBV period has occurred, will be moved to the top of the HCV waiting list based on date and time of written request.

### *Resident Participation and Funding*

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

#### 14.3 Waiting List

Link: [24 CFR 903.7\(b\)\(2\)\(ii\)-\(iv\)](#)

The COPHD will establish PBV site-based waiting lists for properties converted through RAD. COPHD will ensure that applicants on COPHD's public housing and HCV waiting lists are offered placement on the RAD project's initial site-based waiting lists. Applicants from the PH and/or HCV waiting lists will be placed on the new PBV site based waiting list(s) based on the date and time of their original application to the PH and/or HCV program.

#### 14.4 Earned Income Disregard (EID)

Link: [24 CFR 5.617](#)

Tenants who are employed and are currently receiving the EID exclusion at the time of RAD conversion will continue to receive the EID after conversion. Upon the expiration of the EID, the rent adjustment will not be subject to rent phase-in. The rent will automatically increase 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. However, that requirement is not in the public housing program, i.e. the units prior to conversion to RAD. To allow all RAD public housing conversion tenants who are employed and currently receiving the EID at the time of conversion to continue to benefit from EID in the PBV project, the provision limiting EID to only disabled persons is waived. The waiver only applies to public housing tenants receiving the EID at the time of RAD conversion to PBV.

#### 14.5 Termination Notification

Link: [24 CFR 5.617](#)

The termination procedure for RAD conversions to PBV will require COPHD provide adequate written notice of termination of the lease which will not be less than:

- A reasonable period of time, but not to exceed 30 days:
  - If the health or safety of other tenants, COPHD 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; and
  - 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.

#### 14.6 Grievance Process

Link: [24 CFR 982.555\(a\)\(1\)\(i\)-\(iv\)](#)

For RAD converted PBV units, the additional RAD program rules apply:

- An opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to an COPHD (as 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 for participants, the contract administrator will perform the hearing.
- For any additional hearings required under RAD, COPHD (as owner) will perform the hearing.

An informal hearing will not be required for class grievances or to disputes between residents not involving the COPHD (as owner) or contract administrator.

COPHD (as owner) will provide opportunity for an informal hearing before an eviction.

Notice and other informal hearing policies are the same as stated in this Administrative Plan for the HCV program.



## CHAPTER 15: Section 8 Homeownership Program

### 15.1 General Provisions

The Section 8 Homeownership Program permits eligible participants the option of purchasing a home with Section 8 assistance rather than renting.

Eligible participants are Section 8 and Public Housing families who are enrolled in the Family Self-Sufficiency Program. Eligible participants must have completed an initial lease term of one year and the first annual re-examination must be completed. In addition, the applicant may not owe the COPHD or any other housing agency an outstanding debt and must meet the eligibility criteria set forth herein.

Section 8 homeownership assistance may be used to purchase a new or existing single-family home, condominium, planned use developments or manufactured homes within the City of Phoenix. The COPHD will not permit portability of Section 8 homeownership assistance to another jurisdiction.

### 15.2 Family Eligibility Requirements

Participation in the Section 8 Homeownership Program is voluntary. The eligibility requirements for participation include:

- **First-time Home Owner:** Each family, except those including a member with disabilities, must be a first-time homeowner. A “first-time homeowner” means that no member of the household has had an ownership interest in any residence during the three years preceding commencement of homeownership assistance. However, a single parent or displaced homemaker who, while married, owned a home with a spouse (or resided in a home owned by a spouse) is considered a “first-time homeowner” for purposes of the Section 8 homeownership option and the right to purchase title to a residence under a lease-purchase agreement is not considered an “ownership interest.”
- **Minimum Income Requirement:** At the time the family begins receiving homeownership assistance, the head of household, spouse and/or other adult household members who will own the home, must have a gross annual income at least equal to the federal minimum hourly wage multiplied by 2,000 hours.
- **Employment History:** With the exception of disabled and elderly households, each family must demonstrate that one or more adult members of the family who will own the home at commencement of homeownership assistance is employed full-time (an average of 30 hours per week) and has been continuously employed for one year prior to execution of the sales agreement.
- **Completion of Initial Lease Term:** Eligible participants in the Section 8 Homeownership Program must have completed an initial lease term of one year. The participant’s first annual re-examination must be completed.
- **No Outstanding Debt to any Housing Agency:** Participants shall be ineligible for the homeownership program in the event any debt or portion of debt remains owed to the COPHD or any housing agency.
- **No Current Ownership:** No family member may have present ownership interest in a residence.
- **Family Self-Sufficiency (FSS) Participation:** Participants in the Section 8 Homeownership Program are required to participate in the COPHD’s FSS program.

- **Prior Mortgage Default:** If a head of household, spouse or other adult household member who will execute the contract of sale, mortgage and loan documents have previously defaulted on a mortgage obtained through the Section 8 Homeownership Program, the family will be ineligible to participate in the homeownership program.

### *Family Participation Requirements*

Once a family is determined to be eligible to participate in the program, it must comply with the following additional requirements:

- **Homeownership Counseling Program**

A family's participation is contingent on the family attending and successfully completing a 16- hour homeownership class provided by the COPHD, one- on- one counseling sessions provided by a HUD-approved homeownership counseling agency, a financial literacy class and two home maintenance classes prior to commencement of homeownership assistance. These classes will prepare the family for homeownership by providing information and training on home maintenance, budgeting and money management, credit counseling, negotiating purchase price, the advantages of locating and purchasing homes in areas that do not have a high concentration of low- income families, information on the Fair Housing, Real Estate Settlement Procedures Act, truth-in-lending and how to avoid predatory lending practices.

- **Locating a Home**

Upon issuance of the homeownership voucher, a family shall have one hundred eighty (180) days to locate and close on a home. It shall be considered located if the family submits a proposed sales agreement with requisite components to the COPHD. For good cause, the COPHD may extend a family's time to locate the home for an additional 30 period.

If a family is unable to locate a home within the time approved by the COPHD, their rental assistance in their current housing program shall continue. The family must provide evidence of active search on a monthly basis during the 180-day search and purchasing period. The COPHD reserves the right to withdraw the homeownership voucher if the family does not pursue a sales agreement.

- **Type of Home**

A family approved for Section 8 homeownership assistance may purchase one of the following types of homes within the City of Phoenix: a new or existing home, a single-family home, a condominium, a home in a planned use development or a manufactured home to be situated on a privately owned lot.

- **Location of Home**

The family may purchase a home only within the boundaries of the City of Phoenix.

- **Purchasing a Home**

Once a home is located and a sales agreement is signed by the family and approved by the COPHD, the family must close on the home within the allotted 180- day search and purchase period, or such other time as approved by the COPHD to purchase the home.

