



Housing Choice Voucher Administrative Plan

Updated May 2015

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Chapter 1

STATEMENT OF POLICIES AND OBJECTIVES

INTRODUCTION

The Section 8 Program was enacted as part of the Housing and Community Development Act of 1974, which recodified the U.S. Housing Act of 1937. The Act has been amended from time to time, and its requirements, as they apply to the Section 8 Tenant-Based Assistance Program, is described in and implemented throughout this Administrative Plan. The Section 8 tenant-based assistance programs are federally funded and administered for the City of St. Petersburg by the Housing Authority of the City of St. Petersburg through its Section 8 Housing Choice Voucher housing office.

As a result of the Quality Housing and Work Responsibility Act of 1998 (QHWRA), the Rental Certificate and Rental Voucher Programs were phased out by the middle of year 2001. This plan includes the policies of the St. Petersburg Housing Authority (SPHA) for the Housing Choice Voucher Program.

Administration of the Section 8 Program and the functions and responsibilities of the Housing Authority (PHA) staff shall be in compliance with the PHA's Personnel Policy and the Department of Housing and Urban Development's (HUD) Section 8 Housing Choice Voucher Regulations as well as all Federal, State and local Fair Housing Laws and Regulations.

Jurisdiction

The jurisdiction of the PHA is City of St. Petersburg, and ten (10) miles outside of the city limits.

A. HOUSING AUTHORITY MISSION STATEMENT

The mission of the Housing Authority is to provide a variety of safe, sanitary, accessible, decent and affordable housing to the citizens of the City of St. Petersburg, while enhancing and promoting self-sufficiency.

B. LOCAL GOALS [24 CFR 982.1]

The Section 8 Housing Choice Voucher program is designed to achieve four major objectives:

1. To provide decent, safe, and sanitary housing for low and very low income families while maintaining rent payments at an affordable level.
2. To ensure that all units meet Housing Quality Standards and families pay fair and reasonable rents.
3. To promote fair housing and the opportunity for low and very low income families of all ethnic backgrounds to experience freedom of housing choice.

4. To promote a housing program which maintains quality service and integrity while providing an incentive to private property owners to rent to low and very low income families.

In addition, the SPHA has the following goals for the program:

1. To create positive public awareness and expand the level of family, owner and community support in accomplishing the Housing Authority's mission.
2. To attain and maintain a high level of standards and professionalism in the day to day management of all program components.
3. To assist the local economy by increasing the occupancy rate and the amount of money flowing into the community.

C. PURPOSE OF THE PLAN [24 CFR 982.54]

The purpose of the Administrative Plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in the Agency Plan. The Plan covers both admission to and participation in the Voucher Program.

SPHA is responsible for complying with all changes in HUD regulations pertaining to these programs. If such changes conflict with this Plan, HUD regulations will have precedence. The SPHA will revise this Administrative Plan as needed to comply with changes in HUD regulations. All issues related to Section 8 not addressed in this document are governed by such Federal regulations, HUD Memos, Notices and guidelines, or other applicable law. The original Plan and any changes must be approved by the Board of Commissioners of the agency, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

This Administrative Plan is a supporting document to the SPHA Agency Plan, and is available for public review as required by CFR 24 Part 903.

Applicable regulations include:

24 CFR Part 5: General Program Requirements

24 CFR Part 8: Nondiscrimination

24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program

D. ADMINISTRATIVE FEE RESERVE [24 CFR 982.54(d)(21)]

SPHA will maintain Section 8 administrative fee reserves by crediting earned administrative fees that exceed expenditures for program administration during the fiscal year to the reserve account.

SPHA will deny authorization for expenditures for non-allowable costs as defined by HUD.

E. FAIR HOUSING POLICY [24 CFR 982.54(d)(6)]

It is the policy of SPHA to comply fully with all Federal, State, and local nondiscrimination laws and with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment.

SPHA shall not deny any family or individual the equal opportunity to apply for or receive assistance under the Section 8 Programs on the basis of race, color, sex, religion, creed, national or ethnic origin, age, familial or marital status, handicap or disability or sexual orientation.

To further its commitment to full compliance with applicable Civil Rights laws, SPHA will provide Federal/State/local information to Voucher holders regarding unlawful discrimination and any recourse available to families who believe they are victims of a discriminatory act. Such information will be made available during the family briefing session, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made a part of the Voucher holder's briefing packet.

Except as otherwise provided in 24 CFR 8.21(c)(1), 8.24(a), 8.25, and 8.31, no individual with disabilities shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination because SPHA's facilities are inaccessible to or unusable by persons with disabilities. Posters and housing information are displayed in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair.

Under 24 CFR 5.2005(c)(2), criminal activity directly related to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of tenancy, occupancy rights, or assistance of the victim, if the tenant or immediate family member of the tenant is the victim.

SPHA'S office is accessible to persons with disabilities. Accessibility for the hearing impaired is provided by an available TTD/TDY service.

F. REASONABLE ACCOMMODATIONS POLICY [24 CFR 100.202]

It is the policy of SPHA to be service-directed in the administration of our housing programs, and to exercise and demonstrate a high level of professionalism while providing housing services to families.

A Section 8 participant with a disability must first ask for a specific change to a policy or practice as an accommodation of their disability before SPHA will treat a person differently than anyone else. SPHA's policies and practices will be designed to provide assurances that persons with disabilities will be given reasonable accommodations, upon request, so that they may fully access and utilize the housing program and related services.

This policy is intended to afford persons with disabilities an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as those who do not

have disabilities and is applicable to all situations described in this Administrative Plan including when a family initiates contact with SPHA, when SPHA initiates contact with a family including when a family applies, and when SPHA schedules or reschedules appointments of any kind.

Requests for reasonable accommodations from persons with disabilities will be granted at the expense of SPHA upon verification that they meet the need presented by the disability, and they do not create an undue administrative or financial burden.

Reasonable accommodation will be made for persons with a disability that requires an advocate or accessible offices. A designee will be allowed to provide some information, but only with the permission of the person with the disability.

In accordance with Notice PIH 2014-03 (HA) Temporary Compliance Assistance and approved for implementation by the SPHA Board, the SPHA may approve a payment standard for no more than 120% of the Fair Market Rent if required as a reasonable accommodation for a family that includes a person with disability. This provision expires March 31, 2014 unless extended by HUD.

Applying for Admission

All persons who wish to apply for any of SPHA's programs must submit a pre-application, as indicated in our public notice. Applications will be made available in an accessible format upon request from a person with a disability.

To provide specific accommodation to persons with disabilities, upon request, the information may be mailed to the applicant and, if requested, it will be mailed in an accessible format.

The full application is completed at the eligibility appointment in the applicant's own handwriting, unless assistance is needed, or a request for accommodation is requested by a person with a disability. Applicants will then be interviewed by PHA staff to review the information on the full application form. Verification of disability as it relates to 504, Fair Housing, or ADA reasonable accommodation will be requested at this time. The full application will also include questions asking all applications whether reasonable accommodations are necessary.

G. TRANSLATION OF DOCUMENTS

In determining whether it is feasible to provide translation of documents written in English into other languages, SPHA will consider the following factors:

- Number of applicants and participants in the jurisdiction who do not speak English and speak the other language.
- Estimated cost to SPHA per client of translation of English written documents into the other language.

- Evaluation of the need for translation by SPHA’s bilingual staff and by agencies that work with the non-English speaking clients.
- The availability of local organizations to provide translation services to non English speaking families.
- Availability of bilingual staff to provide translation for non-English speaking families.
- Violence Against Women Act (VAWA) – The goal of SPHA is to fully comply with the VAWA law. It is our objective to work with applicants or residents who certify under VAWA to ensure that they are aware of their rights under VAWA. Information regarding VAWA will be displayed in a public place in the Section 8 office.

H. MANAGEMENT ASSESSMENT OBJECTIVES

SPHA operates its housing assistance program with efficiency and can demonstrate to HUD auditors that SPHA is using its resources in a manner that reflects its commitment to quality and service. SPHA policies and practices are consistent with the areas of measurement for the following HUD SEMAP indicators.

1. Selection from the Waiting List
 2. Reasonable Rent
 3. Determination of Adjusted Income
 4. Utility Allowance Schedule
 5. HQS Quality Control Inspections
 6. HQS Enforcement
 7. Expanding Housing Opportunities
 8. Payment Standards
 9. Annual Re-examinations
 10. Correct Tenant Rent Calculations
 11. Pre-Contract HQS Inspections
 12. Annual HQS Inspections
 13. Lease-up
 14. Family Self-Sufficiency Enrollment and Escrow Account Balances (if applicable)
- Bonus Indicator: Deconcentration

Supervisory quality control reviews will be performed by an SPHA Supervisor or other qualified person other than the person who performed the work, as required by HUD, on the following SEMAP factors:

- Selection from the waiting list
- Rent reasonableness
- Determination of adjusted income
- HQS Enforcement

- HQS Quality Control

The annual sample of files and records will be drawn in an unbiased manner, leaving a clear audit trail.

The minimum sample size to be reviewed will relate directly to each factor.

I. TERMINOLOGY

The Housing Authority of the City of St. Petersburg is referred to as “SPHA” or “*Housing Authority*” throughout this document.

“*Family*” is used interchangeably with “*Applicant*” or “*Participant*” and can refer to a single person family.

“*Tenant*” is used to refer to participants in terms of their relation to landlords.

“*Landlord*” and “*owner*” are used interchangeably.

“*Disability*” is used where “*handicap*” was formerly used.

“*Non-citizens Rule*” refers to the regulation effective June 19, 1995 restricting assistance to U.S. citizens and eligible immigrants.

The Section 8 program is also known as the Housing Choice Voucher Program.

“*HQS*” means the Housing Quality Standards required by regulations as enhanced by the SPHA.

“*Failure to Provide*” refers to all requirements in the first Family Obligation. See “*Denial or Termination of Assistance*” chapter.

“*Merger date*” refers to October 1, 1999, which is the effective date of the merging of the Section 8 Certificate and Voucher programs into the Housing Choice Voucher Program.

See Glossary for other terminology.

J. PRIVACY RIGHTS [24 CFR 982.551 and 24 CFR 5.212]

Applicants and participants, including all adults in their households, are required to sign the HUD 9886 Authorization for Release of Information. This document incorporates the Federal Privacy Act Statement and describes the conditions under which HUD/SPHA will release family information.

SPHA's policy regarding release of information is in accordance with State and local laws which may restrict the release of family information.

SPHA's practices and procedures are designed to safeguard the privacy of applicants and program participants. All applicant and participant files will be stored in a secure location which is only accessible by authorized staff.

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

K. FAMILY OUTREACH

SPHA will publicize and disseminate information to make known the availability of housing assistance and related services for very low income families on a regular basis. When SPHA's waiting list is open, SPHA will publicize the availability and nature of housing assistance for very low income families in a newspaper of general circulation, minority media, and by other suitable means.

SPHA will communicate the status of housing availability to other service providers in the community, and advise them of housing eligibility factors and guidelines in order that they can make proper referrals for housing assistance.

L. OWNER OUTREACH [24 CFR 982.54(d)(5)]

SPHA makes a concerted effort to keep private owners informed of legislative changes in the tenant-based program, which are designed to make the program more attractive to owners. This includes informing participant owners of applicable legislative changes in program requirements.

SPHA encourages owners of decent, safe and sanitary housing units to lease to Section 8 families.

SPHA encourages participation by owners of suitable units located outside areas of low poverty or minority concentration. This will allow more choices and better housing opportunities for families.

SPHA staff may initiate personal contact with private property owners and managers by conducting formal and informal discussions and meetings.

Chapter 2

ELIGIBILITY FOR ADMISSION

[24 CFR Part 5, Subparts B, D & E; Part 982, Subpart E]

INTRODUCTION

This Chapter defines both HUD and SPHA's criteria for admission and denial of admission to the program. The policy of SPHA is to strive for objectivity and consistency in applying these criteria to evaluate the eligibility of families who apply. SPHA staff will review all information provided by the family carefully and without regard to factors other than those defined in this Chapter. Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by SPHA pertaining to their eligibility.

A. ELIGIBILITY FACTORS [982.201(b)]

To be eligible for participation, an applicant must meet HUD's criteria, as well as any permissible additional criteria established by SPHA.

The HUD eligibility criteria are:

- An applicant must be a "family"
- The head of household must be at least 18 years of age or an emancipated minor
- An applicant must be within the appropriate Income Limits
- An applicant must furnish Social Security Numbers for all family members or certify if a family member does not have a Social Security Number and when they expect to have it
- An applicant must furnish declaration of Citizenship or Eligible Immigrant Status and verification where required
 - At least one member of the applicant family must be either a U.S. citizen or have eligible immigration status before SPHA may provide any financial assistance

Reasons for denial of admission are addressed in the "Denial or Termination of Assistance" chapter. These reasons for denial constitute additional admission criteria.

The Family's initial eligibility for placement on the waiting list will be made in accordance with the eligibility factors.

B. FAMILY COMPOSITION [24 CFR 982.201(c)]

The applicant must qualify as a family. A family is defined as:

1. A family with or without children, which is:

- Such a family is defined as a group of people related by blood, marriage, adoption or affinity that live together in a stable family relationship.
- Children temporarily absent from the home due to placement in foster care are considered family members.

2. An elderly family, which is:

- A family whose head, spouse, or sole member is a person who is at least sixty-two (62) years of age;
- Two or more persons who are at least sixty-two (62) years of age living together; or
- One or more persons who are at least sixty-two (62) years of age living with one or more live-in aides.

3. A near-elderly family, which is:

- A family whose head, spouse, or sole member is a person who is at least fifty (50) years of age but below the age of sixty-two (62);
- Two or more persons, who are at least fifty (50) years of age but below the age of sixty-two (62), living together; or
- Two or more persons, who are at least fifty (50) years of age but below the age of sixty-two (62), living with one or more live-in aides.

4. A disabled family, which is:

- A family whose head, spouse, or sole member is a person with disabilities;
- Two or more persons with disabilities living together; or
- One or more persons with disabilities living with one or more live-in aides.

5. A displaced family, which is:

- A family in which each member, or whose sole member, has been displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

6. *A remaining member of a tenant family*
7. *A single person who is not an elderly or displaced person, a person with disabilities, or the remaining member of a tenant family.*
8. **A Family Member, [5 USCS §§ 8701 et seq.,] when used with respect to any individual, means:**
 - (A) **The spouse of the individual; and**
 - (B) **An unmarried dependent child of the individual (other than a stillborn child), including an adopted child, stepchild or foster child (but only if the stepchild or foster child lived with the individual in a regular parent-child relationship), or recognized natural child;**
 - (i) **Who is less than 22 years of age, or**
 - (ii) **Who is 22 years of age or older and is incapable of self-support because of a mental or physical disability which existed before the child became 22 years of age.”**

All family members are subject to HUD rules regarding income and allowances.

Head of Household

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

Spouse of Head

Spouse means the husband or wife of the head.

For proper application of the Non-citizens Rule, the definition of spouse is: the marriage partner who, in order to dissolve the relationship, would have to be divorced. It includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

Co-Head

An individual in the household who is equally responsible for the lease with the Head of Household. A family may have a spouse or co-head, but not both. A co-head never qualifies as a dependent.

Live In Aide

A family may include a **live-in aide** provided that the live-in aide:

- Is determined to be essential to the care and well-being of an elderly person, a near-elderly person, or a person with a disability;

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

A live-in aide is treated differently than family members:

- Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits;
- Live-in aide is not subject to Non-Citizen Rule requirements; and
- Live-in aide will not be considered as a remaining member of the applicant or participant family.

A live-in aide may only reside in the unit with the approval of SPHA and owner. Written verification will be required from the doctor providing the particular care at each annual reexamination. The verification must specifically state that a live-in aide is essential for the daily care of the family member who is elderly, near-elderly or disabled. Live-in aide must provide proof of any certification and qualifications. Certifications and qualifications must be from an accredited institution. This certification must be verified and approved by SPHA.

In accordance with PIH 2009-22 (HA), a live-in aide is not considered a family member of the assisted family (household) and is not entitled to the HCV as the remaining member of the tenant family. Live-in aides must meet all of the elements of the definition described above. The Owner of the assisted unit cannot serve as live-in aide.

The live-in aide's family members may also reside in the unit with SPHA's and the owner's prior written approval. The presence of the live-in aide's family members must not overcrowd the unit, and a larger voucher size for the live-in aide's family will not be granted.

Relatives are not automatically excluded from being live-in aides, but they must meet all of the elements in the live-in aide definition described above.

At any time, SPHA may refuse to approve a particular person as a live-in aide or may withdraw such approval if (24 CFR 982.316):

- The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- The person commits drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to SPHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.
- The person does not qualify under the eligibility criteria described in this Plan.

Split Households Prior to Voucher Issuance

When a family on the waiting list splits into two otherwise eligible families due to divorce or legal separation, and the new families both claim the same placement on the waiting list, and there is no court determination, SPHA will make the decision taking into consideration the following factors:

- Which family member applied as head of household.
- Which family unit retains the children or any disabled or elderly members.
- Restrictions that were in place at the time the family applied.
- Role of domestic violence in the split.
- Recommendations of social service agencies or qualified professionals such as children's protective services.

Documentation of these factors is the responsibility of the applicant families. If either or both of the families do not provide the documentation, they may be denied placement on the waiting list for failure to supply information requested by SPHA.

Multiple Families in the Same Household

When families apply which consist of two families living together, (such as a mother and father, and a daughter with her own husband or children), if they apply as a family unit, they will be treated as a family unit.

Joint Custody of Children

Children who are subject to a joint custody agreement but live with one parent at least 51% of the time will be considered members of the household. "51% of the time" is defined as 183 days of the year, which do not have to run consecutively.

There will be a self-certification required of families who claim joint custody or temporary guardianship.

When both parents are on the Waiting List and both are trying to claim the child, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

C. INCOME LIMITATIONS [24 CFR 982.201(b), 982.353]

To be eligible for assistance, an applicant must be either a:

- Very low income family, as defined by the very low income limits published by HUD in the Federal Register for the St. Petersburg area; or
- Low income family in any of the following categories:
 - Low income family, as defined by the income limits published by HUD in the Federal Register for the St. Petersburg area; or
 - A low-income family that is continuously assisted under the 1937 Housing Act. An applicant is continuously assisted if the family has received assistance under any 1937 Housing Act program within 60 days of voucher issuance. Programs include any housing federally assisted under the 1937 Housing Act.
 - A low-income family physically displaced by rental rehabilitation activity under 24 CFR part 511.
 - A low-income non-purchasing family residing in a HOPE 1 or HOPE 2 project.
 - A low-income non-purchasing family residing in a project subject to a home-ownership program under 24 CFR 248.173.
 - A low-income family or moderate income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248.165.
 - A low-income family that qualifies for Voucher assistance as a non-purchasing family residing in a project subject to a resident home ownership program.

To determine if the family is income-eligible, SPHA compares the Annual Income of the family to the applicable income limit for the family's size.

Families whose Annual Income exceeds the income limit will be denied admission and offered an informal review.

D. MANDATORY SOCIAL SECURITY NUMBERS [24 CFR 5.216, 5.218]

Families are required to provide verification of Social Security Numbers for all family members prior to admission, if they have been issued a number by the Social Security Administration. This requirement also applies to persons joining the family after admission to the program.

Failure to furnish verification of social security numbers is grounds for denial or termination of assistance.

Persons who have not been issued a Social Security Number must sign a certification that they have never been issued a Social Security Number.

Persons who disclose their Social Security Number but cannot provide verification must sign a certification and provide verification within 60 days. Elderly persons must provide verification within 120 days.

E. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS [24 CFR Part 5, Subpart E]

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

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

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

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

Non-citizen students. Defined by HUD in the non-citizen regulations at 24 CFR 5.522. Not eligible for assistance.

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

F. OTHER CRITERIA FOR ADMISSIONS [24 CFR 982.552(b)]

SPHA will apply the following criteria, in addition to the HUD eligibility criteria, as grounds for denial of admission to the program:

- A family will not be admitted to the program if any member of the family has been evicted from federally assisted housing for serious violation of the lease.
- A family will be denied admission to the program if any member of the family fails to sign and submit consent forms for obtaining information required by SPHA, including Form HUD-9886.
- The family must not have violated any family obligation during a previous participation in the Section 8 program from 5 years of the date of termination.