- **Failure to Complete Purchase**  
If a family with a Section 8 homeownership voucher is unable to purchase a home within the maximum time the COPHD permits, the COPHD shall provide the family with continued assistance in their current housing program. The family may not re-apply for the Section 8 homeownership program until they have completed one additional year of participation.
- **Sales Agreement**  
The sales agreement must provide for the HQS inspection by the COPHD and an independent inspection and must state that the purchaser is not obligated to purchase unless such inspections are satisfactory to the COPHD. The contract must also provide that the purchaser is not obligated to pay for any necessary repairs without the approval of the COPHD. The sales agreement must provide that the purchaser is not obligated to purchase if the mortgage financing terms are not approved by the COPHD.
- **Housing Quality Standards Inspections**  
To assure the home complies with the HQS criteria established for the Section 8 program, it must be inspected by the COPHD. Homeownership assistance payments will not commence until this inspection is completed and the home meets all HQS requirements. The participant is not responsible for this expense.
- **Independent Initial Inspection**  
In addition to the HQS inspection, the family must also have an independent inspection of the home conducted by a professional home inspector. The inspection must go over the structure and major building systems. The COPHD will not pay for this inspection; it is the family's responsibility. The independent inspection report must be provided to the COPHD. The COPHD may disapprove the unit based on the information contained in the report or for the failure to meet HQS standards.
- **Financing Requirements**  
The proposed financing terms must be submitted for approval prior to the close of escrow. The COPHD shall determine the affordability of the family's proposed financing. In making such a determination, the COPHD may take into account other family expenses, including but not limited to, childcare, un-reimbursed medical expenses, education and training, expenses and the like. A conventional fixed mortgage is the only financing term that will be accepted by the COPHD.

#### *Compliance with Family Obligations*

A family must agree, in writing, to comply with all family obligations under the Section 8 voucher and the Homeownership programs. These obligations include, but are not limited to:

- Maintain home as a sole residence;
- Attend ongoing homeownership counseling if the COPHD determines the family has failed to meet their mortgage obligations, comply with family obligations under the voucher program or maintain the home in compliance with HQS or City of Phoenix property maintenance codes.

- Comply with mortgage terms;
- Not sell or transfer the home to anyone other than a member of the assisted family who resides in the home while receiving homeownership assistance;
- May not finance or add debt secured by the home without prior approval of the COPHD;
- May not obtain a present ownership interest in another residence while receiving homeownership assistance;
- Must supply all required information to the COPHD, including but not limited to, annual verification of household income, notice of change in homeownership expenses, notice of move-outs and notice of mortgage default, and
- Make necessary repairs resulting from an annual HQS inspection within 30 days. The COPHD may grant an extension for major repairs when the family can demonstrate efforts are being made to make the repairs.

### 15.3 Amount of Assistance

The amount of the monthly assistance payment will be based on the voucher payment standard for which the family is eligible, the monthly homeownership expense and the family's household income.

The COPHD will pay the lower of either the payment standard minus the total family contribution or the family's monthly homeownership expenses minus the total family contribution. The family will pay the difference.

#### *Determining the Payment Standard*

The voucher payment standard is the maximum monthly assistance payment (before deducting the total tenant payment by the family) made by the COPHD on behalf of a family participating in the homeownership program. The initial payment standard will be the lower of either the payment standard for which the family is eligible based on family size or the payment standard which is applicable to the size of the home the family decides to purchase.

The payment standard for subsequent years will be based on the higher of the payment standard in effect at commencement of the homeownership assistance or the payment standard in effect at the family's most recent annual re-examination.

The initial payment standard shall not be adjusted even if there is a subsequent decrease in family size.

#### *Determining the Monthly Homeownership Expense*

Monthly homeownership expenses include all of the following:

- Principal and interest on the initial mortgage and any mortgage insurance premium (MIP) incurred to finance the purchase and any refinancing of such debt;
- Real estate taxes and public assessments;
- Homeowner's insurance;
- Maintenance expenses per COPHD allowance;
- Cost of major repairs and replacements per COPHD allowance (replacement reserves);
- Utility allowances;



- Principal and interest on mortgage debt incurred to finance major repairs, replacements or improvements for the home, including changes needed to make the home accessible;
- Homeowner association dues, fees or regular charges assessed.

#### *Determining the Total Family Contribution*

The total family contribution is that portion of the homeownership expense that the family must pay. It is generally 30% of the family's adjusted income, plus any gap between the payment standard and the actual housing cost. All family income (including public assistance) will be counted to determine the family's adjusted monthly income for purposes of determining the amount of assistance.

#### *Housing Assistance Payment*

The COPHD's contribution towards the family's homeowner expenses will be paid to a dedicated limited access account, unless otherwise required by the lender. The family will be responsible to submit their portion of the mortgage payment to the same account and the lender will make automatic withdrawal for the full amount.

#### *Down Payment Requirement*

The COPHD has established the minimum down payment for purchase of a home of 3% of the sales price. The family must provide at least 1% of the down payment amount from their own resources.

### 15.4 Grounds for Termination of Section 8 Homeownership Assistance

Failure to Comply with Family Obligations under the Section 8 Voucher Program and/or the Homeownership Policies.

A family's homeownership assistance may be terminated if the family fails to comply with their obligations under the voucher program, homeownership policies or if the family defaults on the mortgage.

The family must provide the COPHD with written notice 30 days prior to any sale or transfer of any interest in the home or any plan to move out of the home. In addition, the family must provide written notice of the family's household income and homeownership expenses on an annual basis, any notice of mortgage default received by the family and any other notices which may be required according to COPHD homeownership policies. The family may not convey or transfer the home to any entity or person other than a member of the assisted family while receiving homeownership assistance.

### *Occupancy of Home*

Homeownership assistance will only be provided while the family resides in the home. If the family moves out of the home, the COPHD will not continue homeownership assistance commencing with the month after the family moves out. Neither the family nor the lender is obligated to reimburse the COPHD for homeownership assistance paid for the month the family moves out.

Homeownership assistance will not continue if the family is considered permanently absent as defined in the voucher program's administrative plan. Assistance will stop commencing at the end of the month this determination is made.

Homeownership assistance will not continue if the family member in whose name the mortgage is written, is considered permanently absent or to have vacated from the home without COPHD approval.

### *Changes in Income Eligibility*

A family's homeownership assistance may be changed in the month following annual re-certification of the household income but participation in the Homeownership Program shall continue until such time as the assistance payment amounts to \$0 for a period of six consecutive months.

Families are required to report all changes in family composition to the COPHD within thirty (30) calendar days of the occurrence.

An interim re-examination will be conducted if a household member is leaving or has left the family unit.

Families are not required to report increases in income/assets. Participants may report a decrease in income and other changes, which would reduce the amount of tenant rent, such as an increase in allowances or deductions. The COPHD must calculate the change if a decrease in income is reported.

### *Maximum Term of Homeownership Assistance*

A family may receive homeownership assistance for no longer than ten (10) years from the date of close of escrow unless the initial mortgage incurred to finance the purchase of the home has a term that is twenty (20) years or longer, in which case the maximum term is fifteen (15) years.

Families that qualify as elderly at the time of commencement of homeownership assistance are not subject to a maximum term limitation. In addition, families that qualify as disabled families at the commencement of homeownership assistance or at any time during the provision of homeownership assistance are not subject to a maximum term limitation.

If a disabled or elderly family ceases to qualify as disabled or elderly, the appropriate maximum term becomes applicable from the date that homeownership assistance commenced. However, the family shall be eligible for at least six (6) additional months of homeownership assistance after the maximum term becomes applicable. The time limit applies to any member of the household

who has an ownership interest in the unit during the period homeownership assistance payments are made or is a spouse of any member of the household who has an ownership interest.

#### 15.5 Procedure for Termination of Homeownership Assistance

A participant in the Homeownership Program shall be entitled to the same termination notice and informal hearing procedures as set forth in the administrative plan of the Voucher program.

##### *Continued Participation in Section 8 Housing Choice Voucher Program*

If the family defaults on an FHA-insured mortgage, the COPHD may permit the family to move with continued Section 8 housing choice voucher rental assistance if the family demonstrates that it has conveyed title to the home to HUD or its designee, as required by HUD, and moved from the home within the period established or approved by HUD.

If the family defaults on a mortgage that is not FHA-insured, the COPHD may permit the family to move with continued Section 8 housing choice voucher rental assistance if the family demonstrates that it has conveyed title to the home to the lender, to the COPHD or its designee, as may be permitted or required by the lender, and moved from the home within the period established or approved by the lender and/or the COPHD.



## Chapter 16: Family Self Sufficiency Program

The US Department of Housing and Urban Development issued the Final Rule for changes to the Family Self Sufficiency (FSS) Program on May 17, 2022. This chapter will be updated by the COPHD with new policies appropriate to the final rule by November 2022, after HUD approval of the FSS Action Plan.

The objective of the FSS program is to reduce the dependency of low-income families on welfare assistance and on Section 8, public, or any Federal, State, or local rent or homeownership subsidies. Under the FSS program, low-income families are provided opportunities for education, job training, counseling, and other forms of social service assistance, while living in assisted housing, so that they may obtain the education, employment, business and social skills necessary to achieve self-sufficiency, as defined in §984.103 of this subpart A.

### 16.1 Action Plan

[Link: 24 CFR 984.201](#)

COPHD has developed an Action Plan in consultation with the Department Administrators and the Program Coordinating Committee which has met with HUD approval.

The Action Plan describes the policies and procedures of COPHD for operation of a local FSS program, and contains the following information:

- Family demographics. A description of the number, size, characteristics, and other demographics (including racial and ethnic data), and the supportive service needs of the families expected to participate in the FSS program;
- Estimate of participating families. A description of the number of eligible FSS families who can reasonably be expected to receive supportive services under the FSS program, based on available and anticipated Federal, tribal, State, local, and private resources;
- Eligible families from other self-sufficiency program. If applicable, the number of families, by program type, who are participating in Operation Bootstrap, Project Self-Sufficiency, or any other local self-sufficiency program who are expected to agree to execute an FSS contract of participation.
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### 16.2 Program Coordinating Committee

[Link: 24 CFR 984.202](#)

COPHD has established a Program Coordinating Committee (“PCC”) to assist the COPHD in securing commitments of public and private resources for the operation of the FSS program within COPHD's jurisdiction, including assistance in developing the Action Plan and in implementing the program.

The PCC is comprised of representatives of COPHD; residents of public housing and/or participants of the HCV Program; and may include representatives of the unit of general local government served by the COPHD, local agencies (if any) responsible for carrying out JOBS training programs, or programs under the JTPA, and other organizations, such as other State, local or tribal welfare and employment agencies, public and private education or training

institutions, childcare providers, nonprofit service providers, private business, and any other public and private service providers with resources to assist the FSS program.

### 16.3 Family Selection

Link: [24 CFR 984.203](#)

The FSS program is currently approved for both the Public Housing and Housing Choice Voucher residents. COPHD selects families to participate in the FSS Program without regard to race, color, religion, age, sex (includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, as well as gender identity and gender expression), marital or family status, disability, medical condition, national origin, ancestry, source of income, and sexual orientation, gender identity, marital status, blindness, visual handicap, physical handicap, mental impairment, or political affiliation. COPHD will not discriminate against otherwise qualified persons on the basis of disabilities and will make reasonable accommodations to allow participation in the FSS Program by persons with disabilities.

#### *Eligible Families From Other Self Sufficiency Programs*

The FSS program may accept referrals from other self-sufficiency programs in order to provide long term case management services to help low income families residing in subsidized housing to become economically self-sufficient. These agencies may include, but are not limited to, MAXIMUS, Head Start Programs, HOPE VI Community and Supportive Services, DES, and Family Service Centers.

The COPHD FSS Program may accept HCV portables from other cities or jurisdictions. The COPHD FSS Program may accept participants who are relocating from another jurisdiction. A favorable recommendation from the originating FSS Program is required and will be documented in a participant's case notes.

Participants who have previously participated in the FSS Program and have been closed successfully may not return to the program.

#### *FSS Family Recruitment, Outreach, Selection and Preferences*

Outreach efforts may include sending notices to current HCV residents about the FSS Program. Staff may also present program information at HCV briefings and recertification meetings. FSS Program information will be available at the HCV Office as well as at the City of Phoenix to inform applicants of the FSS Program and encourage participation once they become residents in one of the assisted housing programs. FSS staff also partners with ARIZONA@WORK (the local workforce provider for the City of Phoenix), Head Start parent meetings, refugee organizations and any other agencies or organization meetings who work with individuals and families who are currently leased up in subsidized housing and are seeking to become self-sufficient. Presentations cover FSS and how to access housing supportive services.

### 16.4 Contract of Participation

Link: [24 CFR 984.303](#)

Each family that is selected to participate in an FSS program must enter into a contract of

participation with COPHD. The contract of participation must be signed by the head of the FSS family. The contract of participation will go into effect the first of the month following the execution of the contract. The initial term of the contract of participation will run the effective date through the five year anniversary of the first reexamination of income that follows the execution date. COPHD may extend the term of the contract of participation for a period not to exceed two years for any FSS family that requests, in writing, an extension of the contract, provided that COPHD finds that good cause exists for granting the extension.

The contract of participation includes the individual training and services plan(s) and sets forth the terms and conditions governing participation in the FSS program, including the rights and responsibilities of the FSS family and of COPHD, the services to be provided to, and the activities to be completed by, the head of the FSS family and each adult member of the family who elects to participate in the program.