- The SPHA will make an exception, if the family member who violated the family obligation is not a current member of the household on the application.
- The family must have paid any outstanding debt owed SPHA or another PHA as a result of prior participation in any federal housing.
- No member of the family may have been convicted for drug related or violent criminal activity within five (5) years prior to the time of eligibility determination. The five (5) year time period commences upon completion and disposition of all pending and proposed cases. SPHA will require police records for all adults in the household to determine whether any member of the family has violated any of the prohibited behaviors as referenced in Chapter 15, Section B, "One Strike."
- The applicant must not have a non-violent felonious history or repetitive criminal history that may negatively impact the residents/participants, staff, SPHA, programs, community and other such entities within the past five (5) years. The five (5) year time period commences upon completion and disposition of all pending and proposed cases.
- If any applicant deliberately misrepresents the information on which eligibility or tenant rent is established, SPHA may deny assistance and may refer the family file/record to the proper authorities for appropriate disposition.
- No family member may have committed a dangerous sex offense or be registered as a Sexual Predator/Offender.
- The applicant was clearly advised of a requirement to notify SPHA of its continued interest by a particular time and failed to do so.
- SPHA has made reasonable efforts to contact the applicant to determine if there is a continued interest, but has been unsuccessful.
- The applicant fails to respond to one SPHA written communication regarding failure to comply with application update, interview, or briefing requirements within the specified timeframe. If a letter is returned by the Post Office without a forwarding address, the applicant will be removed without further notice, and the envelope will be maintained in the file. If a letter is returned with a forwarding address, it will be re-mailed to the address indicated.

G. TENANT SCREENING [24 CFR 982.307]

SPHA will take into consideration any of the criteria for admission described in the "Denial or Termination of Assistance" chapter.

SPHA will not screen family behavior or suitability for tenancy. SPHA will not be liable or responsible to the owner or other persons for the family's behavior or the family's conduct in tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before SPHA approval of the tenancy, SPHA will inform the owner that screening and selection for tenancy is the responsibility of the owner.

The owner is responsible for screening families based on their tenancy histories, in accordance with 24 CFR 982.307(a)(3).

SPHA will advise families how to file a complaint if they have been discriminated against by an owner. SPHA will advise the family to make a Fair Housing complaint. SPHA may also report the owner to HUD (Fair Housing/Equal Opportunity) or the local Fair Housing Organization.

H. CHANGES IN ELIGIBILITY PRIOR TO EFFECTIVE DATE OF THE CONTRACT

Changes that occur during the period between issuance of a voucher and lease up may affect the family's eligibility or share of the rental payment.

I. INELIGIBLE FAMILIES

Families who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review, or an informal hearing if they were denied due to noncitizen status. See "Complaints and Appeals" chapter for additional information about reviews and hearings.

J. PROHIBITED ADMISSIONS CRITERIA [982.202(b)]

Admission to the program may not be based on where the family lives before admission to the program.

Admission to the program may not be based on:

Where a family lives prior to admission to the program.

Where the family will live with assistance under the program.

Discrimination because members of the family are unwed parents, recipients of public assistance, or children born out of wedlock.

Discrimination because a family includes children.

Whether a family decides to participate in a family self sufficiency program; or

Other reasons as listed in the "Statement of Policies and Objectives" chapter under the Fair Housing and Reasonable Accommodations sections.

Chapter 3

APPLYING FOR ADMISSION

[24 CFR 982.204]

INTRODUCTION

The policy of SPHA is to ensure that all families residing in the SPHA jurisdiction who express an interest in housing assistance are given an equal opportunity to apply, and are treated in a fair and consistent manner. This Chapter describes the policies and procedures for completing an initial application for assistance, placement and denial of placement on the waiting list, and limitations on who may apply. The primary purpose of the intake function is to gather information about the family. The SPHA will also utilize this process to provide information to the family so that an accurate and timely decision of eligibility can be made. Applicants will be placed on the waiting list in accordance with this Plan.

A. OVERVIEW OF THE APPLICATION PROCESS

The purpose of the application process is to permit SPHA to gather information and determine placement on the waiting list. The application will contain questions designed to obtain pertinent program information.

Families who wish to apply for any one of SPHA's programs must complete an application form at the time the application period is open. Applications will be available and accepted on-line at www.stpeteha.org.

Applications will be made available in an accessible format upon a Reasonable Accommodation request from a person (or authorized family member) with a disability. Applications will be mailed to interested families upon receipt of the reasonable request with receipt of a self-addressed, stamped envelope.

The application process will involve two phases. The first is the "initial" application for assistance (referred to as a pre-application). This first phase results in the family's placement on the waiting list.

The pre-application will be dated, time-stamped, and referred to SPHA's intake department where it will be ranked according to preference categories established by the SPHA and maintained until such time as it is needed for processing.

The second phase is the "final determination of eligibility" (referred to as the full application). The full application takes place when the family reaches the top of the waiting list. At this time SPHA ensures that verification of all HUD and SPHA eligibility factors are current in order to determine the family's eligibility for the issuance of a voucher.

B. OPENING/CLOSING OF APPLICATION TAKING [24 CFR 982.206, 982.54(d)(1)]

SPHA will utilize the following procedures for opening the waiting list:

When SPHA opens the waiting list, the SPHA will advertise through public notice in the LOCAL newspapers and available minority entities. Where applicable, the program(s) for which applications are being accepted will be specified.

The notice will contain:

- The dates, times, and method for the families to apply.
- The programs for which applications will be taken.
- A brief description of the program.
- Limitations, if any, on who may apply.

The notices will be made in an accessible format if requested. They will provide potential applicants with information that includes SPHA address and telephone number, how to submit an application, information on eligibility requirements, and the availability of local preferences.

Upon request from a person with a disability, additional time may be given as a Reasonable Accommodation for submission of an application after the closing deadline. This accommodation is to allow persons with disabilities the opportunity to submit an application in cases when a social service organization provides inaccurate or untimely information about the closing date.

SPHA will accept applications from eligible families unless there is good cause for not accepting the application, such as denial of assistance because of action or inaction by members of the family for the grounds stated in the "Denial or Termination of Assistance" chapter of this Administrative Plan. [24 CFR 982.206(b)(2)]

Closing the Waiting List

SPHA may stop applications if there are enough applicants to fill anticipated openings for the next 12 months. The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws.

The open period shall be long enough to achieve a waiting list adequate to cover projected turnover and new allocations over the next 12 months. SPHA will give at least 5 days notice prior to closing the list. When the period for accepting applications is over, SPHA will add the new applicants to the list by:

- Separating the new applicants into groups based on preferences and ranking applicants within each group by date and time of application.

C. "INITIAL" APPLICATION PROCEDURES [24 CFR 982.204(b)]

The SPHA will utilize a pre-application On-Line Registration form. The registration form is to be completed by the applicant.

The purpose of the preapplication is to permit SPHA to preliminarily assess family eligibility or ineligibility and to determine placement on the waiting list. The preapplication will contain at least the following information:

- Names and ages of all family members
- Sex and relationship of all members
- Street address and phone numbers
- Mailing address (if P.O. Box or other permanent address)
- Amount(s) and source(s) of income received by household members
- Information regarding disabilities (used to determine qualifications for allowances and deductions)
- Social Security Numbers
- Race/ethnicity
- Requests for specific accommodation needed to fully utilize program and services
- Citizenship status
- Student status
- Previous address
- Current landlord verification
- Name of emergency contact person and address
- Criminal background
- Non-family references

Duplicate applications, including applications from a segment of an applicant household, will not be accepted.

Ineligible families will not be placed on the waiting list.

Preapplications will not require an interview. The information on the application will not be verified until the applicant has been selected for final eligibility determination. Final eligibility will be determined when the full application process is completed and all information is verified.

If, after a review of the pre-application, the family is determined to be preliminarily eligible, the family will be notified by e-mail or in writing (or in an accessible format, upon request, as a reasonable accommodation) by mail.

If the family is determined to be ineligible based upon the information provided in the pre-application, SPHA will notify the family by e-mail or in writing (or in an accessible format, upon request, as a reasonable accommodation) by mail. The notification shall state the reason(s) for ineligibility and inform the family of its right to an Informal Review.

D. APPLICANT STATUS WHILE ON WAITING LIST [CFR 982.204]

Applicants are required to inform SPHA in writing of changes in address, family composition, and/or income. Applicants are also required to respond to requests from SPHA to update information on their application and to determine their interest in assistance. Failure to provide information or to respond to mailings within the time period prescribed in the mailed correspondence will result in the applicant being removed from the waiting list.

This written notification of preliminary eligibility will be:

- E-mailed or Mailed to the applicant by first class mail
- Distributed to the applicant in the manner requested as a specific accommodation

If the family is determined to be ineligible based on the information provided in the preapplication, the SPHA will notify the family in writing (in an accessible format upon request as a reasonable accommodation), state the reason(s), and inform them of their right to an informal review. Persons with disabilities may request to have an advocate attend the informal review as an accommodation. See "Complaints and Appeals "chapter.

E. TIME OF SELECTION [24 CFR 982.204]

Applicants will be selected from the Waiting List based on a preferences point system in as approved by the Board and then by date and time of application:

PREFERENCES and POINT SYSTEM:

- **VETERANS = Three (3) points**
 1. Awarded to Veterans who have been honorably or medically discharged from the armed forces
- **WORKING FAMILIES = Two (2) points**
 1. Employed for a minimum of 20 hours per week or enrolled in a job-training program that will result in employment upon completion of the program or provide verification of an employment offer in the jurisdiction.
- **SENIOR FAMILIES = Two (2) points**
 1. A family whose head and spouse, or sole member is a person who is at least sixty-two (62) years of age.
 2. Two or more persons who are at least sixty-two (62) years of age living together.
 3. One or more persons who are at least sixty-two (62) years of age living with one or more live-in aides.
- **DISABLED FAMILIES = Two (2) points**
 1. A family whose head, spouse, or sole member is a person with disabilities;
 2. Two or more persons with disabilities living together; or
 3. One or more persons with disabilities living with one or more live-in aides.
- **VICTIMS OF DOMESTIC VIOLENCE = One (1) point**

1. Victims of domestic violence who have completed a residential program through a state licensed domestic violence shelter and are referred to SPHA (CASA's 180 day program)

Points will be awarded for each category met by the applying family to ensure that those families in "greatest need" are served first. For example; A Veteran, who is disabled, and a victim of domestic violence would receive the highest possible score of Six (6) points.

If there is insufficient funding available to assist the family with the highest preference ranking at the top of the list, the SPHA will not admit any other applicant until funding is available for the first applicant.

SPHA will maintain information that permits proper selection from the Waiting List. The Waiting List will be organized to contain the following information for each applicant:

- Date and time of application
- If a member is a Veteran
- If the family is a Working, Senior or Disabled Family
- If a member is a victim of domestic violence who have completed a residential program through a state licensed domestic violence shelter and are referred to SPHA (CASA's 180 day program)

F. COMPLETION OF A FULL APPLICATION

All preferences claimed on the preapplication or while the family is on the waiting list will be verified:

- Upon receipt of the preliminary application and prior to placement on the waiting list

The qualification for preference must exist at the time the preference is claimed and at the time of verification.

After the preference is verified, when SPHA is ready to select applicants, applicants will be required to:

- Complete a Personal Declaration in their own handwriting, unless assistance is needed or a request for accommodation is made by a person with a disability. Applicants will then be interviewed by SPHA staff to review the information on the Personal Declaration form.
- Participate in a full application interview (briefing) with an SPHA representative, during which the applicant will be required to furnish complete and accurate information verbally as requested by the interviewer.
- The full application will be mailed or communicated as a Reasonable Accommodation as requested to a person with a disability.

Requirement to Attend Interview

SPHA utilizes the full application interview to discuss the family's circumstances in greater detail, to clarify information which has been provided by the family, and to ensure that the information is complete. The briefing is also used as a vehicle to meet the informational needs of the family by providing information about the application and verification process, as well as to advise the family of other SPHA services or programs which may be available.

All adult family members are required to attend the interview and sign the Personal Declaration form.

Exceptions may be made for students attending school out of state/for members for whom attendance would be a hardship.

If the head of household cannot attend the interview, the spouse may attend to complete the application and certify for the family. The head of household, however, will be required to attend an interview within ten (10) days to review the information and to certify by signature that all of the information is complete and accurate.

It is the applicant's responsibility to reschedule the interview if s/he misses the appointment. If the applicant does not reschedule or misses two (2) scheduled meetings, SPHA will reject the application.

Applicants who fail to appear and want to reschedule a missed appointment must make the request to reschedule, no later than 5 days from the original appointment date. The request must be made to the staff person who scheduled the appointment.

Reasonable accommodation will be made for persons with a disability who require an advocate or accessible offices. A designee will be allowed to participate in the interview process, but only with permission of the person with a disability.

If an application is denied due to failure to attend the full application interview, the applicant will be notified in writing and offered an opportunity to request an informal review. (See "Complaints and Appeals "chapter.)

All adult members must sign the HUD Form 9886, Release of Information, Personal Declaration, and all supplemental forms required by the PHA, the declarations and consents related to citizenship/immigration status and any other documents required by SPHA. Applicants will be required to sign specific verification forms for information which is not covered by the HUD form 9886. Failure to do so will be cause for denial of the application for failure to provide necessary certifications and release as required by SPHA.

G. VERIFICATION [24 CFR 982.201(e)]

Information provided by the applicant will be verified, using the verification procedures in the "Verification Procedures" chapter. Family composition, income, allowances and deductions, assets, full-time student status, eligibility and rent calculation factors, and other pertinent information will be verified. Verifications may not be more than 60 days old at the time of issuance of the Voucher.

H. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY
[24 CFR 982.201]

After the verification process is completed, SPHA will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by SPHA, and the current eligibility criteria in effect. If the family is determined to be eligible, SPHA will email or mail a notification of eligibility. A briefing will be scheduled for the issuance of a voucher and the family's orientation to the housing program.

Chapter 4

ESTABLISHING PREFERENCES AND MAINTAINING THE WAITING LIST

[24 CFR Part 5, Subpart D; 982.54(d)(1); 982.204, 982.205, 982.206]

It is SPHA's objective to ensure that families are placed in the proper order on the waiting list and selected from the waiting list for admissions using the preferences that SPHA has adopted to meet local housing needs.

By maintaining an accurate waiting list, SPHA will be able to perform the activities which ensure that an adequate pool of qualified applicants will be available so that program funds are used in a timely manner.

A. WAITING LIST [24 CFR 982.204]

The SPHA uses a single waiting list for admission to its Section 8 tenant-based assistance program.

Except for Special Admissions, applicants will be selected from SPHA's waiting list in accordance with policies and preferences and income targeting requirements defined in this Administrative Plan.

SPHA will maintain information that permits proper selection from the waiting list.

The waiting list contains the following information for each applicant listed:

- Applicant name
- Family unit size (number of bedrooms family qualifies for under SPHA subsidy standards)
- Date and time of application
- Qualification for any ranking or local preference
- Racial or ethnic designation of the head of household

B. SPECIAL ADMISSIONS [24 CFR 982.54(d)(e), 982.203]

If HUD awards SPHA program funding that is targeted for specifically named families, SPHA will admit these families under a Special Admission procedure.

Special admissions families will be admitted outside of the regular waiting list process. They are not required to be on the program waiting list. SPHA may maintain separate records of these admissions.

The following are examples of types of program funding that may be designated by HUD for families living in a specified unit:

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

C. LOCAL PREFERENCES [24 CFR 982.207]

Applicants will be selected from the Waiting List based on a preferences point system in as approved by the Board and then by date and time of application:

PREFERENCES and POINT SYSTEM:

- **VETERANS = Three (3) points**
 1. Awarded to Veterans who have served in the armed forces
- **WORKING FAMILIES = Two (2) points**
 1. Employed for a minimum of 20 hours per week or enrolled in a job-training program that will result in employment upon completion of the program or provide verification of an employment offer in the jurisdiction.
- **SENIOR FAMILIES = Two (2) points**
 1. A family whose head and spouse, or sole member is a person who is at least sixty-two (62) years of age.
 2. Two or more persons who are at least sixty-two (62) years of age living together.
 3. One or more persons who are at least sixty-two (62) years of age living with one or more live-in aides.
- **DISABLED FAMILIES = Two (2) points**
 1. A family whose head, spouse, or sole member is a person with disabilities;
 2. Two or more persons with disabilities living together; or
 3. One or more persons with disabilities living with one or more live-in aides.
- **VICTIMS OF DOMESTIC VIOLENCE = One (1) point**
- Victims of domestic violence who have completed a residential program through a state licensed domestic violence shelter and are referred to SPHA (CASA's 180 day program)

Points will be awarded for each category met by the applying family to ensure that those families in "greatest need" are served first. For example; A Veteran, who is disabled, and a victim of domestic violence would receive the highest possible score of Six (6) points.

D. INCOME TARGETING

In accordance with the Quality Housing and Work Responsibility Act of 1998, each fiscal year SPHA will reserve a minimum of seventy-five percent (75%) of its Section 8 new admissions for families whose income does not exceed thirty percent (30%) of the area median income. HUD refers to these families as “extremely low-income families.” SPHA will admit families who qualify under the Extremely Low Income limit to meet the income targeting requirement, regardless of preference.

SPHA’s income targeting requirement does not apply to low income families continuously assisted as provided for under the 1937 Housing Act.

The SPHA shall have the discretion, at least annually, to exercise the ‘fungibility’ provision of the QHWRA. This provision allows the SPHA to admit less than the minimum of 40% of its extremely low income families in a fiscal year to its public housing program to the extent that the SPHA’s admission of extremely low income families in the voucher program exceeds 75% of all admissions during the fiscal year. If exercising this option, the SPHA will follow the fungibility threshold limitations as set forth in QHWRA legislation.

SPHA will monitor admissions to the Section 8 program at the end of each quarter throughout the fiscal year. If, at the end of any quarter, extremely low-income families make up less than 75% of admissions for the fiscal year to date, SPHA will give priority to extremely low-income families (skipping over the higher income families on the Waiting List) until extremely low-income admissions again make up 75% of the admissions during the fiscal year. Once the 75% target is reached, SPHA will go back to those higher income families previously skipped.

E. TARGETED FUNDING [24 CFR 982.203]

If HUD awards special funding for certain family types, families who qualify are placed on the regular waiting list. When a specific type of funding becomes available, the waiting list is searched for the first available family meeting the targeted funding criteria.

Applicants who are admitted under target funding which are not identified as a Special Admission may be identified by codes in the automated system.

The SPHA does not have any ‘Targeted’ Programs at this time.

F. PREFERENCE AND INCOME TARGETING ELIGIBILITY [24 CFR 982.207]

Change in Circumstances

Changes in an applicant's circumstances while on the waiting list may affect the family's entitlement to a preference. Applicants are required to notify SPHA in writing when their circumstances change.

When an applicant claims an additional preference, s/he 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 are returned to the waiting list with the new preference.

If the family's verified annual income, at final eligibility determination, does not fall under the Extremely Low Income limit and the family was selected for income targeting purposes before family(ies) with a higher preference, the family will be returned to the waiting list.

Cross-Listing of Different Housing Programs and Section 8 [24 CFR 982.205(a)]

The SPHA will not merge its waiting lists for public housing and Section 8.

G. ORDER OF SELECTION [24 CFR 982.207(e)]

SPHA's method for selecting applicants from a preference category leaves a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method specified in the administrative plan.

Local Preferences

The SPHA has selected the following system to apply local preferences:

- Applications will first be ranked by date and time, and then each preference will receive an allocation of points. The more preference points an applicant has, the higher the applicant's place on the waiting list.
 - Three (3) points will be awarded to Veterans
- Two (2) points will be awarded to Working, Senior or Disabled families
- One (1) point will be awarded for victims of domestic violence who have completed a residential program through a state licensed domestic violence shelter and are referred to SPHA (CASA's 180 day program)

H. FINAL VERIFICATION OF PREFERENCES [24 CFR 982.207]

Preference information on applications will be updated as applicants are selected from the waiting list. At that time, SPHA will:

- Mail a Preference Verification letter to the applicant's last known address, requesting verification of the family's preference claim and mail third party verifications as applicable.

I. PREFERENCE DENIAL [24 CFR 982.207]

If the SPHA denies a preference, the SPHA will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for an Informal Review. If the preference denial is upheld as a result of the review, or the applicant does not request a review, the applicant will be placed on the waiting list without benefit of the preference. Applicants may exercise other rights if they believe they have been discriminated against.

If the applicant falsifies documents or makes false statements in order to qualify for any preference, they will be removed from the waiting list.

J. REMOVAL FROM WAITING LIST AND PURGING [24 CFR 982.204(c)]

The Waiting List will be purged not more than one time each year by a mailing to all applicants to ensure that the waiting list is current and accurate. The mailing will ask for confirmation of continued interest.

Any mailings to the applicant which require a response will state that failure to respond within a specified number of days will result in the applicant's name being dropped from the waiting list.

An extension of 30 days to respond will be granted, if requested and needed as a Reasonable Accommodation for a person with a disability.

If the applicant did not respond to the SPHA request for information or updates because of a family member's disability, the PHA will reinstate the applicant in the family's former position on the waiting list.

If a letter is returned by the Post Office without a forwarding address, the applicant will be removed without further notice, and the envelope and letter will be maintained in the file.

If a letter is returned with a forwarding address, it will be re-mailed to the address indicated.

If an applicant is removed from the waiting list for failure to respond, they will not be entitled to reinstatement unless a supervisor determines there were circumstances beyond the person's control.

The SPHA may allow a grace period of 30 days after completion of the purge. Applicants who respond during this grace period will be reinstated.

Chapter 5

SUBSIDY STANDARDS

[24 CFR 982.54(d) (9)]

INTRODUCTION

HUD guidelines require that PHA's establish subsidy standards for the determination of family unit size, and that such standards provide for a minimum commitment of subsidy while avoiding overcrowding. The standards used for the unit size selected by the family must be within the minimum unit size requirements of HUD's Housing Quality Standards. This Chapter explains the subsidy standards which will be used to determine the voucher size (family unit size) for various sized families when they are selected from the waiting list, as well as SPHA's procedures when a family's size changes or a family selects a unit size that is different from the Voucher.

A. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402]

The SPHA does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the Voucher. The SPHA's subsidy standards for determining voucher size shall be applied in a manner consistent with Fair Housing guidelines.

For subsidy standards, an adult is a person 18 years old or older.

All standards in this section relate to the number of bedrooms on the Voucher, not the family's actual living arrangements.

The unit size on the Voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented.

Generally, the SPHA assigns one bedroom to two people within the following guidelines:

- Separate bedrooms should be allocated for persons of the opposite sex (other than adults who have a spousal relationship and children under age 5).
- Children under the age of five (5) may share a bedroom with a parent, sibling or other household member.
- Foster children will be included in determining unit size only if they will be in the unit for more than three (3) months.
- Live-in attendants will generally be provided a separate bedroom. No additional bedrooms are provided for the attendant's family.

- Space may be provided for a child who is away at school but who lives with the family during school recesses.
- Space will not be provided for a family member, other than a spouse, who will be absent most of the time, such as a member who is away in the military.
- Adults of different generations will have separate bedrooms.
- Single person families shall be allocated one (1) bedroom.
- A single pregnant woman with no other family members must be treated as a two-person family.

GUIDELINES FOR DETERMINING VOUCHER SIZE

Voucher Size	Persons in Household	
	Minimum Number	Maximum Number
0 Bedroom	1	1
1 Bedroom	1	2
2 Bedrooms	2	4
3 Bedrooms	3	6
4 Bedrooms	4	8
5 Bedrooms	6	10
6 Bedrooms	8	12

B. EXCEPTIONS TO SUBSIDY STANDARDS [24 CFR 982.403(a) & (b)]

The SPHA shall grant exceptions from the subsidy standards if the family requests and the SPHA determines the exceptions are justified by the relationship, age, sex, health or disability of family members, or other individual circumstances.

The SPHA will grant an exception upon request as an accommodation for persons with disabilities. Circumstances may dictate a larger size than the subsidy standards permit when persons cannot share a bedroom because of a need, such as a:

- Verified medical or health reason; or
- Elderly persons or persons with disabilities who may require a live-in attendant.

Request for Exceptions to Subsidy Standards

The family may request a larger sized voucher than indicated by the SPHA’s subsidy standards. Such request must be made in writing within ten (10) days of the SPHA’s determination of

bedroom size. The request must explain the need or justification for a larger bedroom. Documentation verifying the need or justification will be required as appropriate.

The SPHA will not issue a larger voucher due to additions of family members other than by birth, adoption, marriage, or court-awarded custody.

Requests based on health related reasons must be verified by a medical professional.

SPHA Error

If the SPHA errs in the bedroom size designation, the family will be issued a Voucher of the appropriate size so the family will not be penalized.

Changes for Applicants

The voucher size is determined prior to the briefing by comparing the family composition to the SPHA subsidy standards. If an applicant requires a change in the voucher size, based on the requirements of the SPHA subsidy standards, the above-referenced guidelines will apply.

Changes for Participants

The members of the family residing in the unit must be approved by the SPHA. The family must obtain prior approval from the SPHA **and** the property owner/manager of any additional family member before the new member occupies the unit (*Resolution #2248*). Only family members that meet the criterion set forth in this plan (*Chapter 2, B.*) shall be approved for an addition to the family composition. Additions to the family by birth, adoption, or court-awarded custody, must be reported to the SPHA within ten (10) days.

Underhoused Families

If a unit does not meet HQS space standards due to an increase in family size, (unit too small), the SPHA will issue a new voucher of the appropriate size.

The SPHA will also notify the family of the circumstances under which an exception will be granted, such as:

- If a family with a disability is underhoused in an accessible unit.
- If a family requires the additional bedroom because of a health problem which has been verified by the SPHA.
- The SPHA and family have been unable to locate a unit within sixty (60) days.

C. UNIT SIZE SELECTED [24 CFR 982.402(c)]

The family may select a different size dwelling unit than that listed on the Voucher. There are three criteria to consider:

Rent Limitation: The SPHA uses the Payment Standard for the voucher size or the unit size selected by the family, whichever is less.

Utility Allowance: The utility allowance used to calculate the gross rent is based on the actual size of the unit the family selects, regardless of the size authorized on the family's Voucher.

Housing Quality Standards: The standards allow two persons per living/sleeping room and permit maximum occupancy levels (assuming a living room is used as a living/sleeping area) as shown in the table below. The levels may be exceeded if a room in addition to bedrooms and living room is used for sleeping.

***HQS GUIDELINES FOR UNIT SIZE SELECTED**

Unit Size	Maximum Number in Household
0 Bedroom	1
1 Bedroom	4
2 Bedrooms	6
3 Bedrooms	8
4 Bedrooms	10
5 Bedrooms	12
6 Bedrooms	14

Chapter 6

FACTORS RELATED TO TOTAL TENANT PAYMENT AND FAMILY SHARE DETERMINATION

[24 CFR Part 5, Subparts E and F; 982.153, 982.551]

INTRODUCTION

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

This Chapter defines the allowable expenses and deductions to be subtracted from Annual Income and how the presence or absence of household members may affect the Total Tenant Payment (TTP). Income and TTP are calculated in accordance with 24 CFR Part 5, Subparts E and F, and further instructions set forth in HUD Notices and Memoranda. The formula for the calculation of TTP is specific and not subject to interpretation. The SPHA's policies in this Chapter address those areas which allow the SPHA discretion to define terms and to develop standards in order to assure consistent application of the various factors that relate to the determination of TTP.

A. INCOME AND ALLOWANCES [24 CFR 5.609]

Income: Includes all monetary amounts which are received on behalf of the family. For purposes of calculating the Total Tenant Payment, HUD defines what is to be calculated and what is to be excluded in the federal regulations. In accordance with this definition, all income which is not specifically excluded in the regulations is counted.

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

Annual income includes, but is not limited to:

- a. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.
- b. The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness are not used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service

regulations. Any withdrawal of cash or assets from the operation of a business or profession is included in income, except when the withdrawal is a reimbursement of cash or assets invested in the operation by the family.

- c. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness are not used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from an investment is included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income includes the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.
- d. The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump sum amount or prospective monthly amounts for the delayed start of a periodic amount. (However, deferred periodic amounts from supplemental security income, social security benefits and veteran benefits that are received in a lump sum amount or in prospective monthly amounts are excluded.)
- e. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay. (However, lump sum additions such as insurance payments from worker's compensation are excluded.)
- f. Periodic and determinable allowances, such as alimony, child support payments, and contributions or gifts received from organizations or from persons not residing in the dwelling.
- g. All regular pay, special pay, and allowances of a member of the Armed Forces. (Special pay to a member exposed to hostile fire is excluded.)
- h. Financial aid exceeding amounts received for tuition for students under the age of 23.
- i. Any contribution or gift received every **two** months or more frequently will be considered a "regular" contribution or gift. This includes rent and utility payments made on behalf of the family and other cash or non-cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts.
- j. Regular alimony and child support payments are counted as income for calculation of Total Tenant Payment. If the amount of child support or alimony received is less than the amount awarded by the court, the SPHA will use the amount awarded by the court unless the family can verify that they are not receiving the full amount and verification of item(s) below are provided. The SPHA will accept verification that the family is receiving an amount less than

the award if SPHA receives verification from the agency responsible for enforcement or collection.

Annual income does NOT include the following:

- a. Income from employment of children (including foster children) under the age of 18 years.
- b. Income from employment of full-time students 18 years or older (excluding the head of household, spouse or co-head) in excess of \$480. A full-time student is one carrying a full time subject load as defined by the institution at an institution with a degree or certificate program.
- c. Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone).
- d. Lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses.
- e. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member.
- f. Income of a live-in aide.
- g. The full amount of student financial assistance paid directly to the student or to the educational institution for students over the age of 23 with dependent children.
- h. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
- i. The amounts received from the following programs:
 1. Amounts received under training programs funded by HUD.
 2. Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS).
 3. Amounts received by a participant in other publicly assisted programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and that are made solely to allow participation in a specific program.
 4. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the Housing Authority or owner, on a part-time basis, that enhances the

quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident initiatives coordination. No resident may receive more than one such stipend during the same period of time.

5. Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program.
6. Temporary, non-recurring or sporadic income (including gifts). Sporadic income is defined as income that is neither reliable nor periodic.
7. Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.
8. Adoption assistance payments in excess of \$480 per child.
9. For family members who enrolled in certain training programs prior to October 1, 1999, the earnings and benefits resulting from the participation if the program provides employment training and supportive services in accordance with the Family Support Act of 1988, Section 22 of the 1937 Act (42 U.S.C. 1427t), or any comparable Federal, State, or Local law during the exclusion period. For purposes of this exclusion the following definitions apply:
 - I. Comparable Federal, State or Local law means a program providing employment training and supportive services that:
 - i. Is authorized by a Federal, State or Local law;
 - ii. Is funded by the Federal, State or Local government;
 - iii. Is operated or administered by a public agency; and
 - iv. Has as its objective to assist participants in acquiring employment skills.
 - II. Earnings and benefits mean the incremental earnings and benefits resulting from a qualifying employment training program or subsequent job.
10. For persons with disabilities, the incremental earnings due to employment during a cumulative 12-month period following date of the initial hire shall be excluded (called the Earned Income Disallowance). This exclusion is only available to the following families:
 - I. Families whose income increases as a result of employment of a disabled family member who was previously unemployed (defined as working less

than ten (10) hours a week for 50 weeks at the established minimum wage) for one (1) or more years.

- II. Families whose income increases during the participation of a disabled family member in any economic self-sufficiency or other job training program.
- III. Persons with disabilities who are or were, within six months, assisted under a State TANF or Welfare-to-Work program for at least \$500.

During the second cumulative 12-month period after the date of initial hire, 50% of the increased income shall be excluded from income.

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

- 11. Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts.
- 12. Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit.
- 13. Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home.
- 14. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits. These exclusions include:
 - a. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 [7 U.S.C. 2017(b)];
 - b. Payments to Volunteers under the domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);
 - c. Payments received under the Alaska Native Claims Settlement Act [43 U.S.C. 1626(c)];
 - d. Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);
 - e. Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program [42 U.S.C. 8624(f)];

- f. Payments received under programs funded in whole or in part under the Job Training Partnership Act [29 U.S.C. 1552(b)]; effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931);
- g. Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94–540, 90 Stat. 2503–04);
- h. The first \$2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407–1408);
- i. Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under Federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);
- j. Payments received from programs funded under Title V of the Older Americans Act of 1985 [42 U.S.C. 3056(f)];
- k. Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent-product liability litigation*, M.D.L. No. 381 (E.D.N.Y.);
- l. Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);
- m. The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);
- n. Earned income tax credit (EITC) refund payments received on or after January 1, 1991 [26 U.S.C. 32(j)];
- o. Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95–433);
- p. Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 [42 U.S.C. 12637(d)];
- q. Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);

- r. Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and
- s. Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).
- t. Income payments from the U. S. Census Bureau defined as employment lasting no longer than 180 days and not culminating in permanent employment as an income exclusion.

B. ADJUSTED INCOME [24 CFR5-611]

Adjusted Income is defined as Annual Income minus any HUD allowable deductions.

HUD has five allowable deductions from Annual Income:

- *Dependent allowance*: \$480 each for family members who are minors (other than the head or spouse or co-head) and for family members who are 18 years or older and full-time students or disabled. Foster children are not considered dependents.
- *Elderly/disabled allowance*: \$400 per family whose head or spouse is 62 or older or disabled.

Allowable medical expenses: [24 CFR 5.609, 5.603]: Anticipated out-of-pocket medical expenses inclusive of transportation for medical treatments which exceed three percent (3%) of annual income for the family shall be deducted if the head, spouse or co-head of household is 62 or older, or disabled.

- *Medical Expenses [24CFR 5.609, 5.603]*: Non-prescription medicines, supplies, apparatus must be doctor-recommended (written verification required) in order to be considered an out-of-pocket medical expense. The family is required to furnish legible receipts.

If the household is eligible for a medical expense deduction, the medical expenses of all family members **may be** counted (e.g., the orthodontist expenses for a child's braces may be deducted if the household is an elderly or disabled household).

- *Reasonable Child Care Expenses*: Expenses for the care of children under 13 are deducted when child care is necessary to allow an **adult** member to work, attend school, or actively seek employment.

Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care

necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

- *Allowable Disability Assistance Expenses:* Expenses for care attendance or auxiliary apparatus which exceed 3% of annual income may be deducted when the expenses enable the individual or an **adult** family member to work.
 - If disability assistance expenses that are less than three percent (3%) of annual income, an allowance for combined disability assistance expenses and medical expenses that is generally equal to the total of these expenses, less three percent (3%) of annual income is calculated using the HUD formula included on the form 50058.

C. LUMP-SUM RECEIPTS [24 CFR 5.609]

Lump-sum additions to Family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses, are not included in income but may be included in assets.

Lump-sum payments caused by delays in processing periodic payments such as unemployment or welfare assistance are counted as income. Lump sum payments from Social Security or SSI are excluded from income, but any amount remaining will be considered an asset. Deferred periodic payments which have accumulated due to a dispute will be treated the same as periodic payments which are deferred due to delays in processing.

The SPHA will calculate prospectively if the family reported the payment within 10 days and retroactively to date of receipt if the receipt was not reported within that time frame.

Attorney Fees

The family's attorney fees may be deducted from lump-sum payments when computing annual income if the attorney's efforts have recovered a lump-sum compensation, and the recovery paid to the family does not include an additional amount in full satisfaction of the attorney fees.

D. CONTRIBUTIONS TO RETIREMENT FUNDS - ASSETS [24 CFR 5.603(d)]

Contributions to company retirement/pension funds are handled as follows:

While an individual is employed, count as assets only amounts the family can withdraw without retiring or terminating employment.

After retirement or termination of employment, count any amount the employee elects to receive as a lump sum.

E. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE
[24 CFR 5.603(d)(3)]

The SPHA must count assets disposed of for less than fair market value during the two years preceding certification or reexamination. The SPHA will count the difference between the market value and the actual payment received in calculating total assets.

Assets disposed of as a result of foreclosure or bankruptcy are not considered to be assets disposed of for less than fair market value. Assets disposed of as a result of a divorce or separation are not considered to be assets disposed of for less than fair market value.

The SPHA's minimum threshold for counting assets disposed of for less than Fair Market value is \$2,500.00. If the total value of assets disposed of within a one-year period is less than \$2,500.00, they will not be considered an asset.

F. MINIMUM RENT [24 CFR 5.616]

Minimum Rent

"Minimum rent" is \$50.00. Minimum rent refers to the Minimum Total Tenant Payment and includes the combined amount a family pays towards rent and/or utilities when it is applied.

Hardship Requests for an Exception to Minimum Rent

The SPHA recognizes that in some circumstances even the minimum rent may create a financial hardship for families. The SPHA will review all relevant circumstances brought to the SPHA's attention regarding financial hardship as it applies to the minimum rent. The following section states the SPHA's procedures and policies in regard to minimum rent financial hardship as set forth by the Quality Housing and Work Responsibility Act (QHWRA) of 1998. HUD has defined circumstances under which a hardship could be claimed. (24 CFR 5.630)

Criteria for Hardship Exception

In order for a family to qualify for a hardship exception the family's circumstances must fall under one of the following HUD hardship criteria:

1. The family has lost eligibility or is awaiting an eligibility determination for Federal, State, or local assistance, including a family with a member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act, and who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996;
2. The family would be evicted as a result of the imposition of the minimum rent requirement;

3. The income of the family has decreased because of changed circumstances, including loss of employment, death in the immediate family, or other circumstances as determined by the SPHA or HUD.

SPHA Notification to Families of Right to Hardship Exception

The SPHA will notify all families subject to minimum rents of their right to request a minimum rent hardship exception.

The SPHA staff will document in the family's file that they have been notified of their right, if applicable, to request a minimum rent hardship exception.

The SPHA notification will advise families that hardship exception determinations are subject to SPHA review and hearing procedures.

The SPHA will review all family requests for exception from the minimum rent due to financial hardships.

All requests for minimum rent hardship exceptions are required to be in writing. Requests must include a statement of the family hardship that qualifies the family for an exception. The SPHA will request documentation as proof of financial hardship.

Suspension of Minimum Rent

The SPHA will grant the minimum rent exception to all families who request it, effective the first of the following month.

The minimum rent will be suspended until the SPHA determines whether the hardship is:

Covered by statute

Temporary or long term

"Suspension" means that the SPHA must not use the minimum rent calculation until the SPHA has made this decision.

During the minimum rent suspension period, the family will not be required to pay a minimum rent and the housing assistance payment will be increased accordingly.

If the SPHA determines that the minimum rent is not covered by statute, the SPHA will impose a minimum rent including payment for minimum rent from the time of suspension.

The SPHA will use its standard verification procedures to verify circumstances which have resulted in financial hardship, such as loss of employment, death in the family, etc.

Temporary Hardship

If the SPHA determines that the hardship is temporary, a minimum rent will not be imposed for a period of up to 90 days from the date of the family's request. At the end of the temporary suspension period, a minimum rent will be imposed retroactively to the time of suspension.

The SPHA will offer a repayment agreement to the family for any such rent not paid during the temporary hardship period. (See "Owner and Family Debts to the PHA" chapter for Repayment agreement policy).

Long-Term Duration Hardships [24 CFR 5.616(c)(3)]

If the SPHA determines that there is a qualifying long-term financial hardship, the SPHA must exempt the family from the minimum rent requirements for as long as the hardship continues. The exemption from minimum rent shall apply from the first day of the month following the family's request for exemption.

G. AVERAGING INCOME

When annual income cannot be anticipated for a full twelve months, the SPHA may:

- Average known sources of income that vary to compute an annual income, or
- Annualize current income and conduct an interim reexamination if income changes.

If there are bonuses or overtime which the employer cannot anticipate for the next twelve months, bonuses and overtime received the previous year will be used.