If the FSS family fails to comply with the Contract of Participation, without good cause, COPHD may:

- Terminate the family's participation in the FSS program; or
- Terminate the family's participation in the FSS program and forfeit any escrow balance

The contract of participation is considered to be completed, and a family's participation in the FSS program is considered to be concluded when one of the following occurs:

- The FSS family has fulfilled all of its obligations under the contract of participation, including all family members' ITSPs, on or before the expiration of the contract term, including any extension thereof.
- The contract of participation is automatically terminated if the family's Section 8 assistance is terminated in accordance with HUD requirements.

The contract of participation may be terminated before the expiration of the contract term, and any extension thereof, by:

- For non-compliance, the participant fails to meet their obligations under the contract of participation, the individual service and training plan (ITSP) and related documentation.
- Mutual consent of the parties;
- The family's withdrawal from the FSS program;
- Such other act as is deemed inconsistent with the purpose of the FSS program; or
- Operation of law.

## 16.5 FSS Account

Link: [24 CFR 984.305](#)

An interest-bearing escrow account is established by COPHD for each participating family. Any increases in the family's rent as a result of increased earned income during the family's participation in the program result in a credit to the family's escrow account. COPHD will report, at least once annually, to each FSS family on the status of the family's FSS account. Once a family graduates from the program, they may access the escrow and use it for any purpose.

If the FSS family has not paid the family contribution towards rent, or other amounts, if any, due under the public housing or section 8-assisted lease, the balance in the family's FSS account will be reduced by that amount (as reported by the owner to the PHA in the Section 8 FSS program) before prorating the interest income. If the FSS family has fraudulently under-reported income, the amount credited to the FSS account will be based on the income amounts originally reported by the FSS family.



## CHAPTER 17: Denial of Assistance to Applicants and Termination of Assistance to Participants

Links: [24 CFR 982.552\(a\)\(2\)](#); [24 CFR 982.553\(a\)](#)

### 17.1 Evidence and Considerations

The COPHD will consider all relevant circumstances in evaluating a decision to terminate or deny assistance. Evidence of criminal activity includes, but is not limited to, engaging in and/or any record of convictions, arrests, or evictions for suspected criminal activity of household members within the past three (3) years.

The COPHD will use the preponderance of the evidence as the standard for making all admission decisions. Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole show that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Credible evidence may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence, can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants, evidence gathered by COPHD inspectors and/or investigators, and evidence gathered from the COPHD incident reports.

The COPHD will consider the following factors prior to making its denial or termination decision:

- Evidence of the applicant or participant’s participation in or willingness to participate in social service or other appropriate counseling service programs.
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.
  - The COPHD will require the applicant/participant to submit evidence of the household member’s current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.
- Whether the cause of the unfavorable information may be that the applicant/participant is the victim of domestic violence, dating violence, sexual assault or stalking.
  - The COPHD acknowledges that a victim of domestic violence, dating violence, sexual assault or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to a unit, a prior arrest record) that would warrant denial under the COPHD’s policies. Therefore, if the COPHD makes a determination to deny admission to an applicant family, the COPHD will include in its notice of denial/termination a statement of the protection against denial provided by VAWA A description of COPHD confidentiality requirements.
  - A request that an applicant/participant wishing to claim this protection submit to the COPHD documentation meeting the specifications below with her or his



request for an informal review for an applicant and an informal hearing for a participant.

- The existence of mitigating factors, such as loss of employment or other financial difficulties.
- If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission or termination of assistance, the COPHD will determine whether the behavior is related to the disability. If so, upon the family's request, the COPHD will determine whether alternative measures are appropriate as a reasonable accommodation. The COPHD will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial or termination.

As a condition of receiving or keeping assistance, a family may agree to remove the culpable family member from the application or unit. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the HCV unit. An incarcerated culpable family member may not be an applicant, participant or guest for five years from incarceration release date. The family must present evidence of the former family member's current address upon COPHD request.

## 17.2 Denial of Assistance

Denial of assistance for an applicant may include any or all of the following: denying listing on the COPHD waiting list, denying or withdrawing a voucher, refusing to enter into a HAP contract or approve a lease, and refusing to process or provide assistance under portability procedures.

COPHD is required to deny admission if the applicant has:

- If any member of the family fails to sign and submit HUD or COPHD required consent forms for obtaining information.
- If no member of the family is a U.S. citizen or eligible immigrant.
- For three years from the date of eviction if a household member has been evicted from federally assisted housing for drug-related criminal activity. A family will be considered evicted if the family moves after a legal eviction order has been issued, whether physical enforcement of the order was necessary. However, the COPHD may admit the household if the COPHD determines:
  - That the evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the COPHD; or
  - That the circumstances leading to eviction no longer exist (for example, the criminal household member has died or is imprisoned).
- If any member of the household is subject to a lifetime registration requirement under a State sex offender registration program.
- COPHD has reasonable cause to believe that a household member's current use or pattern of use of illegal drugs or current abuse or pattern of abuse of alcohol may threaten the health, safety, or right to a peaceful enjoyment of the premises by other participants.
  - In determining reasonable cause, COPHD will consider all credible evidence, including but not limited to, any record of convictions, arrests or evictions of

household members related to the use of illegal drugs or the abuse of alcohol. COPHD may, at its discretion, also consider evidence from treatment providers or community-based organizations providing services to household members.

- Any household member has ever been convicted of drug related criminal activity for the production or manufacture of methamphetamine in any location, and/or on the premises of federally assisted housing.
- Any household member is currently registered as a sex offender under any State registration requirement, regardless whether it is for life time or not.
- Has any household member who illegally possesses weapons.
- Any other HUD required reason.

The COPHD will deny admission to an applicant family if the COPHD determines that any household member is currently engaged in or has engaged in any of the activities within the past three (3) years.

- Drug-related criminal activity, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.
- Violent criminal activity, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause serious bodily injury or property damage. Criminal activity that may threaten the health, safety or welfare of other participants.
- Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences which may adversely affect the health, safety, or welfare of other participants.
- Has been evicted from housing or termination from assisted housing programs (considering relevant circumstances).
- Misrepresented or does not provide complete information related to eligibility, including income, expenses, family composition or rent.
- Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- Owes rent or other amounts to this or any other PHA or owner in connection with any assisted housing program.
- Has engaged in or threatened violent or abusive behavior toward COPHD personnel
  - Abusive or violent behavior towards COPHD personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
  - Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.
- Any other HUD required reason.

### 17.3 Notice of Denial

COPHD will notify applicant families in writing of any decision to deny assistance.

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, the COPHD will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 15 business days to dispute the accuracy and relevance of the information. If the family does not contact the COPHD to dispute the information within that 15 business day period, the COPHD will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal hearing process.

### 17.4 Denial of Assistance for Noncitizens

Link: [24 CFR 5.514\(d\)](#)

Denial of assistance based on immigration status is subject to special hearing and notice rules. The COPHD will notify applicant families of denial of assistance in accordance with HUD regulations. When COPHD determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 15 days of the determination. The notice will explain the reasons for the denial of assistance and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with the COPHD. The informal hearing with the COPHD may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice will inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

When the COPHD receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the COPHD will notify the family of the results of the USCIS verification within 10 business days of receiving the results. The family will have 30 calendar days from the date of the notification to request an appeal of the USCIS results, made by the family directly in writing to the USCIS. The family must provide COPHD with a copy of the written request for appeal and proof of mailing within 10 business days of mailing the request to the USCIS.

The COPHD will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

### 17.5 Grounds for Termination

Links: [24 CFR 982.455](#); [24 CFR 982.551](#), [552](#), [553](#); [24 CFR 5.514\(c\)](#); [24 CFR 5.218\(c\)](#); [24 CFR 982.311\(d\)](#); [Notice PIH 2010-50](#); [Notice PIH 2018-24](#)

Termination of assistance for a Program participant may include any or all of the following actions by COPHD:

- Refusing to enter into a HAP contract or approve a lease.
- Terminating housing assistance payments under a HAP contract.
- Refusing to process or provide assistance under portability procedures.

COPHD must terminate the participant family for the following reasons:

- Family choice.  
The family may request that the COPHD terminate housing assistance payments on behalf of the family at any time.
- Family with Zero Assistance.  
If the family has received zero assistance in 180 days COPHD will terminate assistance. If the participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero. The family must notify the COPHD of the changed circumstances and request an interim re-certification before the expiration of the 180 day period.
- Eviction. [24 CFR 982.552\(b\)\(2\)](#), [24 CFR 5.2005\(c\)\(1\)](#)  
The COPHD must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. A family will be considered evicted if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.
- Failure to provide consent. [24 CFR 960.259](#)  
The COPHD will terminate the lease if any family member fails to sign and submit any consent form s/he is required to sign for any reexamination.
- Failure to document citizenship. [24 CFR 5.514](#); [24 CFR 960.259](#)  
The COPHD will terminate the lease if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members  
  
If the COPHD determines that a family member has knowingly permitted an ineligible individual to reside in the family's unit on a permanent basis.
- Failure to Disclose SSN. [24 CFR 5.514](#); [24 CFR 960.259](#)  
The COPHD will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for

circumstances beyond the family's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family or other emergency, if there is a reasonable likelihood that the family will be able to disclose an SSN by the deadline.

- Threat to Other Participants.

The COPHD will terminate the lease when any household member engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other participants or by persons residing in the immediate vicinity of the premises. Immediate vicinity means within a three- block radius of the premises.

- Methamphetamine Conviction. [24 CFR 966.4](#)

The COPHD will immediately terminate the lease if COPHD determines that any household member has ever been convicted of manufacture or production of methamphetamine in any location, and/or on the premises of federally-assisted housing.

- Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation.

The COPHD will terminate the lease if the COPHD determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

- Other Serious or Repeated Violations of the Family Obligations of the HCV Program

- Fugitive Felon or Parole Violator.

If a participant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, is a high misdemeanor; or violating a condition of probation or parole imposed under federal or state law.

- Persons subject to sex offender registration requirement.

If any member of the household has, during their current participation in the HCV program, become subject to a registration requirement under a state sex offender registration program regardless whether it is for life time or not.

- Crime On or Off the Premises

- Drug related convictions; Alcohol related convictions (if it indicates an ongoing pattern); Fraud;
- Acts of violent behavior convictions; and or Crimes of violent behavior
- Applicants/participants must report any convictions from criminal activity which occurs after the application review (this includes residents, participants and those that have not yet moved into COPHD assisted housing program(s)).
- COPHD will allow applicants and participants to address and present

mitigating circumstances regarding criminal background checks prior to final decision.

#### HCV Program Violations That May Lead to Termination:

- Discovery of facts after admission to the program that would have made the participant ineligible.
- Discovery of false statements or fraud by the participant in connection with an application or assistance or with a reexamination of income.
- Failure to furnish such information and certifications regarding family composition and income as may be necessary for the COPHD to make determinations with respect to rent, eligibility, and unit size.
  - Information not provided: After issuance of the termination notice, but before the effective date of the termination, the participant may provide the missing data. It is solely COPHD's discretion whether to accept the data or to proceed with termination.
- Missed appointments per policy and procedure requirements.
- Failure to transfer to an appropriate size unit based on family composition, upon notice by the COPHD that such a move is required for HQS compliance.
- Failure to permit access to the unit by the COPHD after proper advance notification for the purpose of performing routine inspections.
- Failure to inform the COPHD within 30 days of the birth, adoption or court- awarded custody of a child.
- If the family has breached the terms of a repayment agreement entered into with the COPHD.
- If a household member has engaged in or threatened violent or abusive behavior toward COPHD personnel.
  - Abusive or violent behavior towards COPHD personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior. Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.
- Furnishing false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.
- If the family does not remedy family-caused HQS failures in the required timeframe.
- If the family does not allow COPHD to inspect the unit at reasonable times and after reasonable notice.
- If any family member commits lease violations, including but not limited to:
  - If the family does not give proper notice to COPHD and the owner before moving out of the unit.
  - The family does not give COPHD a copy of any owner eviction notice as required in this Administrative Plan.
  - If the family is not using the assisted unit for residence by the family and/or the assisted unit is not the family's only residence.

- If the family has non-approved persons residing in the unit.
- If the family does not promptly notify COPHD that a family member no longer resides in the assisted unit.
- If the family engages in profit making activities in the assisted unit which are not incidental to the primary residential use of the unit.
- Limitation on Profit Making Activity in the Unit:
  - If the business activity area results in the inability of the family to use any of the critical living areas, such as a bedroom utilized for a business which is not available for sleeping, it is considered a violation.
- If COPHD determines that the use of the unit as a business is not incidental to its use as a dwelling unit.
  - If the family subleases, lets, assigns the lease or transfers the unit.
  - If the family does not notify COPHD of an absence from the unit, and if the family does not provide COPHD any requested information regarding the absence.
  - If the family owns or has any interest in the unit.
- If any family member is receiving or received Section 8 participant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative housing assistance program.
- If the family breaches an agreement with COPHD to pay amounts owed to COPHD or amounts paid to an owner by COPHD.
- Insufficient ACC funding to support continued assistance for families in the program. In such event, COPHD will follow the procedures outlined in COPHD’s Management Procedures.
- If the family fails to disclose to COPHD any HUD notification it has received regarding discrepancies in the amount or verification of family income.
- Any other HUD required reason.

In addition to HUD requirements, the COPHD endorses the Arizona Multi-Housing Associations Crime Free Lease Addendum by incorporating it into the tenant’s lease and at each annual process.