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

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

H. MINIMUM INCOME

There is no minimum income requirement. Families who report zero income are required to undergo an interim recertification every 60 days, which may include a credit check.

Families that report zero income will be required to provide information regarding their means of basic subsistence, such as food, utilities, transportation, etc.

If the family's expenses exceed their known income, the SPHA will make inquiry of the head of household as to the nature of the family's accessible resources.

I. INCOME OF PERSON PERMANENTLY CONFINED TO NURSING HOME
[24 CFR 982.54(d)(10)]

If a family member is permanently confined to a hospital or nursing home and there is a family member left in the household, the SPHA will calculate the income by using the following methodology and use the income figure which would result in a lower payment by the family

1. Exclude the income of the person permanently confined to the nursing home and give the family no deductions for medical expenses of the confined family member; or
2. Include the income of the person permanently confined to the nursing home and give the family the medical deductions allowable on behalf of the person in the nursing home.

J. PRORATION OF ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.520]

Applicability

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

Prorated Assistance Calculation

Prorated assistance is calculated by determining the amount of assistance payable if all family members were eligible and multiplying by the percent of the family members who actually are eligible. Calculations for each housing program are performed on the HUD 50058 form.

K. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS

The SPHA will not reduce the rental contribution for families whose welfare assistance is reduced specifically because of:

- Fraud by a family member in connection with the welfare program; or
- Failure to participate in an economic self-sufficiency program; or
- Noncompliance with a work activities requirement

However, the SPHA will reduce the rental contribution if the welfare assistance reduction is a result of:

- The expiration of a lifetime time limit on receiving benefits; or
- A situation where a family member has complied with welfare agency economic self-sufficiency or work activities requirements but cannot or has not obtained employment,

such as the family member has complied with welfare program requirements, but the durational time limit, such as a cap on the length of time a family can receive benefits, causes the family to lose their welfare benefits.

Imputed welfare income is the amount of annual income not actually received by a family as a result of a specified welfare benefit reduction that is included in the family's income for rental contribution.

Imputed welfare income is not included in annual income if the family was not an assisted resident at the time of sanction.

The amount of imputed welfare income is offset by the amount of additional income a family receives that begins after the sanction was imposed.

The SPHA will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance with economic self-sufficiency or work activities requirements *before* denying the family's request for rent reduction.

L. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS
[24 CFR 982.153, 982.517]

SPHA will maintain an up-to-date utility allowance schedule and will review the utility allowance schedule annually. If the review finds a utility rate has changed by ten percent (10 %) or more since the last revision of the utility allowance schedule, the schedule will be revised to reflect the new rate. Revised utility allowances will be applied at a participant family's next re-examination.

Effective January 1, 2015, the utility allowance shall always be based on the unit size listed on the family's voucher, not the actual unit size selected.

Where the utility allowance exceeds the family's TTP, SPHA will provide a utility reimbursement payment for the family each month. The check will generally be made out to the tenant and the electric company; however, SPHA reserves the right to make utility reimbursement payments directly to a utility provider.

M. DEFINITION OF TEMPORARILY/PERMANENTLY ABSENT

The SPHA must compute all applicable income of every family member who is on the lease, including those who are temporarily absent. In addition, the SPHA must count the income of the spouse or the head of the household if that person is temporarily absent, even if that person is not on the lease.

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.

It is the responsibility of the head of household to report changes in family composition within 10 days in writing. The SPHA will evaluate absences from the unit using this policy.

Absence of Entire Family

"Absence" means that no family member is residing in the unit.

These policy guidelines address situations when the family is absent from the unit, but has not moved out of the unit. In cases where the family has moved out of the unit, the SPHA will terminate assistance in accordance with appropriate termination procedures contained in this Plan.

Families are required both to notify the SPHA before they move out of a unit and to give the SPHA information about any family absence from the unit.

Families must notify the SPHA within 10 days if they are going to be absent from the unit for more than 60 consecutive days.

If the entire family is absent from the assisted unit for more than 60 consecutive days, the unit will be considered to be vacated and the assistance will be terminated.

If it is determined that the family is absent from the unit, the SPHA will not continue assistance payments.

SPHA will terminate assistance if the entire family is absent from the unit for a period of more than 60 consecutive calendar days.

In order to determine if the family is absent from the unit, the SPHA may:

- Write letters to the family at the unit
- Telephone the family at the unit
- Interview neighbors
- Verify if utilities are in service
- Check with the post office
- Verify if utilities are in service

A person with a disability may request an extension of time as an accommodation, provided that the extension does not go beyond the HUD-allowed 180 consecutive calendar days limit.

If the absence which resulted in termination of assistance was due to a person's disability, and the SPHA can verify that the person was unable to notify the SPHA in accordance with the family's responsibilities, and if funding is available, the SPHA may reinstate the family as an accommodation if requested by the family.

Absence of Any Member

Any member of the household will be considered permanently absent if s/he is away from the unit for **60 days** except as otherwise provided in this Chapter.

Absence due to Medical Reasons

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, the SPHA will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than **180** consecutive days, the family member will not be considered permanently absent.

If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with the SPHA's "Absence of Entire Family" policy.

Absence Due to Full-time Student Status

Full time students who attend school away from the home and live with the family during school recesses may, at the family's choice, be considered either temporarily or permanently absent from the household.

If the family decides that the member is permanently absent, income of that member will not be included in total household income, the member will not be included on the lease, and the member will not be included for determination of voucher size.

Absence due to Incarceration

If the sole member is incarcerated for more than **60** consecutive days, s/he will be considered permanently absent, and assistance will be terminated. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for **60 consecutive days**.

The SPHA will determine if the reason for incarceration is for drug-related or violent criminal activity.

Absence of Children due to Placement in Foster Care

If the family includes a child or children temporarily absent from the home due to placement in foster care, the SPHA will determine from the appropriate agency when the child/children will be returned to the home.

If the time period is to be greater than 3 months from the date of removal of the child/ren, the Voucher size will be reduced. If all children are removed from the home permanently, the voucher size will be reduced in accordance with the SPHA's subsidy standards.

Caretaker for Children

If neither parent remains in the household and the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the SPHA will treat that adult as a visitor for the first **60** days.

If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, the Voucher will be transferred to the caretaker.

If the appropriate agency cannot confirm the guardianship status of the caretaker, the SPHA will review the status at **60 day** intervals.

If custody or legal guardianship has not been awarded by the court, but the action is in process, the SPHA will secure verification from social services staff or the attorney as to the status.

The caretaker will be allowed to remain in the unit, as a visitor, until a determination of custody is made.

The SPHA will transfer the voucher to the caretaker, in the absence of a court order, if the caretaker has been in the unit for more than 5 months and it is reasonable to expect that custody will be granted.

When the SPHA approves a person to reside in the unit as caretaker for the child/ren, the income should be counted pending a final disposition. The SPHA will work with the appropriate service agencies and the landlord to provide a smooth transition in these cases.

If a member of the household is subject to a court order that restricts him/her from the home for more than 4 months, the person will be considered permanently absent.

Visitors

Any adult not included on the HUD 50058 who has been in the unit more than **15** consecutive days without SPHA approval, or a total of 15 days in a 12-month period, will be considered to be living in the unit as an unauthorized household member.

Absence of evidence of any other address will be considered verification that the visitor is a member of the household.

Statements from neighbors and/or the landlord will be considered in making the determination.

Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.

The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the household and the SPHA will terminate assistance since prior approval was not requested for the addition.

Minors and college students who were part of the family but who now live away from home during the school year and are no longer on the lease may visit for up to 90 days per year without being considered a member of the household.

In a joint custody arrangement, if the minor is in the household less than 90 days per year, the minor will be considered to be an eligible visitor and not a family member.

Chapter 7

VERIFICATION PROCEDURES

[24 CFR Part 5, Subparts B, D, E and F; 24 CFR 982.158; 24 CFR 5.617]

INTRODUCTION

HUD regulations require that the factors of eligibility and Total Tenant Payment/Family Share be verified by the PHA. PHA staff will obtain written verification from independent sources whenever possible and will document tenant files whenever third party verifications are not possible as to why third party verification was impossible to obtain.

Applicants and program participants must provide true and complete information to the PHA whenever information is requested. The PHA's verification requirements are designed to maintain program integrity. This chapter explains the PHA's procedures and standards for verification of preferences, income, assets, allowable deductions, family status, and changes in family composition. The PHA will obtain proper authorization from the family before requesting information from independent sources.

A. METHODS OF VERIFICATION AND TIME ALLOWED [24 CFR 982.516]

The SPHA will verify information through the four methods of verification acceptable to HUD in the following order:

1. Up-front verification, like the Enterprise Income Verification (EIV) system
2. Third-Party Written
3. Third-Party Oral
4. Review of Documents
5. Certification/Self-Declaration

It is important to note that EIV data will only be used to verify an applicant's or resident's eligibility for participation in a rental assistance program and to determine the level of assistance the resident is entitled to receive and only by properly trained persons whose duties require access to this information. Any other use, unless approved by the HUD Headquarters EIV Security System Administrator, is specifically prohibited and will not occur.

No adverse action can be taken against a resident until the SPHA has independently verified the EIV information and the resident has been granted an opportunity to contest any adverse findings through the established grievance procedure.

Furthermore, the information the SPHA derives from the EIV system will be protected to ensure that it is utilized solely for official purposes and not disclosed in any way that would violate the privacy of the affected individuals.

Once the data has served its purpose, it shall be destroyed by either burning or shredding the data.

The SPHA will allow **two (2)** weeks for return of third-party verifications and **two (2)** weeks to obtain other types of verifications before going to the next method. The SPHA will document the file as to why third party written verification was not used.

For applicants, verifications may not be more than 60 days old at the time of Voucher issuance. **For participants, they are valid for 120 days from date of receipt.**

Third-Party Written Verification

Third-party verification is used to verify information directly with the source. Third-party written verification forms will be sent and returned via first class mail. The family will be required to sign an authorization for the information source to release the specified information.

Verifications received electronically directly from the source **are** considered third party written verifications.

Third party verification forms will not be hand carried by the family under any circumstances.

The SPHA will accept verifications in the form of computerized printouts delivered by the family from the following agencies:

- Social Security Administration
- Veterans Administration
- Welfare Assistance
- Unemployment Compensation Board
- City or County Courts

Third-Party Oral Verification

Oral third-party verification will be used when written third-party verification is delayed or not possible. When third-party oral verification is used, staff will be required to complete a Certification of Document Viewed or Person Contacted form, noting with whom they spoke, the date of the conversation, and the facts provided. If oral third party verification is not available, the SPHA will compare the information to any documents provided by the Family. If provided by telephone, the SPHA must originate the call.

Review of Documents

In the event that third-party written or oral verification is unavailable, or the information has not been verified by the third party within 2 weeks, the SPHA will annotate the file accordingly and utilize documents provided by the family as the primary source if the documents provide complete information.

All such documents, excluding government checks, will be photocopied and retained in the applicant file. In cases where documents are viewed which cannot be photocopied, staff viewing the document(s) will complete a Certification of Document Viewed or Person Contacted form or document.

The SPHA will accept the following documents from the family provided that the document is such that tampering would be easily noted:

- Printed wage stubs
- Signed computer print-outs from the employer
- Signed letters (provided that the information is confirmed by phone)
- Other documents noted in this Chapter as acceptable verification

The SPHA will accept faxed documents.

If third-party verification is received after documents have been accepted as provisional verification, and there is a discrepancy, the SPHA will utilize the third party verification, unless there is a clear omission or incomplete information. (For example, payroll check stubs may indicate regular overtime pay. If the 3rd party comes back with no overtime indicated, the SPHA will use the OT on the check stubs.)

The SPHA will not delay the processing of an application beyond 21 days because a third party information provider does not return the verification in a timely manner.

Self-Certification/Self-Declaration

When verification cannot be made by third-party verification or review of documents, families will be required to submit a self-certification.

Self-certification means **a notarized statement or affidavit under penalty of perjury.**

B. RELEASE OF INFORMATION [24 CFR 5.230]

Adult family members will be required to sign the HUD 9886 Release of Information/Privacy Act form.

In addition, family members will be required to sign specific authorization forms when information is needed that is not covered by the HUD form 9886, Authorization for Release of Information/Privacy Act Notice.

Each member requested to consent to the release of specific information will be provided with a copy of the appropriate forms for their review and signature.

Family refusal to cooperate with the HUD prescribed verification system will result in denial of admission or termination of assistance because it is a family obligation to supply any information and to sign consent forms requested by the SPHA or HUD.

C. COMPUTER MATCHING

Where allowed by HUD and/or other State or local agencies, computer matching will be done.

When computer matching results in a discrepancy with information in the SPHA records, the SPHA will follow-up with the family and verification sources to resolve this discrepancy. If the family has unreported or underreported income, the SPHA will follow the procedures in the Administrative Plan.

D. ITEMS TO BE VERIFIED [24 CFR 982.516]

All income not specifically excluded by the regulations.

Full-time student status including High School students who are 18 or older.

Current assets including assets disposed of for less than fair market value in preceding two years.

Child care expense where it allows an **adult** family member to be employed, or to actively seek work, or to further his/her education.

Total medical expenses of all family members in households whose head or spouse is elderly or disabled.

Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus for a disabled member of the family, which allow an **adult** family member to be employed.

U.S. citizenship/eligible immigrant status

Social security numbers for all family members who have been issued a social security number.

"Preference" status

Familial/Marital status when needed for head or spouse definition.

Verification of Reduction in Benefits for Noncompliance:

The SPHA will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance *before* denying the family's request for rent reduction.

E. VERIFICATION OF INCOME [24 CFR 982.516]

This section defines the methods the SPHA will use to verify various types of income.

Employment Income

Verification forms request the employer to specify the:

Dates of employment

Amount and frequency of pay

Date of the last pay increase

Likelihood of change of employment status and effective date of any known salary increase during the next 12 months

Year to date earnings

Estimated income from overtime, tips, bonus pay expected during next 12 months

Acceptable methods of verification include, in this order:

1. Up-front verification when available (EIV)
2. Employment verification form completed by the employer
3. Check stubs or earning statements, which indicate the employee's gross pay, frequency of pay or year to date earnings
4. W-2 forms plus income tax return forms
5. Self-certifications or income tax returns signed by the family may be used for verifying self-employment income, or income from tips and other gratuities

Applicants and program participants may be requested to sign an authorization for release of information from the Internal Revenue Service for further verification of income.

In cases where there are questions about the validity of information provided by the family, the SPHA will require the most recent federal income tax statements.

Where doubt regarding income exists, a referral to IRS for confirmation will be made on a case-by-case basis.

Social Security, Pensions, Supplementary Security Income (SSI), Disability Income

Acceptable methods of verification include, in this order:

1. Up-front verification (EIV)
2. Benefit verification form completed by agency providing the benefits.
3. Award or benefit notification letters prepared and signed by the providing agency.
4. Computer report electronically obtained or in hard copy.

Unemployment Compensation

Acceptable methods of verification include, in this order:

1. Up-front verification, when available
2. Verification form completed by the unemployment compensation agency.
3. Computer report electronically obtained or in hard copy, from unemployment office stating payment dates and amounts.
4. Payment stubs.

Welfare Payments or General Assistance

Acceptable methods of verification include, in this order:

1. Up-front verification, when available
2. SPHA verification form completed by payment provider.
3. Written statement from payment provider indicating the amount of grant/payment, start date of payments, and anticipated changes in payment in the next 12 months. (Cash issuance history report)
4. Computer-generated Notice of Action.

Alimony or Child Support Payments

Acceptable methods of verification include, in this order:

1. Up-front verification, when available.

2. Third party verification.
3. Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.
4. A notarized letter from the person paying the support.
5. Copies of latest 3 check and/or payment stubs from Court Trustee. SPHA must record the date, amount, and number of the check.
6. 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 payments are irregular, the family must provide one or more of the following:

- A copy of the separation or settlement agreement, or a divorce decree stating the amount and type of support and payment schedules.
- A statement from the agency responsible for enforcing payments to show that the family has filed for enforcement.
- A notarized affidavit from the family indicating the amount(s) received.
- A welfare notice of action showing amounts received by the welfare agency for child support.
- A written statement from an attorney certifying that a collection or enforcement action has been filed.

Net Income from a Business

In order to verify the net income from a business, the SPHA will view IRS and financial documents from prior years and use this information to anticipate the income for the next 12 months.

Acceptable methods of verification include:

1. IRS Form 1040, including:
 - Schedule C (Small Business)
 - Schedule E (Rental Property Income)
 - Schedule F (Farm Income)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.
2. Audited or unaudited financial statement(s) of the business.

3. Documents such as manifests, appointment books, cash books, bank statements, and receipts will be used as a guide for the prior six months (or lesser period if not in business for six months) to project income for the next 12 months. The family will be advised to maintain these documents in the future if they are not available.
4. Family's self-certification as to net income realized from the business during previous years.

Child Care Business

If an applicant/participant is operating a licensed day care business, income will be verified as with any other business.

If the applicant/participant is operating a "cash and carry" operation (which may or may not be licensed), the SPHA will require that the applicant/participant complete a form for each customer which indicates: name of person(s) whose child (children) is/are being cared for, phone number, number of hours child is being cared for, method of payment (check/cash), amount paid, and signature of person.

If the family has filed a tax return, the family will be required to provide it.

The SPHA will conduct interim reevaluations every 90 days and require the participant to provide a log with the information about customers and income.

If child care services were terminated, a third-party verification will be sent to the parent whose child was cared for.

Recurring Gifts

The family must furnish a self-certification which contains the following information:

1. The person who provides the gifts
2. The value of the gifts
3. The regularity (dates) of the gifts
4. The purpose of the gifts

Zero Income Status

The SPHA may check records of other departments in the jurisdiction (such as government utilities) that have information about income sources of customers.

Families at zero income status will be required to report for an interim recertification every 60 days.

The SPHA may run a credit report if information is received that indicates the family has an unreported income source.

Full-time Student Status

Only the first \$480 of the earned income of full time students, other than head, co-head, or spouse, will be counted towards family income.

Financial aid, scholarships and grants are not counted towards family income.

Verification of full time student status includes:

- Written verification from the registrar's office or other school official.
- School records indicating enrollment for sufficient number of credits to be considered a full-time student by the educational institution.

F. INCOME FROM ASSETS [24 CFR 982.516]

Savings Account Interest Income and Dividends

Acceptable methods of verification include, in this order:

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

Interest Income from Mortgages or Similar Arrangements

Acceptable methods of verification include, in this order:

1. A letter from an accountant, attorney, real estate broker, the buyer, or a financial institution stating interest due for next 12 months. (A copy of the check paid by the buyer to the family is not sufficient unless a breakdown of interest and principal is shown.)
2. Amortization schedule showing interest for the 12 months following the effective date of the certification or recertification.

Net Rental Income from Property Owned by Family

Acceptable methods of verification include, in this order:

1. IRS Form 1040 with Schedule E (Rental Income).
2. Copies of latest rent receipts, leases, or other documentation of rent amounts.
3. Documentation of allowable operating expenses of the property: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.
4. Lessee's written statement verifying rent payments to the family and family's self-certification as to net income realized.
5. Enterprise Income Verification System

G. VERIFICATION OF ASSETS

Family Assets

The SPHA will require the information necessary to determine the current cash value of the family's assets, (the net amount the family would receive if the asset were converted to cash).

Acceptable verification may include any of the following:

- Verification forms, letters, or documents from a financial institution or broker.
- ***Self declaration of amount of assets of less than \$5,000 and the amount of income expected to be received from the asset (Notice PIH 2014-03 (HA) Temporary Compliance Assistance, expires 3/31/2014 unless extended).***
- Passbooks, checking account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker.
- Quotes from a stock broker or realty agent as to net amount family would receive if they liquidated securities or real estate.
- Real estate tax statements if the approximate current market value can be deduced from assessment.
- Financial statements for business assets.
- Copies of closing documents showing the selling price and the distribution of the sales proceeds.

- Appraisals of personal property held as an investment.
- Family's self-certification describing assets or cash held at the family's home or in safe deposit boxes.

Assets Disposed of for Less than Fair Market Value (FMV) During Two Years Preceding Effective Date of Certification or Recertification

For all Certifications and Recertifications, the SPHA will obtain the Family's certification as to whether any member has disposed of assets for less than fair market value during the two years preceding the effective date of the certification or recertification.