### 17.6 Termination Notification

In any case where the COPHD determines to terminate assistance to the family, the COPHD will give both the family and the owner a 30-day written termination notice. However, if a family vacates the unit without informing the COPHD, 30 days-notice will not be given. In these cases, the notice to terminate will be sent and effective at the time the COPHD learns the family has vacated the unit. The notice of termination will state:

- Specific reasons for the termination
- Effective date of the termination
- Family’s right to request an informal hearing
- Family’s responsibility to pay the full rent to the owner if it remains in the assisted unit after the termination effective date



- Copy of criminal record (if the criminal record is the basis of the termination).
- Protection Rights under the Violence Against Women’s Act

When a family requests to be terminated from the program they must do so in writing to the COPHD. The COPHD will then send a confirmation notice to the family and the owner within 15 days of the family’s request, but no later than the termination effective date (as requested by the family).

### 17.7 Removal of a Family Member from the Application

Link: [24 CFR 982.552\(c\)\(2\)\(ii\)](#)

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

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

### 17.8 Reasonable Accommodation Related to Denials or Terminations

Link: [24 CFR 982.552\(2\)\(iv\)](#)

COPHD’s decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation.

When applicants with disabilities are denied assistance, the notice of denial must inform them of COPHD’s informal review process and their right to request a review. In addition, the notice will inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal review process. If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, COPHD will determine whether the behavior is related to the disability. If so, upon the family’s request, COPHD will determine whether alternative measures are appropriate as a reasonable accommodation. COPHD will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of assistance.

### 17.9 Repayment Agreements

Link [PIH Notice 2018-18](#)

If a family owes amounts to the COPHD, as a condition of continued occupancy, the COPHD may require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the COPHD of the amount owed. The family will have the option to repay the amount owed as follows:

- In a lump-sum payment; or
- Monthly installment; or
- A combination lump-sum payment and monthly installments

Any repayment agreement between the COPHD and a family must be signed and dated by the





COPHD and by the head of household and spouse/co-head (if applicable). If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the COPHD will terminate the family's tenancy and utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil law suit
- State income tax set-off program

The repayment agreement will include the total amount owed, amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. The amount of the monthly repayment together with the family's TTP will not exceed 40% of the family's adjusted monthly income. The amount of the monthly repayment will be adjusted as adjustments are made to the family's TTP. The COPHD repayment agreements will not exceed a term of 24 months.

The COPHD generally will not enter into a repayment agreement with a family if:

- There is already a repayment agreement in place with the family
- If the COPHD determines that the family committed program fraud
- If the amount of the monthly payments together with the family's TTP exceeds 40% of the family's adjusted monthly income.
- If the amount is greater than \$5,000, or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

COPHD may at any time not enter into a repayment agreement and instead terminate the family's tenancy and pursue alternative collection methods. If the family's assistance is terminated and repayment has not been made, the money will still be considered to be owed and may be reported in HUD's EIV system as a debt owed. COPHD may take such action, as necessary, to collect the amounts owed.

#### *Owner Debt to the COPHD*

If the COPHD determines that the owner has retained housing assistance or claims payments the owner is not entitled to, the COPHD may reclaim the amounts from future housing assistance or claim payments owed by the owner for any units under contract.

If future housing assistance or claim payments are insufficient to reclaim the amounts owed, the COPHD may require the owner to pay the amount in full within 30 days or restrict the owner from future participation.

## CHAPTER 18: Informal Reviews and Informal Hearings

### 18.1 Complaints

The COPHD will respond promptly to complaints from families, owners, employees and members of the public. The COPHD requires that all complaints be put in writing using the Section 8 form “complaints”. This form will be available on the COPHD website at [www.phoenix.gov/housing](http://www.phoenix.gov/housing).

Categories of Complaints are as follows:

- Complaints from families: If a family disagrees with an action or inaction of the COPHD or owner.
- Complaints from owners: If an owner disagrees with an action or inaction of the COPHD or family.
- Complaints from staff: If a staff person reports an owner or family either violating or not complying with program rules.
- Complaints from the general public: Complaints or referrals from persons in the community in regard to the COPHD, a family or an owner.

### 18.2 Informal Review Policy

Links: [24 CFR 982.554](#);

COPHD provides a copy of the Informal Review and Hearing procedures in the family briefing packet. When possible and allowed by regulation/law, COPHD may conduct administrative reviews of informal hearing/review requests and provide alternate resolutions at its discretion before proceeding with the family’s request for a review or hearing.

An applicant may request an informal review of the COPHD’s decision to deny the applicant’s participation in the Housing Choice Voucher Program. Reviews are provided for applicants who are denied assistance before the effective date of the HAP Contract. The exception is that when an applicant is denied assistance for citizen or eligible immigrant status, the applicant is entitled to an informal hearing.

An applicant may request an informal review if the applicant:

- Is denied listing on the waiting list or for a preference
- Is denied a voucher
- Is denied participation in the Program including portability

Informal reviews will not be granted to applicants who dispute:

- The unit size (number of bedrooms) stated on the voucher.
- A determination that a unit does not comply with Housing Quality Standards including space requirements.
- A determination that a proposed lease is unacceptable.
- A decision to not approve a request for an extension of the term of the voucher.
- General policy issues, class grievances, or discretionary administrative determinations.

When the COPHD determines that an applicant is ineligible for the program COPHD will notify the applicant of their ineligibility in writing. The notice will contain:

- Reason(s) the family is ineligible
- Procedure for requesting a review if the applicant does not agree with the decision
- Time limit for requesting a review: The applicant must submit the written request for an informal review within 15 business days of the date of the denial notice.
- If the request is not submitted timely, it will mean that the applicant waived his/her right to request an informal review.

The informal review will be conducted by a person or panel including other than the one who made the decision under review or a subordinate of this person. The applicant will be provided an opportunity to present written or oral objections to the decision of the COPHD. The review decision will be based only on evidence presented at the review by both parties. Evidence presented after the review will not be considered. Extensions for evidence will not be granted.

The person or panel conducting the informal review will make a recommendation to the COPHD, but the COPHD Program Director is responsible for making the final decision as to whether admission should be granted or denied. If the informal review decision overturns the denial, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

### 18.3 Informal Hearing Policy

Link: [24 CFR 982.555](#)

Informal hearings may be requested for the following reasons:

- Determination of the amount of the total tenant payment or tenant rent
- Determination of hardship regarding minimum rent
- Decision to terminate assistance
- Decision to deny a family move
- Appropriate utility allowance used from schedule
- Family unit size under COPHD subsidy standards
- Termination of a family's FSS Contract, withholding supportive services, or proposing forfeiture of the family's escrow account

COPHD is not required to provide an informal hearing in the following cases:

- Discretionary administrative determinations by COPHD, or to consider general policy issues or class grievances
- Determination that the unit does not comply with COPHD's Housing Quality Standards including space requirements for family size, that the owner failed to maintain the unit in a decent, safe, and sanitary manner in accordance with the Housing Quality Standards (HQS), (including all services, maintenance, and utilities required under the lease).
- Decision to exercise any remedy against the owner under an outstanding contract,

including the termination of Housing Assistance Payments to the owner

- Decision not to approve a family's request for an extension of the term of the Voucher issued to an assisted family which wants to move to another dwelling unit with continued participation
- Establishment of COPHD schedule of utility allowances for families in the program
- Disapproval of unit or lease

When the COPHD determines that a participant should be terminated from the program, COPHD will notify the participant of their proposed termination in writing. The notice will contain:

- Reason(s) for and timing of termination
- The date the proposed action will take place
- Procedure for requesting a hearing if the participant does not agree with the decision

Time limit for requesting a hearing: The participant must submit the written request for an informal hearing within 15 business days of the date of the termination notice.

#### 18.4 Conducting Informal Hearings

The COPHD may conduct informal reviews telephonically, via video- teleconferencing, or through other virtual platforms provided that the family has not requested in-person informal hearing. Prior to scheduling a remote informal the COPHD will survey the family to determine if technology barriers exist that would limit the family's ability to participate in the hearing. If the participant does not have proper technology access, then the remote hearing will either be postponed until the COPHD can resolve the access issue(s), or an in-person alternative will be provided.

COPHD hearings will be conducted by a single hearing officer or a panel. The COPHD will appoint a person or panel who has/have been selected in the manner required under the hearing's procedure.

Hearings may be attended by the following applicable persons:

- A COPHD representative(s)
- Any witnesses for the COPHD
- The participant
- Any witnesses for the participant
- The participant's counsel or other representative
- If the participant is bringing legal counsel to the informal hearing, the participant must notify COPHD at least 24 hours in advance of the hearing
- Any other person approved by the COPHD will be as a reasonable accommodation for a person with a disability.

#### *Hearing Decision*

In rendering a decision, the hearing officer/panel will consider the following matters:

- COPHD Notice to the Family

- COPHD Evidence to Support the COPHD Decision
- Participant Presented Evidence
- Validity of Grounds for Program Termination
- 

#### *Rights of the Applicant/Participant and COPHD*

The applicant/participant must appear in person at the review/hearing and may be represented by an attorney, or other representative, at his/her own expense. If the family is being represented by an attorney, the family must notify COPHD of such 24 hours in advance of the review/hearing.

- The applicant/family and COPHD have the right to present evidence, both oral and written.
- The applicant/family and COPHD have the right to question any witnesses, and the right to state his/her case prior to the hearing officer's decision.
- The applicant/family has the right to arrange for an interpreter to attend the review/hearing, at is/her own expense.
- The applicant/family has the right to seek redress directly through judicial procedures of the court.
- COPHD has the right to make final submissions.

The applicant/family and COPHD have the right to review any documents directly relevant to the review/hearing. Review of documents will take place at the COPHD office. Copying of any documents will be at the expense of the requesting party at .25 per copy. If the applicant/family or COPHD does not make the document available for examination on the request of the other party, that document may not be relied on during the review/hearing.

#### *Review/Hearing Process*

The review/hearing will follow the following guidelines:

- The review will be conducted by any person or persons designated by COPHD, other than a person who made or approved the decision under review or a subordinate of this person.
- All COPHD Denial and Termination notices will advise the applicant/family of his/her right to a review/hearing and the process to request a review/hearing.
- The applicant/family must request the informal review/hearing in writing within the required time frame (15 business days after receipt of notice from the COPHD).
- COPHD will schedule the hearing within a reasonable timeframe, preferably before the effective termination date. If the hearing cannot be scheduled before the effective termination date, the effective termination date may be extended, based solely on the reason for the delay and at the sole discretion of COPHD.
- The notification of hearing will contain:
  - Date and time of the hearing
  - Location where the hearing will be held
  - Family's right to bring evidence, witnesses, legal or other representation at the
  - Right to view any documents or evidence in the possession of COPHD and upon which COPHD based the proposed action and, at the family's expense, to obtain a

copy (at\$.25 per copy) of such documents prior to the hearing. Requests for such documents or evidence must be received no later than five business days before the hearing date.

- If a family does not appear at a scheduled review/hearing and has not rescheduled the hearing in advance, the hearing officer will assume the family is no longer interested in the program and will uphold the denial/termination.
- The applicant/family will be given an opportunity to present written or oral objections to COPHD's decision. If the family is presenting written documentation, a copy of the documentation will be made at the time it is presented at the hearing, for the participant file.
- COPHD will notify the applicant/family of the COPHD final decision after the informal review/hearing, including a brief statement of the reasons for the final decision.
- The Notice will contain the following information:
  - Applicant/family name
  - Applicant/family address
  - Date
  - Date and time of review/hearing
  - Names of everyone in attendance at review/hearing
  - Final decision
  - Brief statement of the reason(s) for the final decision
  - HUD regulation for the denial/termination (if upholding the denial/termination)
  - Effective date of denial/termination (if applicable)
- A hearing decision letter will also be sent to the owner, stating whether the termination was upheld or overturned. The notice to the owner will contain the following information:
  - Family name
  - Unit address
  - Effective date of termination or
  - Effective date of re-instatement
- All requests for review, supporting documentation, and a copy of the final decision will be filed in the family's file.

#### *Decisions Not Binding to COPHD*

COPHD is not bound by a review/hearing decision on the following matters:

- A matter for which COPHD is not required to provide an opportunity for an informal review/hearing or otherwise in excess of the COPHD of the person conducting the review/hearing.
- A decision given contrary to HUD regulations, requirements, or otherwise contrary to Federal, State or Local law.

In the event that a review/hearing decision is not binding to COPHD, the Managing Director or his/her designee will send a notice to all parties attending the review/hearing that the decision is null and void. The notice will set a date and time for a new hearing with a different hearing

officer.

#### *Hearing Provisions for Restrictions on Assistance to Non-Citizens*

Assistance to the family will not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision of the USCIS appeal.

Assistance to a family will not be terminated or denied while the COPHD hearing is pending; however assistance to an applicant may be delayed pending the COPHD hearing.

#### 18.5 USCIS Determination of Ineligibility

If a family member claims to be an eligible immigrant, and the USCIS SAVE system and manual search do not verify the claim, COPHD will notify the applicant/family within ten calendar days of their right to appeal to the USCIS within thirty calendar days or to request an informal hearing with COPHD either in lieu of or subsequent to the USCIS appeal.

If the family appeals to the USCIS, they must give COPHD a copy of the appeal and proof of mailing, or COPHD may proceed to deny or terminate. The time period to request an appeal may be extended by COPHD for good cause. Good cause includes medical emergency, employment emergency, family emergency, etc. The emergency must be documented in writing (doctor's statement, employer statement, independent agency statement, etc.)

The request for a COPHD hearing must be made within 15 business days of receipt of the notice offering the hearing or, if an appeal was made to the USCIS, within 15 business days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in this Plan for both applicants and families. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members the COPHD will:

- Deny the applicant family.
- Terminate the family if the family does not qualify for deferral.