If the family certifies that they have disposed of assets for less than fair market value, verification is required that shows: (a) all assets disposed of for less than FMV, (b) the date they were disposed of, (c) the amount the family received, and (d) the market value of the assets at the time of disposition. Third party verification will be obtained wherever possible.

H. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME
[24 CFR 982.516]

Child Care Expenses

Child care expenses must be determined to be reasonable. The SPHA may use current private market cost as comparison in determining whether the child care expense claimed is reasonable.

Written verification from the person who receives the payments is required. If the child care provider is an individual, s/he must provide a statement of the amount they are charging the family for their services.

Verifications must specify the child care provider's name, address, telephone number, social security number, the names of the children cared for, the number of hours the child care occurs, the rate of pay, and the typical yearly amount paid, including school and vacation periods.

Family's certification as to whether any of those payments have been or will be paid or reimbursed by outside sources.

Medical Expenses

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

- Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, of (a) the anticipated medical costs to be incurred by the family and regular payments due on

medical bills; and (b) extent to which those expenses will be reimbursed by insurance or a government agency.

- Written confirmation by the insurance company or employer of health insurance premiums to be paid by the family.
- Written confirmation from the Social Security Administration of Medicare premiums to be paid by the family over the next 12 months. A computer printout will be accepted.
- For attendant care:
 - A reliable, knowledgeable professional's certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.
 - Attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or stubs from the agency providing the services.
- Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next 12 months.
- Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of the next 12 months.
- Receipts or other record of medical expenses incurred during the past 12 months that can be used to anticipate future medical expenses. PHA may use this approach for "general medical expenses" such as non-prescription drugs and regular visits to doctors or dentists, but not for one time, nonrecurring expenses from the previous year.
- The SPHA will use mileage at the **IRS** rate, or cab, bus fare, or other public transportation cost for verification of the cost of transportation directly related to medical treatment.

Assistance to Persons with Disabilities [24 CFR 5.611(c)]

In All Cases:

- Written certification from a reliable, knowledgeable professional that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to permit him/her to be employed or to function sufficiently independently to enable another family member to be employed.
- Family's certification as to whether they receive reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.

Attendant Care:

- Attendant's written certification of amount received from the family, frequency of receipt, and hours of care provided.
- Certification of family and attendant and/or copies of canceled checks family used to make payments.

Auxiliary Apparatus:

- Receipts for purchases or proof of monthly payments and maintenance expenses for auxiliary apparatus.
- In the case where the person with disabilities is employed, a statement from the employer that the auxiliary apparatus is necessary for employment.

I. VERIFYING NON-FINANCIAL FACTORS [24 CFR 5.617(b)(2)]

Verification of Legal Identity

In order to prevent program abuse, the SPHA will require applicants to furnish verification of legal identity for all family members.

The documents listed below will be considered acceptable verification of legal identity for adults. If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

- Certificate of Birth, naturalization papers
- Church issued baptismal certificate
- Current, valid Driver's license
- U.S. military discharge (DD 214)
- U.S. passport
- Voter's registration
- Company/agency Identification Card
- Department of Motor Vehicles Identification Card
- Hospital records

Documents considered acceptable for the verification of legal identity for minors may be one or more of the following:

- Certificate of Birth
- Adoption papers
- Custody agreement
- Health and Human Services ID
- School records

If none of these documents can be provided, a third party who knows the person may, at the SPHA's discretion, provide verification through certification.

Verification of Marital Status

Verification of divorce status will be a certified copy of the divorce decree, signed by a Court Officer.

Verification of a separation may be a copy of court-ordered maintenance or other records.

Verification of marriage status is a marriage certificate.

Familial Relationships

Certification will normally be considered sufficient verification of family relationships. In cases where reasonable doubt exists, the family may be asked to provide verification.

One or all of the following verifications will be required, if applicable:

Verification of relationship:

- Official identification showing names
- Birth Certificates
- Baptismal certificates

Verification of guardianship is:

- Court-ordered assignment
- Affidavit of parent
- Verification from social services agency
- School records

Verification of Permanent Absence of Family Member

If an adult member who was formerly a member of the household is reported permanently absent by the family, the SPHA will consider any of the following as verification:

- Husband or wife institutes divorce action.
- Husband or wife institutes legal separation.
- Order of protection/restraining order obtained by one family member against another.
- Proof of another home address, such as utility bills, canceled checks for rent, driver's license, or lease or rental agreement, if available.
- Statements from other agencies such as social services or a written statement from the landlord or manager that the adult family member is no longer living at that location.
- If the adult family member is incarcerated, a document from the Court or correctional facility should be obtained stating how long they will be incarcerated.
- If no other proof can be provided, the SPHA will accept a self-certification from the head of household or the spouse or co-head, if the head is the absent member.

Verification of Change in Family Composition

The SPHA may verify changes in family composition (either reported or unreported) through letters, telephone calls, utility records, inspections, landlords, neighbors, credit data, school or DMV records, and other sources.

Verification of Disability

Verification of disability must be receipt of SSI or SSA disability payments under Section 223 of the Social Security Act or 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7)) or verified by appropriate diagnostician such as physician, psychiatrist, psychologist, therapist, rehab specialist, or licensed social worker, using the HUD language as the verification format.

Verification of Citizenship/Eligible Immigrant Status [24 CFR 5.508, 5.510, 5.512, 5.514]

To be eligible for assistance, individuals must be U.S. citizens or eligible immigrants. Individuals who are neither may elect not to contend their status. Eligible immigrants must fall into one of the categories specified by the regulations and must have their status verified by Immigration and Naturalization Service (INS). Each family member must declare their status once. Assistance cannot be delayed, denied, or terminated while verification of status is pending except that assistance to applicants may be delayed while the SPHA hearing is pending.

Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury.

Eligible Immigrants aged 62 or over are required to sign a declaration of eligible immigration status and provide proof of age.

Non-citizens with eligible immigration status must sign a declaration of status and verification consent form and provide their original immigration documents which are copied front and back and returned to the family. The SPHA verifies the status through the INS SAVE system. If this primary verification fails to verify status, the SPHA must request within ten days that the INS conduct a manual search.

Ineligible family members who do not claim to be citizens or eligible immigrants must be listed on a statement of ineligible family members signed by the head of household or spouse.

Non-citizen students on student visas are ineligible members even though they are in the country lawfully. They must provide their student visa but their status will not be verified and they do not sign a declaration but are listed on the statement of ineligible members.

Failure to Provide. If an applicant or participant family member fails to sign required declarations and consent forms or provide documents, as required, they must be listed as an ineligible member. If the entire family fails to provide and sign as required, the family may be denied or terminated for failure to provide required information.

Time of Verification

For applicants, verification of U.S. citizenship/eligible immigrant status occurs at the same time as verification of other factors of eligibility for final eligibility determination.

The SPHA will verify the U.S. citizenship/eligible immigration status of all participants no later than the date of the family's first annual reexamination following the enactment of the Quality Housing and Work Responsibility Act of 1998.

For family members added after other members have been verified, the verification occurs at the first recertification after the new member moves in.

Once verification has been completed for any covered program, it need not be repeated except that, in the case of port-in families, if the initial SPHA does not supply the documents, the SPHA must conduct the determination.

Extensions of Time to Provide Documents

The SPHA will grant an extension for families to submit evidence of eligible immigrant status. The length of extension shall be based on individual circumstances. The SPHA will generally allow up to 30 days to submit evidence of eligible immigrant status.

Acceptable Documents of Eligible Immigration

The regulations stipulate that only the following documents are acceptable unless changes are published in the Federal Register.

- Resident Alien Card (I-551)
- Alien Registration Receipt Card (I-151)
- Arrival-Departure Record (I-94)
- Temporary Resident Card (I-688)
- Employment Authorization Card (I-688B)
- Receipt issued by the INS for issuance of replacement of any of the above documents that shows individual's entitlement has been verified

A birth certificate is not acceptable verification of status. All documents in connection with U.S. citizenship/eligible immigrant status must be kept five years.

If the SPHA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside permanently in the family's unit, the family's assistance will be terminated for **24** months, unless the ineligible individual has already been considered in prorating the family's assistance.

Verification of Social Security Numbers [24 CFR 5.216]

Social security numbers must be provided as a condition of eligibility for all family members if they have been issued a number. Verification of social security numbers will be done through a social security card issued by the Social Security Administration. If a family member cannot produce a social security card, only the documents listed below showing his or her social security number may be used for verification. The family is also required to certify in writing that the document(s) submitted in lieu of the social security card information provided is/are complete and accurate:

- A driver's license
- Identification card issued by a Federal, State or local agency
- Identification card issued by a medical insurance company or provider (including Medicare and Medicaid)
- An identification card issued by an employer or trade union
- An identification card issued by a medical insurance company
- Earnings statements or payroll stubs
- Bank Statements
- IRS Form 1099

- Benefit award letters from government agencies
- Retirement benefit letter
- Life insurance policies
- Court records such as real estate, tax notices, marriage and divorce, judgment or bankruptcy records
- Verification of benefits or social security number from Social Security Administration

New family members will be required to produce their social security card or provide the substitute documentation described above together with their certification that the substitute information provided is complete and accurate. This information is to be provided at the time the change in family composition is reported to the SPHA.

If an applicant or participant is able to disclose the social security number but cannot meet the documentation requirements, the applicant or participant must sign a certification to that effect provided by the SPHA. The applicant/participant or family member will have an additional 60 days to provide proof of the social security number. If they fail to provide this documentation, the family's assistance will be terminated.

In the case of an individual at least 62 years of age, the SPHA may grant an extension for an additional 60 days to a total of 120 days. If, at the end of this time, the elderly individual has not provided documentation, the family's assistance will be terminated.

If the family member states they have not been issued a number, the family member will be required to sign a certification to this effect.

Medical Need for Larger Unit

A written certification that a larger unit is necessary must be obtained from a reliable, knowledgeable professional.

Chapter 8

VOUCHER ISSUANCE AND BRIEFINGS

[24 CFR 982.301, 982.302]

INTRODUCTION

The PHA's goals and objectives are designed to assure that families selected to participate are equipped with the tools necessary to locate an acceptable housing unit. Families are provided sufficient knowledge and information regarding the program and how to achieve maximum benefit while complying with program requirements. When eligibility has been determined, the PHA will conduct a mandatory briefing to ensure that families know how the program works. The briefing will provide a broad description of owner and family responsibilities, PHA 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. This chapter describes how briefings will be conducted, the information that will be provided to families, and the policies for how changes in the family composition will be handled.

A. ISSUANCE OF VOUCHERS [24 CFR 982.204(d), 982.54(d)(2)]

When funding is available, the SPHA will issue vouchers to applicants whose eligibility has been determined. The number of vouchers issued must ensure that the SPHA stays as close as possible to 100 percent lease-up or 100 percent use of funds. The SPHA performs a monthly calculation electronically to determine whether applications can be processed, the number of vouchers that can be issued, and to what extent the SPHA can over-issue (issue more vouchers than the budget allows to achieve leaseup).

The SPHA may over-issue vouchers only to the extent necessary to meet leasing goals. All vouchers which are over-issued must be honored. If the SPHA finds it is over-leased, it must adjust future issuance of vouchers in order not to exceed the ACC budget limitations over the fiscal year.

B. BRIEFING TYPES AND REQUIRED ATTENDANCE [24 CFR 982.301]

Initial Applicant Briefing

A full HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted in group or individual meetings. Families who attend group briefings and still have the need for individual assistance will be referred to the Housing Specialist assigned to the family.

Briefings will be conducted in English. Briefings may also be conducted in Spanish.

The purpose of the briefing is to explain how the program works and the documents in the voucher holder's packet to families so that they are fully informed about the program. This will enable them to utilize the program to their advantage, and it will prepare them to discuss it with potential owners and property managers.

The SPHA will not issue a voucher to a family unless the household representative has attended a briefing and signed the voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next briefing. Applicants who fail to attend **two** scheduled briefings, without prior notification and approval of the SPHA, may be denied admission based on failure to supply information needed for certification. The SPHA will conduct individual briefings for families with disabilities at their home, upon request by the family, if required for reasonable accommodation.

Briefing Packet [24 CFR 982.301(b)]

The documents and information provided in the briefing packet for the voucher program will comply with all HUD requirements, including those required for SEMAP compliance.

The family is provided with the following information and materials

- The term of the voucher, and the SPHA policy for requesting extensions or suspensions of the voucher.
- A description of the method used to calculate the housing assistance payment for a family, information on Utility Allowances and Payment Standards.
- How the maximum allowable rent is determined.
- Materials to assist the family in selecting a unit, such as proximity to employment, public transportation, schools, shopping, and the accessibility of services. Guidance will also be provided to assist the family to evaluate the prospective unit, such as the condition, whether the rent is reasonable, average utility expense, energy efficiency, and security.
- Where the family may lease a unit.
- The HUD required tenancy addendum, which must be included in the lease.
- The Request for Tenancy Approval (RFTA) form, and a description of the procedure for requesting approval for a unit
- A statement of the SPHA policy on providing information about families to prospective owners.

- The SPHA Subsidy Standards including when and how exceptions are made and how the voucher size relates to the unit size selected.
- The HUD brochure "A Good Place to Live" on how to select a unit that complies with HQS.
- The HUD pamphlet on lead-based paint entitled *Protect Your Family From Lead in Your Home*.
- Information on Federal, State and local equal opportunity and fair housing laws and guidelines and the phone numbers of the local fair housing agency and the HUD enforcement office.
- A list of landlords or other parties willing to lease to assisted families or help in the search and/or known units available for the voucher issued. The list includes landlords or other parties who are willing to lease units or help families find units outside areas of poverty or minority concentration.
- If the family includes a person with disabilities, notice that the SPHA will provide a list of available accessible units known to the SPHA.
- The family obligations under the program.
- The grounds on which the SPHA may terminate assistance for a participant family because of family action or failure to act.
- SPHA informal hearing procedures including when the SPHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
- Information that a Landlord Information Guide, an HQS checklist, and sample contract is available.
- Procedures for notifying the SPHA and/or HUD of program abuses such as side payments, extra charges, violations of tenant rights, and owner failure to repair.
- Information packet including an explanation of how portability works, including a list of neighboring housing agencies with the name, address and telephone number of a portability contact person at each for use by families who move under portability. (required for PHAs in MSAs)
- A map showing areas representing various income levels of the jurisdiction and surrounding areas for the purpose of expanding housing opportunities for families. (required for PHAs in MSAs)

- Information regarding the SPHA’s outreach program which assists families who are interested in, or experiencing difficulty in obtaining available housing units in areas outside of minority concentrated locations.
- A list of properties or property management organizations that own or operate housing units outside areas of poverty or minority concentration (required for PHAs in MSAs).
- The family's rights as a tenant and a program participant.
- Requirements for reporting changes between annual recertifications.
- Information on security deposits and legal referral services.

Other Information to be Provided at the Briefing

The person conducting the briefing will also describe how the program works and the relationship between the family and the owner, the family and the SPHA, and the SPHA and the owner.

The briefing presentation emphasizes:

- Family and owner responsibilities
- Where a family may lease a unit inside and outside its jurisdiction
- How portability works for families eligible to exercise portability
- Advantages to moving to areas with low concentrations of poor families if family is living in a high poverty census tract in the SPHA’s jurisdiction
- Exercising choice in residency
- Choosing a unit carefully and only after due consideration

If the family includes a person with disabilities, the SPHA will ensure compliance with 24 CFR 8.6 to ensure effective communication.

Owner Information

Workshops will be held for owners periodically. Prospective owners may receive a personal invitation and current owners will be notified by mail. The purpose of the owner workshops is to assure successful owner participation in the program.

C. ENCOURAGING PARTICIPATION IN AREAS WITHOUT LOW INCOME OR MINORITY CONCENTRATION

At the briefing, families are encouraged to search for housing in non-impacted areas and the SPHA will provide assistance to families who wish to do so.

The assistance provided to such families includes:

- Counseling with the family.
- Providing information about services in various non-impacted areas.
- Meeting with neighborhood groups to promote understanding.
- Formal or informal discussions with landlord groups
- Formal or informal discussions with social service agencies
- Meeting with rental referral companies or agencies
- Meeting with fair housing groups or agencies

The SPHA will maintain lists of available housing units submitted by owners in all neighborhoods within SPHA's jurisdiction to ensure greater mobility and housing choice to very low income households. The lists of units will be available for review at the front desk upon request.

D. ASSISTANCE TO FAMILIES WHO CLAIM DISCRIMINATION

The SPHA will provide the family with a complaint form and the location of the local Fair Housing office. If HUD Fair Housing makes a finding of discrimination against an owner, the SPHA will restrict the owner from future participation.

E. SECURITY DEPOSIT REQUIREMENTS [24 CFR 982.313]

The owner is not required to but may collect a (one) security deposit from the tenant.

Security deposits charged to families may be any amount the owner wishes to charge in accordance with private market practice (but not more than the maximum prescribed by State of local law).

For lease-in-place families, responsibility for first and last month's rent is not considered a security deposit issue. In these cases, the owner should settle the issue with the tenant prior to the beginning of assistance.

F. TERM OF VOUCHER [24 CFR 982.303, 982.54(d)(11)]

During the briefing session, each household will be issued a voucher which represents a contractual agreement between the SPHA and the Family specifying the rights and responsibilities of each party. It does not constitute admission to the program which occurs when the lease and contract become effective.

Expirations

The voucher is valid for a period of sixty (60) calendar days from the date of issuance. The family or owner must submit a Request for Tenancy Approval and Lease within the sixty-day period unless an extension has been granted by the SPHA.

If the voucher has expired, and has not been extended by the SPHA or expires after an extension, the family will be denied assistance. The family will not be entitled to a review or hearing. If the family is currently assisted, they may remain as a participant in their unit if there is an assisted lease/contract in effect.

Suspensions

When a Request for Tenancy Approval is received, the SPHA will deduct the number of days required to process the request from the 60 day term of the voucher.

Extensions

A family may make a written request for an extension of the voucher time period. All requests for extensions must be in writing and received at least one week prior to the expiration date of the voucher.

Extensions are permissible at the discretion of the PHA up to a maximum of an additional 60 days primarily for these reasons:

- Extenuating circumstances such as hospitalization or a family emergency for an extended period of time which has affected the family's ability to find a unit within the initial sixty-day period. Verification is required.
- The SPHA is satisfied that the family has made a reasonable effort to locate a unit, including seeking the assistance of the SPHA, throughout the initial sixty-day period. A completed search record is required.

- The family was prevented from finding a unit due to disability accessibility requirements or large size bedroom unit requirement.
- If the vacancy rate for rental housing in the jurisdiction is less than 99%, extensions will be granted automatically on request up to a total of 120 days.

The SPHA extends in one or more increments. No more than two extensions of 30 days will be granted. The SPHA will not request HUD approval to extend the voucher beyond an additional 60 days.

Assistance to Voucher Holders

Families who require additional assistance during their search may call the SPHA Office to request assistance. Voucher holders will be notified at their briefing session that the SPHA periodically updates the listing of available units and how the updated list may be obtained.

The SPHA will assist families with negotiations with owners and provide other assistance related to the families' search for housing.

G. VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS [24 CFR 982.315]

In those instances when a family assisted under the Section 8 program becomes divided into two otherwise eligible families due to divorce, legal separation, or the division of the family, and the new families cannot agree as to which new family unit should continue to receive the assistance, and there is no determination by a court, the SPHA shall consider the following factors to determine which of the families will continue to be assisted:

- Which of the two new family units has custody of dependent children.
- Which family member was the head of household when the voucher was initially issued (listed on the initial application).
- The composition of the new family units, and which unit contains elderly or disabled members.
- Whether domestic violence was involved in the breakup.
- Which family members remain in the unit.
- Recommendations of social service professionals.

Documentation of these factors will be the responsibility of the requesting parties.

If documentation is not provided, the SPHA will terminate assistance on the basis of failure to provide information necessary for a recertification.

H. REMAINING MEMBER OF TENANT FAMILY - RETENTION OF VOUCHER
[24 CFR 982.315]

To be considered the remaining member of the tenant family, the person must have been previously approved by the SPHA to be living in the unit.

A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the Family.

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

- The court has to have awarded emancipated minor status to the minor, or
- The SPHA has to have verified that social services and/or the Juvenile Court has arranged for another adult to be brought into the assisted unit to care for the child(ren) for an indefinite period.

A reduction in family size may require a reduction in the voucher family unit size.

Chapter 9

REQUEST FOR TENANCY APPROVAL AND CONTRACT EXECUTION

[24 CFR 982.302]

INTRODUCTION [24 CFR 982.305(a)]

The PHA's program operations are designed to utilize available resources in a manner that is efficient and provides eligible families timely assistance based on the number of units that have been budgeted. The PHA's objectives include maximizing HUD funds by providing assistance to as many eligible families and for as many eligible units as the budget will allow.

After families are issued a voucher, they may search for a unit anywhere within the jurisdiction of the PHA, or outside of the PHA'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 Contract with the PHA. This chapter defines the types of eligible housing, the PHA's policies which pertain to initial inspections, lease requirements, owner disapproval, and the processing of Requests For Tenancy Approval (RFTA).

A. REQUEST FOR TENANCY APPROVAL [24 CFR 982.302, 982.305(b)]

The Request for Tenancy Approval (RFTA) and a copy of the proposed lease, including the HUD prescribed tenancy addendum, must be submitted by the family during the term of the voucher.

The Request for Tenancy Approval must be signed by both the owner and voucher holder. The lease may be executed up to 60 days prior to contract execution but cannot be executed without approval of the SPHA.

The SPHA will not permit the family to submit more than one RFTA at a time.

The SPHA will review the proposed lease and the Request for Tenancy Approval documents to determine whether or not they are approvable. The request will be approved if:

1. The unit is an eligible type of housing
2. The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan)
3. The rent is reasonable
4. The security deposit is approvable
5. The proposed lease complies with HUD and SPHA requirements (See "Lease Review" section below) and State law

6. The owner is approvable, and there are no conflicts of interest (See "Owner Disapproval" section below).

In addition to the above, at the time a family initially receives assistance in a unit (new admissions and moves), if the gross rent for the unit exceeds the applicable payment standard for the family, the family share of rent may not exceed 40 percent of the family monthly adjusted income (See "Owner Rents, Rent Reasonableness and Payment Standards" chapter of this Administrative Plan).

Disapproval of RFTA

If the SPHA determines that the request cannot be approved for any reason, the landlord and the family will be notified in writing. The SPHA will instruct the owner and family of the steps that are necessary to approve the request.

The owner will be given 10 calendar days to submit an approvable RFTA from the date of disapproval.

When, for any reason, an RFTA is not approved, the SPHA will furnish another RFTA form to the family along with the notice of disapproval so that the family can continue to search for eligible housing.

The time limit on the Voucher will be suspended while the RFTA is being processed.

B. ELIGIBLE TYPES OF HOUSING [24 CFR 982.353]

The SPHA will approve any of the following types of housing in the voucher program:

- All structure types can be utilized
- Manufactured homes where the tenant leases the mobile home and the pad
- Manufactured homes where the tenant owns the mobile home and leases the pad for vouchers
- Independent group residences
- Congregate facilities (only the shelter rent is assisted)
- Single room occupancy
- Cooperative housing

A family can own a rental unit but cannot reside in it while being assisted, except in the case when the tenant owns the mobile home and leases the pad. A family may lease in and have an interest in a cooperative housing development.

The SPHA may not permit a voucher holder to lease a unit which is receiving project-based Section 8 assistance or any duplicative rental subsidies.

The SPHA must permit the use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

C. LEASE REVIEW [24 CFR 982.308]

The SPHA will review the lease, particularly noting the approvability of optional charges and compliance with regulations and state and local law. The lease term must be at least 12 months. The tenant also must have legal capacity to enter a lease under state and local law. Responsibility for utilities, appliances and optional services must correspond to those provided on the on the Request For Tenancy Approval.

The family and owner must submit a standard form of lease used in the locality by the owner and that is generally used for other unassisted tenants in the premises. The terms and conditions of the lease must be consistent with state and local law.

The HUD prescribed tenancy addendum must be attached to the lease word-for-word before the lease is executed.

Actions Before Lease Term

All of the following must always be completed before the beginning of the initial term of the lease for a unit:

1. The SPHA has inspected the unit and has determined that the unit satisfies the HQS.
2. The SPHA has determined that the rent charged by the owner is reasonable.
3. The landlord and the tenant have executed the lease, including the HUD-prescribed tenancy addendum.
4. The SPHA has approved leasing of the unit in accordance with program requirements.

D. SEPARATE AGREEMENTS

Separate agreements are not necessarily illegal side agreements. Families and owners will be advised of the prohibition of illegal side payments for additional rent, or for items normally included in the rent of unassisted families, or for items not shown on the approved lease.

The family is not liable under the lease for unpaid charges for items covered by separate agreements and nonpayment of these agreements cannot be cause for eviction.

The SPHA is not liable under the lease for unpaid charges for items covered by separate agreements and nonpayment of these agreements cannot be cause for eviction.

Owners and families may execute separate agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease if the agreement is in writing and approved by the SPHA.

Any appliances, services or other items which are routinely provided to unassisted families as part of the lease (such as air conditioning, dishwasher or garage) or are permanently installed in the unit, cannot be put under separate agreement and must be included in the lease. For there to be a separate agreement, the family must have the option of not utilizing the service, appliance or other item.

If the family and owner have come to a written agreement on the amount of allowable charges for a specific item, so long as those charges are reasonable and not a substitute for higher rent, they will be allowed.

All agreements for special items or services must be attached to the lease approved by the SPHA. If agreements are entered into at a later date, they must be approved by the SPHA and attached to the lease.

The SPHA will not approve separate agreements for modifications to the unit for persons with disabilities. The modifications are usually within the dwelling and are critical to the use of the dwelling.

E. INITIAL INSPECTIONS [24 CFR 982.305(a) & (b)]

See "Housing Quality Standards and Inspections" chapter of this Administrative Plan.

F. RENT LIMITATIONS [24 CFR 982.507]

The SPHA will make a determination as to the reasonableness of the proposed rent in relation to comparable units available for lease on the private unassisted market, and the rent charged by the owner for a comparable unassisted unit in the building or premises.

Rent Increases

The owner must notify tenants and the SPHA in writing of rent increases no less than 60 days prior to the end of the current lease period. A Request for Rental Increase form is available for download at the SPHA website www.stpeteha.org. The SPHA will conduct a rent reasonableness assessment and issue a determination of approval or denial in writing to the owner with a copy to the tenant. Rent increases may be determined reasonable though not affordable to the tenant by the SPHA. To avoid the risk of losing a "good" tenant, it is recommended that owners discuss rental increases with their tenant prior to submission of rent increase requests.

G. DISAPPROVAL OF PROPOSED RENT [24 CFR 982.502]

In any of the programs, if the proposed gross rent is not reasonable, at the family's request, the SPHA will negotiate with the owner to reduce the rent to a reasonable rent.

At the family's request, the SPHA will negotiate with the owner to reduce the rent or include some or all of the utilities in the rent to owner. If the rent can be approved after negotiations with the owner, the SPHA will continue processing the Request for Tenancy Approval and lease. If the revised rent involves a change in the provision of utilities, a new Request for Tenancy Approval must be submitted by the owner.

If the owner does not agree on the rent to owner after the SPHA has tried and failed to negotiate a revised rent, the SPHA will inform the family and owner that the lease is disapproved.

H. INFORMATION TO OWNERS [24 CFR 982.307(b), 982.54(d)(7)]

The SPHA will furnish prospective owners with the family's current address as shown in the SPHA's records and, if known to the SPHA, the name and address of the landlord at the family's current and prior address.

The SPHA will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

The SPHA will inform owners that it is the responsibility of the landlord to determine the suitability of prospective tenants. Owners will be encouraged to screen applicants for rent payment history, payment of utility bills, eviction history, respecting the rights of other residents, damage to units, drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

A statement of the SPHA's policy on release of information to prospective landlords will be included in the briefing packet which is provided to the family.

The SPHA will provide the following information, if requested, regarding a family's tenancy history for the past three (3) years based on *documentation in its possession*:

- Eviction history
- Damage to rental units
- Other aspects of tenancy history, including complaints from neighbors or landlords
- Drug related criminal activity by family members

The information will be provided orally or in writing.

I. OWNER DISAPPROVAL [24 CFR 982.306]

See chapter on “Owner Disapproval and Restriction.”

J. CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HAP EFFECTIVE DATE

When the family reports changes in factors that will affect the total family share prior to the effective date of the HAP contract at admission, the information will be verified and the total family share will be recalculated. If the family does not report any change, the SPHA need not obtain new verifications before signing the HAP contract, even if verifications are more than 60 days old.

K. CONTRACT EXECUTION PROCESS [24 CFR 982.305(c)]

The SPHA prepares the Housing Assistance Contract and lease for execution. The family and the owner will execute the lease agreement, and the owner and the SPHA will execute the HAP contract. Copies of the documents will be furnished to the parties who signed the respective documents. The SPHA will retain a copy of all signed documents, in accordance with their record retention policy.

The SPHA makes every effort to execute the HAP contract before the commencement of the lease term. The HAP contract may not be executed more than 60 days after commencement of the lease term and no payments will be made until the contract is executed.

Owners must provide the current address of their residence (not a Post Office box). If families lease properties owned by relatives, the owner's current address will be compared to the subsidized unit's address.

Owners must provide an employer identification number or social security number and a copy of their driver's license or other photo identification.

Owners must also submit proof of ownership of the property, such as a grant deed or tax bill, and a copy of the management agreement if the property is managed by a management agent, the landlord packet, and a check or money order for the cost of providing the criminal background check.

The owner must provide a home telephone number and business number if applicable.

If the owner does not reside in Pinellas County or a nearby County, the name and address of a local agent/manager must be provided and an owner/agent form completed.

A family may not lease properties owned by a parent, child, grandparent, grandchild, sister or brother of any family member. The SPHA will waive this restriction as a reasonable accommodation for a family member who is a person with a disability.

L. CHANGE IN OWNERSHIP

See "Owner Disapproval and Restriction" chapter.

Chapter 10

HOUSING QUALITY STANDARDS AND INSPECTIONS

[24 CFR 982.401]

INTRODUCTION

Housing Quality Standards (HQS) are the HUD minimum quality standards for tenant-based programs. HQS standards are required both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, as well as the unit. Newly leased units must pass the HQS inspection before the beginning date of the assisted lease and HAP contract.

The PHA will inspect each unit under contract at least annually. The PHA will also have a supervisor perform quality control inspections on the number of files required for file sampling by SEMAP annually to maintain the PHA's required standards and to assure consistency in the PHA's program. This chapter describes the PHA's procedures for performing HQS and other types of inspections, and PHA standards for the timeliness of repairs. It also explains the responsibilities of the owner and family, and the consequences of non-compliance with HQS requirements for both families and owners. The use of the term "HQS" in this Administrative Plan refers to the combination of both HUD and PHA requirements. (See additions to HQS).

A. GUIDELINES/TYPES OF INSPECTIONS [24 CFR 982.401(a), 982.405]

The SPHA has adopted local requirements of acceptability in addition to those mandated by the HUD Regulations.

All units must meet the minimum standards set forth in the City of St Petersburg's Building/Housing Code. In cases of inconsistency between the Code and these HQS, the stricter of the two shall prevail.

Efforts will be made at all times to encourage owners to provide housing above HQS minimum standards.

All utilities must be in service when the unit is inspected.

The SPHA will allow the stove and refrigerator to be placed in the unit after the inspection if the family certifies the appliances are working according to the HQS standards. The SPHA will not conduct a reinspection.

There are four (4) types of inspections the SPHA will perform:

1. Initial/Move-in: Conducted upon receipt of Request for Tenancy Approval.
2. Annual: Must be conducted within twelve months of the last annual inspection.
3. Special/Complaint: At request of owner, family or an agency or third-party.
4. Quality Control.

B. INITIAL HQS INSPECTION [24 CFR 982.401(a), 982.305(b)(2)]

Timely Initial HQS Inspection

The SPHA will inspect the unit, determine whether the unit satisfies the HQS and notify the family and owner of the determination within 15 days after the family and the owner have submitted a request for tenancy approval, unless a supervisor determines that it is unable to do so in the stated timeframe, in which case the file will be appropriately documented.

The SPHA will make every reasonable effort to conduct initial HQS inspections for the family and owner in a manner that is time efficient and indicative of good customer service.

The Initial Inspection will be conducted to:

- Determine if the unit and property meet the HQS defined in this Plan.
- Document the current condition of the unit as to assist in future evaluations whether the condition of the unit exceeds normal wear and tear.
- Document the information to be used for determination of rent-reasonableness.

If the unit fails the initial Housing Quality Standards inspection, the owner will be advised to notify the SPHA once repairs are completed.

On an initial inspection, the owner will be given up to 30 days to correct the items noted as Fail, at the inspector's discretion, depending on the amount and complexity of work to be done.

The owner will be allowed up to two reinspections for repair work to be completed.

If the time period given by the inspector to correct the repairs has elapsed, or the maximum number of failed reinspections has occurred, the family must select another unit.

C. ANNUAL HQS INSPECTIONS [24 CFR 982.405(a)]

The SPHA conducts an inspection in accordance with Housing Quality Standards at least annually, as required by SEMAP. Special inspections may be scheduled between anniversary dates.

HQS deficiencies which cause a unit to fail must be corrected by the landlord unless it is a fail for which the tenant is responsible.

The family must allow the SPHA to inspect the unit at reasonable times with reasonable notice. [24 CFR 982.551(d)]

Inspection: The family will be notified of the date and time of the inspection appointment by mail or phone. If the family is unable to be present, they must reschedule the appointment so that the inspection is completed within 30 days.

If the family does not contact the SPHA to reschedule the inspection, or if the family misses two inspection appointments, the SPHA will consider the family to have violated a Family Obligation and their assistance will be terminated in accordance with the termination procedures in the Plan.

Time Standards for Repairs

Emergency items which endanger the family's health or safety must be corrected within 24 hours of notification. (See Emergency Repair Items section.)

For non-emergency items, repairs must be made within 30 days.

For major repairs where extenuating circumstances persist, the Housing Choice Voucher Officer or designee may approve an extension beyond 30 days on a case-by-case, one-time only, basis.

Verification of HQS Deficiencies for Initial, Annual and Interim Inspections

The SPHA is required to conduct an actual follow-up on site inspection if the unit does not pass HQS pursuant to the **Initial Inspection** to determine that any and all deficiencies cited at the initial inspection are corrected within the time period specified by the SPHA. HQS owner deficiencies cited at an Annual or an Interim Inspection will may be verified by an on-site inspection or remotely providing all of the following conditions are met:

- Owner submission of Certification of Repairs form
- Receipt(s) for work performed from a vendor
- Photo of repair
- Tenant confirmation

HQS tenant related deficiencies will be verified by an on-site inspection.

Emergency items which endanger the family's health or safety must be corrected and verified by an on-site inspection within 24 hours of notification (See Emergency Repair Items section).

Rent Increases

Rent to owner increases may not be approved if the unit is in a failed condition.

D. SPECIAL/COMPLAINT INSPECTIONS [24 CFR 982.405(c)]

If at any time the family or owner notifies the SPHA that the unit does not meet Housing Quality Standards, the SPHA will conduct an inspection.

The SPHA may also conduct a special inspection based on information from third parties such as neighbors or public officials.

The SPHA will inspect only the items which were reported, but if the inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs.

If the annual inspection date is within 120 days of a special inspection, and as long as all items are inspected that are included in an annual inspection, the special inspection will be categorized as annual and all annual procedures will be followed.

E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b)]

Quality Control inspections will be performed by supervisory staff on the number of files required by SEMAP. The purpose of Quality Control inspections is to ascertain that each inspector is conducting accurate and complete inspections, and to ensure that there is consistency among inspectors in application of the HQS.

The sampling of files will include recently completed inspections (within the prior 3 months), a cross-section of neighborhoods, and a cross-section of inspectors.

F. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS [24 CFR 982.401 (a)]

The objective of Housing Quality Standards (HQS) inspections is to ensure that all dwelling units leased to HCV participants provide for a safe and healthy environment with living facilities arranged and equipped to ensure such condition.

The following provides additional clarification of several HQS areas:

PLUMBING SYSTEMS AND EQUIPMENT:

1. All plumbing facilities and fixtures shall be connected to a potable water supply and to the public sewer or other approved sewage disposal system and is free from sewer backup.
2. All sinks and tubs must be able to retain water.
3. All sinks and commode water lines must have shutoff valves, unless faucets are well mounted.

NOTE: Taped drain lines are NOT acceptable.

HOT WATER HEATER

Check hot water heater to make sure that it has a discharge line and relief valve. The discharge line must be at least 3 inches from the floor leading to a drip pan or directly to the outside. Water is to be heated to a temperature of not less than 120 degrees Fahrenheit. Unit must be in a place that can be visually checked. No combustible or other materials posing a fire hazard are to be stored next to the unit.

HEATING SYSTEM

Every unit must have a heating system that works properly. Heating equipment must safely and adequately heat dwelling to a minimum air temperature to 68° Fahrenheit measured 3 feet above the floor. Owner-supplied heat source must be available whenever the outside temperature is 65° F or less.

NOTE: Portable heaters do not qualify as a heating system. Heating systems must be permanently attached with a property vented system.

ELECTRICAL WIRING

All wiring must be in the wall or protected by conduit. Must ensure proper grounding of electrical system per National Electrical Code.

NOTE: Lamp cords, which are being used as a permanent part of the electrical wiring, are considered an electrical hazard.

GROUND FAULT INTERRUPTERS

All 125-volt, single-phase, 15 and 20-ampere receptacles installed in the locations specified below shall have ground-fault circuit interrupter protection in accordance with the National Electric Code:

- Bathrooms.
- Garages and grade-level portions of unfinished accessory buildings used for storage or work areas.

Exception 1- Receptacles that are not readily accessible.

Exception 2- A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that in normal use is not easily moved from one place to another, and that is cord and plug connected in accordance with code.

- Outdoors.
- Crawl Spaces. Where the crawl space is at or below grade level.
- Kitchens. Where the receptacles are installed to serve the countertop surfaces.
- Wet bar sinks. Where the receptacles are installed to serve the countertop surfaces and are located within 6 ft of the outside edge of the wet bar sink.
- Within 6 feet of any water source.

ELECTRICAL OUTLETS:

The outlets required by type of room are:

1. Living Room – Requires 2 outlets or 1 outlet and 1 permanently installed ceiling or wall light fixture.
2. Kitchen– Requires at least 1 working outlet and 1 permanently installed wall or ceiling light fixture in working condition. A working outlet cannot be substituted for a light fixture. See also GFI requirement above.

NOTE: Kitchens 50 square feet or less require 2 remote convenience outlets. Kitchens over 50 square feet require at least 3 separate and remote convenience outlets).

3. Bathroom – Requires a permanent light fixture in working condition, (an outlet cannot substitute for a permanent light fixture) and at least 1 receptacle outlet. See also GFI requirement above.
4. Bedroom or any other room used for sleeping – Requires two outlets or 1 outlet and one permanently installed light fixture.
5. All other rooms used for living – Require a means of natural or artificial illumination such as a light fixture, a wall outlet to serve as a lamp, a window in the room or adequate light from an adjacent room.

All outlets and light switches must have cover plates and cannot be cracked or damaged or have paint on them.

All bedroom light switches must be in the same room that they service.

NOTE: The following items are not considered permanently installed light fixtures:

- Table or floor lamps.
- Ceiling lamps plugged into a socket.
- Extension cord plugged into another plug.

RANGE AND REFRIGERATOR

All units must have a range and a refrigerator in good working condition. Appliances must be clean and the gaskets in good condition.

- The range (stove top and oven) must be free from any heavy build-up of grease to avoid a fire hazard.
- Burner rings and pans must be present and for each burner and free of rust and heavy build-up of grease.
- All knobs must be present and in working condition.
- If a bottom drawer is present in the range, it must be free of rust, and grease.