If there are eligible members in the family, the COPHD will offer to prorate assistance or give the family the option to remove the ineligible members.

If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied or terminated for failure to provide.

Families whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights describes above) are entitled to a hearing based on the right to a hearing regarding determinations of Total Participant Payment.

Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

COPHD's informal review and informal hearing procedures are stated in the COPHD HCV Informal Review and Hearing Procedure.

## CHAPTER 19: Program Integrity

Link: [24 CFR 982.552\(c\)\(iv\); 24 CFR 985](#)

The COPHD anticipates that the majority of families and COPHD employees intend to and will comply with program requirements and make reasonable efforts to avoid errors. To ensure that the COPHD's program is administered effectively and according to the highest ethical and legal standards, the COPHD will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The COPHD will:

- Provide each applicant and participant with a copy of "Is Fraud Worth It?"
- Provide each applicant and participant with a copy of "What You Should Know about EIV", and require receipt confirmation.
- Review and explain the contents of all HUD and COPHD required forms prior to requesting family member signatures.
- Place a warning statement about the penalties for fraud on key COPHD forms and letters that request information from a family member.
- Provide each COPHD employee with the necessary training on program rules and the organization's standards of conduct and ethics.

### 19.1 Detecting Errors and Program Abuse

The COPHD will employ a variety of methods to detect errors and program abuse, including:

- Using the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the COPHD's error detection and abuse prevention efforts.
- Encouraging staff, participants, and the public to report possible program abuse.
- Reviewing all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation.
- Investigating inconsistent information related to the family that is identified through file reviews and the verification process.

For each investigation the COPHD will determine:

- Whether an error or program abuse has occurred.
- Whether any amount of money is owed the COPHD.
- What corrective measures or penalties will be assessed.

### 19.2 Consideration of Remedies

All errors and instances of program abuse will be corrected prospectively. Whether the COPHD will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

In the case of family-caused errors or program abuse, the COPHD will take into consideration:

- The seriousness of the offense and the extent of participation or culpability of individual family members.
- Any special circumstances surrounding the case.



- Any mitigating circumstances related to the disability of a family member.
- The effects of a particular remedy on family members who were not involved in the offense.

### 19.3 Notice and Effective Dates

The COPHD will inform the relevant party in writing of its findings and remedies within 15 business days of the conclusion of the investigation.

The notice will include:

- A description of the error or program abuse,
- The basis on which the COPHD determined the error or program abuses,
- The remedies to be employed, and
- The family's right to appeal the results through an informal review or informal hearing.

Increases in the participant rent will be implemented retro-actively to the date of the un-reported increase. The participant may or may not be offered a repayment agreement, based on the seriousness and length of the unreported income.

Any decreases in participant rent will become effective the first of the month following the discovery or retro-actively if due to COPHD error.

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. The COPHD may offer the family a repayment agreement. If the family fails to repay the amount owed, the COPHD will terminate the family's lease.

The COPHD will reimburse a family for any family overpayment of rent.

#### *Placement of Documents, Evidence and Statements Obtained by the COPHD*

Documents and other evidence obtained by the COPHD during the course of an investigation will be considered "work product" and will either be kept in the participant's file or in a separate "work file." In either case, the participant's file or work file shall be kept in a locked file cabinet. Such cases under review will not be discussed among COPHD staff unless they are involved in the process or have information that may assist in the investigation.

### 19.4 Family Prohibited Actions

Any of the following will be considered evidence of family program abuse:

- Offering bribes or illegal gratuities to the COPHD Board of Commissioners, employees, contractors, or other COPHD representatives
- Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to the COPHD on the family's behalf
- Use of a false name or the use of falsified, forged, or altered documents
- Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition)
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income)
- Admission of program abuse by an adult family member
- The COPHD may determine other actions to be program abuse based upon a preponderance of the evidence.

## 19.5 COPHD Prohibited Activities

Any of the following will be considered evidence of program abuse by COPHD staff:

- Failing to comply with any HCV program requirements for personal gain
- Failing to comply with any HCV program requirements as a result of a conflict-of-interest relationship with any applicant or participant
- Seeking or accepting anything of material value from applicants, participants, owners, vendors, contractors, or other persons who provide services or materials to the COPHD
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of COPHD activities, policies, or practices
- Misappropriating or misusing HCV funds
- Destroying, concealing, removing, or inappropriately using any records related to the HCV program
- Committing any other corrupt or criminal act in connection with any federal housing program

When the COPHD determines that program abuse by a family or COPHD staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, the COPHD will refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

## 19.6 Owner Prohibited Activities

Link: [Title 18 U.S.C. Section 1001](#)

An owner participating in the HCV program must not:

- Make any false statement to the COPHD.
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

Any of the following will be considered evidence of owner program abuse:

- Charging the family rent above or below the amount specified by the COPHD;
- Charging a security deposit other than that specified in the family's lease;
- Charging the family for services that are provided to unassisted tenants at no extra charge;
- Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit;
- Knowingly accepting incorrect or excess housing assistance payments;
- Offering bribes or illegal gratuities to the COPHD Board of Commissioners, employees, contractors, or other COPHD representatives;
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the COPHD; or
- Residing in the unit with an assisted family.

### *Owner Remedies and Penalties*

In the case of owner-caused errors or program abuse, the COPHD will take into consideration (1) the seriousness of the offense; (2) the length of time since the violation has occurred; and (3) the effects of a particular remedy on family members who were not involved in the offense.

When the COPHD determines that the owner has committed program abuse, the COPHD may take any of the following actions:

- Terminate the HAP contract.
- Bar the owner from future participation in any COPHD programs.
- Refer the case to state or federal officials including the HUD Office of Inspector General (HUD- OIG for criminal prosecution.
- Require the owner to repay excess housing assistance payments.

COPHD may recover overpaid amounts by withholding housing assistance payments due for subsequent months. If the debt is large, the COPHD A may allow the owner to pay in installments over a period of time.

### *Corrections to Subsidy Payments*

When an incorrect subsidy is identified as a result of an error, program fraud, misrepresentation or abuse, COPHD will promptly correct the subsidy under- or overpayment. A subsidy under- or overpayment includes:

- An incorrect housing assistance payment to the owner;
- An incorrect family share established for the family; and
- An incorrect utility reimbursement to a family.

Families and owners will be notified of corrective actions and penalties, if any. Increases in the family share will be implemented only after the family has received 30 days advanced notice. Any decreases in family share will become effective the first of the month following the discovery of the error. The family will not be reimbursed when the family caused the underpayment.

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by COPHD staff.

When efforts to collect monies owed to the COPHD (as described in the Family or Owner Remedies sections of this Plan) are unsuccessful, COPHD may also pursue collection through credit bureaus, small claims court, civil lawsuit, state income tax set-off program or other debt recovery solutions.