SMOKE DETECTORS

Each dwelling unit must include at least 1 battery operated or hard wired smoke detector in proper working condition on each level of the unit.

Inoperable smoke detectors are a serious health threat and will be treated by the SPHA as an emergency (24 hour) fail item. If the smoke detector is not operating properly, the SPHA will contact the owner by phone and request the owner to repair the smoke detector within 24 hours. The SPHA will re-inspect the unit the following day.

If the SPHA determines that the family has purposely disconnected the smoke detector (by removing batteries or other means), the family will be required to repair the smoke detector within 24 hours and the SPHA will re-inspect the unit the following day.

The smoke detector must be located in a hallway adjacent to a bedroom. It must be mounted on the ceiling at least 4 inches from a wall or on a wall with the top of the detector not less than 4 inches nor more than 12 inches below the ceiling. Detectors may not be installed in kitchens, garages or other spaces where the temperature can fall below 32° F or exceed 100° F.

NOTE: Units occupied by hearing-impaired persons must have smoke detectors designed for the hearing-impaired in each bedroom occupied by the hearing-impaired person.

BREAKER OR FUSE BOX

The breaker box must have a cover and no missing blanks or fuses.

1. The breaker or fuse box must be accessible.
2. Padlocks on breaker box are not allowed and will FAIL the unit unless both the tenant and owner have a key to the padlock.
3. Breaker or fuse panel cannot be located in another unit nor can the unit contain the panels from another unit.

WINDOWS

Every living and sleeping area must have a window with direct access to outside. Bathrooms must have a working window or a working exhaust fan.

- All windows, which were designed to be operable, must be in operating condition.
- **All windows shall be weather tight, watertight, and insect proof; Jalousie windows are not permitted**
- All windows must be accessible for inspection and for an emergency exit.
- All windows must lock properly.
- All windows designed to open must have screens that are not damaged in any way.
- All window sashes must be in good condition, solid and intact and fit properly in the window frame. Damaged or deteriorating sashes must be replaced.

NOTE: A small crack in windowpane is acceptable if the glass is not loose and does not have sharp edges.

LIGHT & VENTILATION

Each habitable room within a dwelling or apartment shall have at least one window or skylight facing directly to the outdoors.

The minimum total window area for each habitable room shall be 8% of the floor area of the room. Whenever the only window in a room is a skylight type window in the top of the room, the total window area shall equal at least 15% of the total floor area of that room.

LAUNDRY AREA

Every laundry area shall contain at least one grounded-type receptacle. Washing machines require 110 Amp receptacle and, if applicable, dryers require a 220 Amp.

MAINTENANCE

All buildings or structures and all parts shall be maintained in sound condition, good working order, and in safe and sanitary manner. Each building and structure shall be provided with a means of egress as required by local and/or national code and these required openings may not be obstructed.

- All foundation walls, exterior walls and roofs shall be weather tight, watertight and rodent proof.
- Each window, exterior door and hatchway shall be weather tight, watertight, rodent proof and insect proof.
- Each outside stair, porch appurtenance shall be safe to use and capable of supporting the load designed and contracted to serve.
- Each yard or public area shall be properly graded to obtain thorough drainage.
- Every sleeping room within a building or structure must be provided with 2 means of egress.
- All exterior wiring must be protected by conduit.

- All exterior surfaces must be free from cracking, scaling, peeling, chipping and loose paint or adequately treated or covered, regardless of whether the paint has been treated for lead content.
- A sidewalk or stepping stones must be provided from the front door to the curb of the driveway.
- Each unit must have house numbers that are visible from the street.
- Each fuel oil tank, if applicable, must be sound, secured and maintained in a level position.

BURGLAR BARS:

Burglar bars or other equipment or devices, which obstruct the required openings, must be capable of being opened from the inside without the use of separate keys or tools.

HAND RAILINGS:

Railings, no greater than 4 inches apart, are required on any unenclosed structure over 3 feet from ground level or any steps containing 4 or more risers.

SCREENS

Each dwelling unit shall be protected against mosquitoes, flies and other insects and pests by providing each window with a screen. All other openings to the outside, excluding doors, which are used or intended to be used for ventilation shall be supplied with screens.

ACCESSORY STRUCTURES

Garage, storage buildings, fences, buffer walls shall be maintained in good repair and sound structural condition and shall not be allowed to deteriorate to an unsound or unsightly appearance.

HOUSEKEEPING

Each occupant of a unit is responsible for the disposal of all garbage in a clean and sanitary manner by placing it in the garbage disposal facility or garbage container.

YARD MAINTENANCE STANDARDS

Yards and outside areas must be free of all clutter and debris. Ground cover, including but not limited to grass, mulch, and/or shrubbery for all exposed sand or soil areas, or otherwise as required by local codes and ordinances, must be properly cared for by the person(s) identified on the lease.

SPACE, USE & LOCATION

Each dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant & at least 100 square feet of additional floor area for each additional occupant.

Each room for sleeping purposes shall contain at least 70 square feet of habitable floor area, with no horizontal dimension being less than 7 feet at the narrowest point. Every room occupied for sleeping by more than 1 occupant shall contain at least 50 square feet of additional habitable floor area for each occupant.

Each bedroom must contain either a portable wardrobe or closet (including a clothes rod) for the proper hanging and storage of clothes. Each bedroom should have an interior door, a window, and either two outlets or one outlet and one permanent lighting fixture.

PEELING PAINT

No peeling paint should be anywhere inside or outside the unit. Surface is to be scraped and repainted with 2 coats of non-lead based paint.

WATER

Water supply must be connected to an approval public or private system. If it is a private system, the owner will be asked whether the well has been tested and whether it was approved. Verification may be required.

SEWER

The unit must be connected to an approval public or private system. If private system is used, owner will be asked the type of system. The inspector will determine whether it meets local health and safety standards. Evidence of sewer back-up will warrant a fail rating.

BATHROOM

1. Each unit must have a bathroom for the exclusive, private use of the tenant and be connected to a hot and cold running water supply and contain a sink, toilet, tub and/or shower in proper working order.
2. The primary bathroom must contain a toilet paper holder, a medicine cabinet or shelf, a vanity mirror, and a shower rod (if a shower is present). The primary bathroom must also contain a toothbrush holder, soap dish and adequate towel bars in relations to the number of occupants.
3. The tub/shower unit must be adequately caulked or grouted and secured. The walls must be free of any hazards such as broken or jagged edges and should be impervious to water, if a shower is present.

4. Each toilet must have a toilet tank cover. The toilet seat must be free of any hazards. The porcelain of all bathroom fixtures and must be clean and free of major stains.
5. All plumbing holes must be sealed.
6. Ground Fault Interrupters are required. See requirement in this chapter.
7. A window or an exhaust fan is required.

KITCHEN

1. Each dwelling unit must have a specific kitchen area.
2. Each kitchen must contain an oven and stove (or range) with all parts in proper working order.
3. Each unit must contain a properly working refrigerator of appropriate size for the unit. All refrigerator parts and accessories should be present and in good working order, including shelves, vegetable bins and covers, etc.
4. Each kitchen must contain a sink with hot and cold running water and with an approved drain with gas trap.
5. All plumbing holes in walls and floors must be sealed.
6. Each unit must have space for food storage and preparation. The countertop surface adjacent to the sink must be impervious to water and free of paper based coverings (such as adhesive-backed paper) and should have a back-splash
7. The kitchen floor must be sound, free from hazardous defects and impervious to water with covering such as tile or linoleum.
8. Ground Fault Interrupters are required. See requirement in this chapter.
9. The kitchen must have at least one outlet and at least one permanent lighting fixture.

MOBILE HOMES

If the unit is a mobile home, it must be properly placed and tied down and have at least one (1) smoke detector in working condition.

GENERAL HEALTH AND SAFETY

1. The access to the unit may not be gained through another unit.
2. The unit must have adequate covered facilities for temporary storage and disposal of wastes.
3. All elevators must display a current inspection certificate (or date of last inspection verified by owner) and must be operating safely and properly.
4. The unit must be free from abnormally high levels of air pollution from vehicular exhaust, sewer gas, fuel gas, dust or other pollutants.
5. The site and immediate neighborhood must be free from conditions, which would seriously and continuously endanger the health and/or safety of the residents.
6. Each unit must have an individual mailbox for the exclusive private use of the tenant.

G. EMERGENCY REPAIR ITEMS [24 CFR 982.404(a)]

The following items are considered of an emergency nature and must be corrected by the owner or tenant (whoever is responsible) within 24 hours of notice by the inspector:

- Inoperable smoke detector
- Major plumbing leaks or flooding
- Natural gas leak or fumes
- Electrical problem which could result in shock or fire
- No heat when outside temperature is below 40° Fahrenheit and inside the unit is below 59° Fahrenheit
- No running water
- Broken glass where someone could be injured
- Obstacle which prevents tenant's entrance or exit
- Lack of functioning toilet
- Lack of security for the unit
- Waterlogged ceiling in eminent danger of falling

The SPHA may give a short extension (not more than 24 additional hours) whenever the responsible party cannot be notified or it is impossible to affect the repair within the 24 hour period.

If the emergency repair item(s) are not corrected in the time period required by the SPHA, and the owner is responsible, the housing assistance payment will be abated and the HAP contract will be terminated.

If the emergency repair item(s) are not corrected in the time period required by the SPHA, and it is an HQS breach which is a family obligation, the SPHA will terminate the assistance to the family.

H. CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS)
[24 CFR 982.405, 982.453]

When it has been determined that a unit on the program fails to meet Housing Quality Standards, and the owner is responsible for completing the necessary repair(s) in the time period specified by the SPHA, the assistance payment to the owner will be abated.

Abatement

A Notice of Abatement will be sent to the owner, and the abatement will be effective from the day after the date of the failed inspection. The notice is generally for 30 days, depending on the nature of the repair(s) needed.

The SPHA will inspect abated units within **7** days of the owner's notification that the work has been completed.

If the owner makes repairs during the abatement period, payment will resume on the day the unit passes inspection.

The SPHA will advise owners of their responsibility to notify the tenant of when the reinspection will take place.

No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS. The tenant is not responsible for the PHA's portion of rent that is abated.

Reduction of Payments

The SPHA may grant an extension in lieu of abatement in the following cases:

1. The owner has a good history of HQS compliance.
2. The failed items are minor in nature.
3. There is an unavoidable delay in completing repairs due to difficulties in obtaining parts or contracting for services.
4. The owner makes a good faith effort to make the repairs.
5. The repairs are expensive (such as exterior painting or roof repair) and the owner needs time to obtain the funds.
6. The repairs must be delayed due to climate conditions.

The extension will be made for a period of time not to exceed 20 days. At the end of that time, at the SPHA's discretion, if the work is not completed or substantially completed, the SPHA will begin the abatement or termination of assistance.

Termination of Contract

If the owner is responsible for repairs, and fails to correct all the deficiencies cited prior to the end of the abatement period, the owner will be sent a HAP Contract Proposed Termination Notice. Prior to the effective date of the termination, the abatement will remain in effect.

If repairs are completed before the effective termination date, the termination may be rescinded by the SPHA if the tenant chooses to remain in the unit. Only one Housing Quality Standards inspections will be conducted after the termination notice is issued.

I. DETERMINATION OF RESPONSIBILITY [24 CFR 982.404, 982.54(d)(14)]

Certain HQS deficiencies are considered the responsibility of the family:

- Tenant-paid utilities not in service
- Failure to provide or maintain family-supplied appliances
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear

“Normal wear and tear” is defined as items which could not be charged against the tenant’s security deposit under State law or court practice.

The owner is responsible for all other HQS violations.

The owner is responsible for vermin infestation even if caused by the family's living habits. However, if such infestation is serious and repeated, it may be considered a lease violation and the owner may evict for serious or repeated violation of the lease. The SPHA may terminate the family's assistance on that basis.

The inspector will make a determination of owner or family responsibility during the inspection. The owner or tenant may appeal this determination to a mediator within 10 days of the inspection.

If the family is responsible but the owner carries out the repairs, the owner will be encouraged to bill the family for the cost of the repairs and the family's file will be noted.

J. CONSEQUENCES IF FAMILY IS RESPONSIBLE [24 CFR 982.404(b)]

If emergency or non-emergency violations of HQS are determined to be the responsibility of the family, the SPHA will require the family make any repair(s) or corrections within **30** days. If the repair(s) or correction(s) are not made in this time period, the SPHA will terminate assistance to the family, after providing an opportunity for an informal hearing. Extensions in these cases must be approved by a supervisor. The owner's rent will not be abated for items which are the family's responsibility.

If the tenant is responsible and corrections are not made, the HAP contract will terminate when assistance is terminated.

I. CONSEQUENCES FOR FAILED RE-INSPECTION

In the event a property fails a re-inspection for either an emergency or non-emergency related violation, the landlord or tenant (in accordance with the violations cited) will be required to pay a \$50.00 re-instatement fee prior to scheduling a third inspection on the rental unit.

Chapter 11

OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS

[24 CFR 982.502, 982.503, 982.504, 982.505, 982.507]

INTRODUCTION

The policies in this chapter reflect the amendments to the HUD regulations, which were implemented by the Quality Housing and Work Responsibility Act of 1998 for the Section 8 Tenant-Based Assistance Program. These amendments became effective on October 1, 1999, which is referred to as the “merger date”. These amendments complete the merging of the Section 8 Certificate and Voucher Programs into one program, called the Housing Choice Voucher Program.

All Section 8 participant families have been transitioned to the Housing Choice Voucher Program on or before October 1, 2001. Rent calculation methods for the Housing Choice Voucher Program are described at 24 CFR 982.505. The rent calculation formula is specific and is not subject to interpretation.

The PHA will determine rent reasonableness in accordance with 24 CFR 982.507(a). It is the PHA's responsibility to ensure that the rents charged by owners are reasonable based upon unassisted comparables in the rental market, using the criteria specified in 24 CFR 982.507(b).

This chapter explains the PHA's procedures for determination of rent-reasonableness, payments to owners, adjustments to the payment standards, and rent adjustments.

A. RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM

The rent to owner is limited only by rent reasonableness. The SPHA must demonstrate that the rent to owner is reasonable in comparison to rent for other comparable unassisted units.

The only other limitation on rent to owner is the maximum rent standard at initial occupancy (24 CFR 982.508). At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, whether it is a new admission or a move to a different unit, if the gross rent for the unit exceeds the applicable payment standard for the family, the family share may not exceed 40 percent of the family's monthly adjusted income.

The determination of adjusted monthly income must be based on verification information received by the SPHA no earlier than 60 days before the SPHA issues a Voucher to the family.

During the initial term of the lease, the owner may not raise the rent to owner.

B. MAKING PAYMENTS TO OWNERS [24 CFR 982.451]

Once the HAP contract is executed, the SPHA begins processing payments to the landlord. A HAP Register will be used as a basis for monitoring the accuracy and timeliness of payments. Changes are made automatically to the HAP Register for the following month. Checks are disbursed by Accounting Department to the owner each month. Checks may be picked up by owner at the SPHA if requested in advance.

Checks that are not received will not be replaced until 15 days have passed from the date of the mailing, and a written request has been received from the payee and a stop payment has been put on the check.

Excess Payments

The total of rent paid by the tenant plus the SPHA housing assistance payment to the owner may not be more than the rent to owner. The owner must immediately return any excess payment to the SPHA.

Owners who do not return excess payments will be subject to penalties as outlined in the "Owner or Family Debts to the PHA" chapter of this Administrative Plan.

Late Payments to Owners

It is a local business practice in the City of St. Petersburg for property managers and owners to charge tenants a reasonable late fee for rents not received by the owner or property manager by the due date, notwithstanding any grace period which is typically 5 days past the first of the month.

Therefore, in keeping with generally accepted practices in the local housing market, the SPHA must make housing assistance payments to the owner promptly and in accordance with the HAP contract.

The SPHA will not be obligated to pay a late fee to the owner if HUD determines that late payment is due to factors beyond the SPHA's control. The SPHA will use administrative fee income or the administrative fee reserve as its only source for late payment penalty.

C. RENT REASONABLENESS DETERMINATIONS [24 CFR 982.507]

The SPHA 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. This applies to all programs.

The SPHA will not approve a lease until the SPHA determines that the initial rent to owner is a reasonable rent. The SPHA must redetermine the reasonable rent before any increase in the rent to owner, and if there is a five percent decrease in the published FMR in effect 60 days before

the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect one year before the contract anniversary.

The SPHA must redetermine rent reasonableness if directed by HUD and based on a need identified by the PHA's auditing system. The PHA may elect to redetermine rent reasonableness at any other time. At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or redetermined by the SPHA

The owner will be advised that by accepting each monthly housing assistance payment s/he will be certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises.

If requested, the owner must give the SPHA information on rents charged by the owner for other units in the premises or elsewhere.

The data for other unassisted units will be gathered from newspapers, Realtors, professional associations, inquiries of owners, market surveys, and other available sources.

The market areas for rent reasonableness may be zip codes/subdivisions/census tracts/neighborhoods within the SPHA's jurisdiction. Subject units within a defined housing market area will be compared to similar units within the same area.

The following items will be used for rent reasonableness documentation:

- Size (number of Bedrooms/square footage)
- Location
- Quality
- Amenities (bathrooms, dishwasher, air conditioning, etc.)
- Housing Services
- Age of unit
- Unit Type
- Maintenance
- Utilities

Rent Reasonableness Methodology

The SPHA maintains information which includes data on unassisted units for use by staff in making rent reasonableness determinations.

D. PAYMENT STANDARDS FOR THE VOUCHER PROGRAM [24 CFR 982.503]

The Payment Standard is used to calculate the housing assistance payment for a family. In accordance with HUD regulation, and at the SPHA's discretion, the Voucher Payment Standard amount is set by the PHA between 90 percent and 110 percent of the HUD published FMR. This is considered the basic range. The SPHA reviews the appropriateness of the Payment Standard annually when the FMR is published. In determining whether a change is needed, the SPHA will ensure that the Payment Standard is always within the range of 90 percent to 110 percent of the new FMR, unless an exception payment standard has been approved by HUD.

The SPHA will establish a single voucher payment standard amount for each FMR area in the PHA jurisdiction. For each FMR area, the SPHA will establish payment standard amounts for each "unit size". The SPHA may have a higher payment standard within the SPHA's jurisdiction if needed to expand housing opportunities outside areas of minority or poverty concentration, as long as the payment standard is within the 90-110% of FMR range.

The SPHA's payment standard will generally be set at 100% of the FMR. However, as FMR's are published by HUD on or after their effective date, it is not cost-effective or efficient to recalculate certifications and recertifications that have already been processed. Therefore, it is SPHA procedure that payment standards increased as a result of the increased FMR will be implemented at the first eligible action following distribution of the revised payment standards/FMR's.

The SPHA may approve a higher payment standard within the basic range, if required as a reasonable accommodation for a family that includes a person with disabilities.

E. ADJUSTMENTS TO PAYMENT STANDARDS [24 CFR 982.503]

Payment Standards may be adjusted, within HUD regulatory limitations, to increase Housing Assistance Payments in order to keep families' rents affordable. The SPHA may use some or all of the measures below in making its determination whether an adjustment should be made to the Payment Standards.

Quality of Units Selected

The SPHA will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that Payment Standard increases are only made when needed to reach the mid-range of the market.

SPHA Decision Point

The SPHA will review the average percent of income of families on the program. If more than 40% of families are paying more than 30% of monthly adjusted income for a particular unit size, the SPHA will determine whether families are renting units larger than their voucher size, and whether families are renting units which exceed HUD's HQS and any additional standards added by the SPHA in the Administrative Plan.

If families are paying more than 30% of their income for rent due to the selection of larger bedroom size units or luxury units, the SPHA may decline to increase the payment standard.

Rent to Owner Increases

The SPHA may review a sample of the units to determine how often owners are increasing rents and the average percent of increase by bedroom size.

Time to Locate Housing

The SPHA may consider the average time period for families to lease up under the Voucher program. If more than 30% of Voucher holders are unable to locate suitable housing within the term of the voucher and the SPHA determines that this is due to rents in the jurisdiction being unaffordable for families even with the presence of a voucher the Payment Standard may be adjusted.

Lowering of the Payment Standard

Lowering of the FMR may require an adjustment of the Payment Standard. Additionally, statistical analysis may reveal that the Payment Standard should be lowered. In any case, the Payment Standard will not be set below 90 percent of the FMR without authorization from HUD.

Financial Feasibility

Before increasing the Payment Standard, the SPHA may review the budget to determine the impact projected subsidy increases would have on funding available for the program and number of families served.

F. EXCEPTION PAYMENT STANDARDS

If the dwelling unit is located in an exception area, the SPHA must use the appropriate payment standard amount established by the PHA for the exception area in accordance with regulation at 24 CFR 982.503(c).

G. OWNER PAYMENT IN THE HOUSING CHOICE VOUCHER PROGRAM

(24 CFR 982.308(g))

The owner is required to notify the SPHA, in writing, at least sixty days before any change in the amount of rent to owner is scheduled to go into effect. Any requested change in rent to owner will be subject to rent reasonableness requirements. See 24 CFR 982.503.

Chapter 12
RECERTIFICATIONS

[24 CFR 982.516]

INTRODUCTION

In accordance with HUD requirements, the HA will reexamine the income and household composition of all families at least annually. Families will be provided accurate annual and interim rent adjustments. Recertifications and interim examinations will be processed in a manner that ensures families are given reasonable notice of rent increases. All annual activities will be coordinated in accordance with HUD regulation. It is a HUD requirement that families report all changes in household composition. This Chapter defines the HA's policy for conducting annual recertifications and coordinating annual activities. It also explains the interim reporting requirements for families, and the standards for timely reporting.

A. ANNUAL ACTIVITIES [24 CFR 982.516, 982.405]

There are three activities the HA must conduct on an annual basis. These activities will be coordinated whenever possible:

1. Recertification of Income and Family Composition
2. HQS Inspection
3. Rent to Owner Adjustment

The SPHA produces a monthly listing of units under contract to ensure that timely reviews or contract rent, housing quality, and factors related to Total Tenant Payment can be made. Requests for rent adjustments and other monetary changes will be transmitted to the Accounting Department.

Annual activities for contracts that did not commence on the first of the month must be conducted no later than the first of the month in which the lease was effective.

Annual inspections: See Chapter 10, "Housing Quality Standards and Inspections".

Rent Adjustments: See Chapter 11, "Owner Rents, Rent Reasonableness and Payment Standards".

B. ANNUAL RECERTIFICATION/REEXAMINATION [24 CFR 982.516]

Families are required to be recertified at least annually. At the first interim or annual certification on or after June 19, 1995, family members must report and verify their U.S. citizenship/eligible immigrant status.

Moves Between Reexaminations

When families move to another dwelling unit:

- An annual recertification will be scheduled (unless a recertification has occurred in the last 120 days and the anniversary date will be changed).

Income limits are not used as a test for continued eligibility at recertification.

Reexamination Notice to the Family

The SPHA will maintain a reexamination tracking system and the household will be notified by mail of the date and time for their interview 90 - 120 days in advance of the anniversary date. If requested as an accommodation by a person with a disability, the SPHA will provide the notice in an accessible format. The SPHA will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities.

Procedure

The SPHA's procedure for conducting annual re-certifications will be:

- Schedule the date and time of appointments and mail a notification to the family along with the personal declaration and other required forms.

Persons with Disabilities

- Persons with disabilities, who are unable to come to the HA's office will be granted an accommodation of conducting the interview by mail, upon verification that the accommodation requested meets the need presented by the disability.

Collection of Information

- The SPHA will allow the family to complete the recertification form.
- The SPHA representative will interview the family and enter the information provided by the family on the recertification form.
- The SPHA will require the family to complete a Personal Declaration Form prior to all recertification interviews.

Requirements to Attend

The following family members will be required to attend the recertification interview:

- All adult household members

EXCEPTION: Elderly and disabled households may recertify via mail.

If the head of household or any adult household member is unable to attend the interview the appointment will be rescheduled.

Failure to Respond to Notification to Recertify

The written notification must state which family members are required to attend the interview. If the family does not appear for the recertification interview, and has not rescheduled or made prior arrangements with the SPHA, the SPHA will reschedule a second appointment.

If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, the SPHA will

- Not schedule a third appointment.
- Terminate assistance to the family, and offer them an informal hearing.

Exceptions to these policies may be made by HCV Officer or his/her designee, if the family is able to document an emergency situation that prevented them from canceling or attending the appointment, or if requested as a reasonable accommodation for a person with a disability.

Documents Required From the Family

In the notification letter to the family, the HA will include instructions for the family to bring the following:

1. Documents to support any preference claims
2. Documentation of income for all family members
3. Documentation of liquid and non-liquid assets
4. Documentation of any deductions/allowances
5. Personal Declaration Form completed by head of household
6. Other as instructed

Verification of Information

The SPHA will follow the verification procedures and guidelines described in this Plan. Verifications for reexaminations must be less than 120 days old.

Tenant Rent Increases

If tenant rent increases, a thirty day notice is mailed to the family prior to the anniversary date.

If less than thirty days are remaining before the anniversary date, the tenant rent increase will be effective on the first of the month following the thirty day notice.

If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination processing, there will be a retroactive increase in rent to the anniversary date.

Tenant Rent Decreases

If tenant rent decreases, it will be effective on the anniversary date.

If the family causes a delay so that the processing of the reexamination is not complete by the anniversary date, rent change will be effective on the first day of the month following completion of the reexamination processing by the SPHA.

Streamlined Annual Examinations – Elderly and/or Disabled Families on Fixed Income

A streamlined reexamination of income for elderly and/or disabled families may be conducted when 100% of the family’s income consists of fixed income (Notice PIH 2013-03 (HA) Temporary Compliance Assistance; expires March 31, 2014 unless extended). In such cases the SPHA will recalculate family incomes by applying any published cost of living adjustments to the previously verified income amount.

Fixed Income includes income from the following:

- **Social Security, Supplemental Security Income (SSI), and Supplemental Disability income (SSD);**
- **Federal, State, local and private pension plans; and**
- **Other periodic payments from annuities, insurance policies, retirement funds, disability, death benefits, and other similar types of periodic receipts that are of substantially the same amounts from year to year.**

C. REPORTING INTERIM CHANGES [24 CFR 982.516]

HUD requires program participants to report all changes in household composition to the SPHA between annual reexaminations. This includes additions due to birth, adoption and court-awarded custody. The family must obtain HA approval prior to all other additions to the household.

The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified as required at the first interim or regular recertification after moving into the unit.

Interim Reexamination Policy

Increases in Income

Families will be required to report all increases in income/assets/family composition of the all household members to the SPHA in writing within 10 days of the change. Increases in income of less than \$5,000 in annual income will not require an Interim exam. The additional income will be calculated forward at the family's next annual re-exam.

Decreases in Income

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 SPHA will conduct an Interim exam and must calculate the change if a decrease in income is reported.

HA Errors

If the SPHA makes a calculation error at admission to the program or at an annual reexamination, an interim reexamination will be conducted to correct the error, but the family will not be charged retroactively.

D. OTHER INTERIM REPORTING ISSUES

An interim reexamination does not affect the date of the annual recertification.

Families with zero or unstable income will be required to report for interim re-exam every 60 days.

In the following circumstances, the SPHA may conduct the interim recertification by mail:

- Changes that will not result in a change in tenant rent or voucher size.
- Changes in income that are routine for the family, such as seasonal employment.
- As a reasonable accommodation when requested. (See Chapter 1, "Statement of Policies and Objectives")

Any changes reported by participants other than those listed in this section will be notated in the tenant file by SPHA staff but will not be processed between regularly scheduled annual reexaminations.

E. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS

The SPHA will not reduce the family share of rent for families whose welfare assistance is reduced specifically because of:

- Fraud; or
- Failure to participate in an economic self-sufficiency program; or
- Noncompliance with a work activities requirement

However, the SPHA will reduce the rent if the welfare assistance reduction is a result of:

- The expiration of a lifetime time limit on receiving benefits; or
- A situation where the family has complied with welfare program requirements but cannot or has not obtained employment. Such as:
 - The family has complied with welfare program requirements, but the durational time limit, (such as a cap on welfare benefits for a period of no more than two years in a five- year period), causes the family to lose their welfare benefits.
 - The SPHA will notify affected families that they have the right to an informal hearing regarding these requirements.

Verification Before Denying a Request to Reduce Rent

The SPHA will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance before denying the family's request for rent reduction.

Cooperation Agreements

The SPHA has a long standing relationship with the local welfare agency and will take a proactive approach to culminating an expanded working relationship for the purpose of targeting economic self-sufficiency programs throughout the community that are available to HCV tenant-based assistance families.

F. NOTIFICATION OF RESULTS OF RECERTIFICATIONS (HUD Notice PIH 98-6)

The HUD form 50058 will be completed and transmitted as required by HUD.

The Notice of Rent Change is mailed to the owner and the tenant. Signatures are not required by the SPHA. If the family disagrees with the rent adjustment they may request an informal review.

G. TIMELY REPORTING OF CHANGES IN INCOME (AND ASSETS)

Standard for Timely Reporting of Changes

The SPHA requires that families report interim changes to the SPHA within 10 days of when the change occurs. Any information, document or signature needed from the family to verify the change must be provided within 20 days of the change.

An exception will be made for TANF recipients who obtain employment. In such cases, families will have to report within 20 days of receipt of the Notice of Action from TANF that shows the full adjustment for employment income.

If the change is not reported within the required time period, or if the family fails to provide documentation or signatures, it will be considered untimely reporting.

Procedures When the Change is Reported in a Timely Manner

The SPHA will notify the family and the owner of any change in the Housing Assistance Payment to be effective according to the following guidelines:

Increases in the Tenant Rent are effective on the first of the month following at least thirty days notice.

Decreases in the Tenant Rent are effective the first of the month following that in which the change occurred. However, no rent reductions will be processed until all the facts have been verified, even if a retroactive adjustment results.

The change may be implemented based on documentation provided by the family, pending third-party written verification.

The change will not be made until the third party verification is received.

Procedures When the Change is Not Reported in a Timely Manner

If the family does not report the change as described under Timely Reporting, the family will have caused an unreasonable delay in the interim reexamination processing and the following guidelines will apply:

Increases in Tenant Rent will be effective retroactive to the date it would have been effective had it been reported on a timely basis. The family will be liable for any overpaid housing assistance and may be required to sign a Repayment Agreement or make a lump sum payment.

Decreases in Tenant Rent will be effective on the first of the month following completion of processing by the SPHA and not retroactively.

Procedures When the Changes Not Processed by the SPHA in a Timely Manner

"Processed in a timely manner" means that the change goes into effect on the date it should when the family reports the change in a timely manner. If the change cannot be made effective on that date, the change is not processed by the SPHA in a timely manner.

In this case, an increase will be effective after the required thirty days notice prior to the first of the month after completion of processing by the SPHA.

If the change resulted in a decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be credited for the amount.

H. CHANGES IN VOUCHER SIZE AS A RESULT OF FAMILY COMPOSITION CHANGES (24 CFR 982.516(c))

(See "Subsidy Standards" chapter.)

**I. CONTINUATION OF ASSISTANCE FOR "MIXED" FAMILIES
[24 CFR 5.518]**

Under the Non-citizens Rule, "Mixed" families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

"Mixed" families who were participants as of June 19, 1995, shall continue receiving full assistance if they meet all of the following criteria:

1. The SPHA implemented the Non-Citizen Rule prior to November 29, 1996; AND
2. The head of the household or spouse is a U.S. citizen or has eligible immigrant status; AND
2. All members of the family other than the head, the spouse, parents of the head or the spouse, and children of the head or spouse are citizens or eligible immigrants. The family may change the head of household to qualify under this provision.

If the SPHA implemented the Non-Citizen Rule on or after November 29, 1996, mixed families may receive prorated assistance only.

J. MISREPRESENTATION OF FAMILY CIRCUMSTANCES

If any participant deliberately misrepresents the information on which eligibility or tenant rent is established, the SPHA will refer the case to its fraud recovery staff for review, collection and possible termination of assistance. The SPHA may also refer the family file/record to the proper authorities for appropriate disposition.

Chapter 13

MOVES WITH CONTINUED ASSISTANCE/PORTABILITY

[24 CFR 982.314, 982.353, 982.355(a)]

INTRODUCTION

HUD regulations permit families to move with continued assistance to another unit within the PHA's jurisdiction, or to a unit outside of the PHA's jurisdiction under portability procedures. The regulations also allow the PHA the discretion to develop policies which define any limitations or restrictions on moves. This chapter defines the procedures for moves, both within and outside of, the PHA's jurisdiction, and the policies for restriction and limitations on moves.

A. ALLOWABLE MOVES

A family may move to a new unit with continued assistance if:

- The assisted lease for the old unit has terminated because the SPHA has terminated the HAP contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family.
- The owner has given the family a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the family (unless assistance to the family will be terminated).
- The family has given proper notice of lease termination (and if the family has a right to terminate the lease on notice to owner).

B. RESTRICTIONS ON MOVES [24 CFR 982.314, 982.552(a)]

Families will be permitted to move within the SPHA's jurisdiction during the initial year of assisted occupancy. Families will not be permitted to move outside the SPHA's jurisdiction under portability procedures during the initial year of assisted occupancy.

Families will be permitted to move more than once in a 12-month period.

The SPHA will deny permission to move if there is insufficient funding for continued assistance.

The SPHA may deny permission to move if:

- The family has violated a family obligation.
- The family owes the SPHA money.

The supervisor may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control.

C. PROCEDURE FOR MOVES [24 CFR 982.314]

Issuance of Voucher

Subject to the restrictions on moves, if the family has not been recertified within the last 120 days, the SPHA will issue the voucher to move after conducting the recertification.

If the family does not locate a new unit, they may remain in the current unit so long as the owner permits.

The annual recertification date will be changed to coincide with the new lease-up date.

SPHA is not responsible for damages, back rent, or security deposits.

Notice Requirements

Briefing sessions emphasize the family's responsibility to give the owner and the SPHA proper written notice of any intent to move.

Time of Contract Change

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move except that there will be no overlapping assistance.

In a move, assistance stops at the old unit at the end of the month in which the tenant ceased to occupy. Assistance will start on the new unit on the effective date of the lease and contract.

D. PORTABILITY [24 CFR 982.353]

Portability applies to families moving out of or into the SPHA's jurisdiction within the United States and its territories.

E. OUTGOING PORTABILITY [24 CFR 982.353, 982.355]

Within the limitations of the regulations and this policy, a participant family has the right to receive tenant-based voucher assistance to lease a unit outside the SPHA's jurisdiction, anywhere in the United States, in the jurisdiction of a SPHA with a tenant-based program. When a family requests to move outside of the SPHA's jurisdiction, the request must specify the area to which the family wants to move.

If there is more than one PHA in the area in which the family has selected a unit, the SPHA may choose the receiving PHA.

Restrictions on Portability

Applicants

If neither the head nor spouse had a domicile (legal residence) in the SPHA's jurisdiction at the date of their initial application for assistance, the family will not be permitted to exercise portability upon initial issuance of a voucher, unless the SPHA approves such move.

[NOTE: legal domicile is defined by local government.]

Upon initial issuance of a voucher, the family must be income eligible under the receiving HA income limits during the initial 12-month period after admission to the program.

Participants

After an applicant has leased-up in the jurisdiction of the initial housing agency, they cannot exercise portability during the first year of assisted occupancy, except in the following circumstances:

- The receiving and initial SPHA agree to allow the move.

The SPHA will not permit families to exercise portability:

- If the family is in violation of a family obligation.
- If the family owes money to the SPHA.
- If the family has moved out of its assisted unit in violation of the lease.

Receiving PHA's will be required to submit hearing determinations to the SPHA within 30 days.

F. INCOMING PORTABILITY [24 CFR 982.354, 982.355]

Absorption or Administration

The SPHA will accept a family with a valid voucher from another jurisdiction and administer or absorb the voucher. The term of the voucher will not expire before the expiration date of any initial SPHA voucher. The family must submit a request for tenancy approval for an eligible unit to the receiving SPHA during the term of the receiving SPHA voucher. The receiving SPHA may grant extensions in accordance with this Administrative Plan. However, if the family decides not to lease-up in the SPHA's jurisdiction, they must contact the initial SPHA to request an extension.

The SPHA will absorb all incoming portable families provided that there is funding available.

The receiving PHA does not redetermine eligibility for a portable family that was already receiving assistance in the initial PHA Section 8 tenant-based program.

The SPHA will issue a "portability voucher" according to its own Subsidy Standards. If the family has a change in family composition which would change the voucher size, the SPHA will change to the proper size based on its own Subsidy Standards.

Income and Total Tenant Payment of Incoming Portables [982.353(d)]

As receiving SPHA, the SPHA will conduct a recertification interview but only verify the information provided if the documents are missing or are over 120 days old, whichever is applicable, or there has been a change in the family's circumstances.

If the family's income is such that a \$0 subsidy amount is determined prior to lease-up in the PHA's jurisdiction, the PHA may refuse to enter into a contract on behalf of the family at \$0 assistance.

Requests for Tenancy Approval

A briefing will be mandatory for all portability families.

When the family submits a Request for Tenancy Approval, it will be processed using the SPHA's policies. If the family does not submit a Request for Tenancy Approval or does not execute a lease, the initial SPHA will be notified within 30 days by the SPHA.

Regular Program Functions

The SPHA will perform all program functions applicable the tenant-based assistance program, such as:

- Annual reexaminations of family income and composition;
- Annual inspection of the unit; and
- Interim examinations when requested or deemed necessary by the PHA

Terminations

The SPHA will notify the initial SPHA in writing of any termination of assistance with a copy of the termination notice to the family. If an informal hearing is required and requested by the family, the hearing will be conducted by the SPHA, using the regular hearing procedures included in this Plan. A copy of the hearing decision will be furnished to the initial PHA.

The initial PHA will be responsible for collecting amounts owed by the family for claims paid and for monitoring repayment. If the initial PHA notifies the SPHA that the family is in arrears or the family has refused to sign a payment agreement, the SPHA will terminate assistance to the family.

Required Documents

As receiving PHA, the SPHA will require the documents listed on the HUD Portability Billing Form from the initial PHA.

Billing Procedures

As receiving PHA, the SPHA will bill the initial PHA monthly for housing assistance payments. The billing cycle for other amounts, including administrative fees and special claims will be monthly, unless requested otherwise by the initial PHA.

The SPHA will bill 100% of the housing assistance payment, 100% of special claims and 80% of the administrative fee (at the initial PHA's rate) and any other HUD-approved fees, for each "portability" voucher leased as of the first day of the month.

The SPHA will notify the initial PHA of changes in subsidy amounts and will expect the initial PHA to notify the SPHA of changes in the administrative fee amount to be billed.

Chapter 14

CONTRACT TERMINATIONS

[24 CFR 982.311, 982.314]

INTRODUCTION

The Housing Assistance Payments (HAP) contract is the contract between the owner and the PHA which defines the responsibilities of both parties. This chapter describes the circumstances under which the contract can be terminated by the PHA and the owner, and the policies and procedures for such terminations.

A. CONTRACT TERMINATION [24 CFR 982.311]

The term of the HAP contract is the same as the term of the lease. The contract between the owner and the SPHA may be terminated by the SPHA, or by the owner or tenant terminating the lease.

No future subsidy payments on behalf of the family will be made by the SPHA to the owner after the month in which the contract is terminated. The owner must reimburse the SPHA for any subsidies paid by the SPHA for any period after the contract termination date.

If the family continues to occupy the unit after the Section 8 contract is terminated, the family is responsible for the total amount of rent due to the owner. The owner will have no right to claim compensation from the SPHA for vacancy loss under the provisions of certificate HAP contracts effective before October 2, 1995.

After a contract termination, if the family meets the criteria for a move with continued assistance, the family may lease-up in another unit.

B. TERMINATION BY THE FAMILY: MOVES [24 CFR 982.314(c)(2)]

Family termination of the lease must be in accordance with the terms of the lease. Mutual termination letters must be signed and dated by both the tenant and landlord with the effective date of the lease termination.

C. TERMINATION OF TENANCY BY THE OWNER: EVICTIONS [24 CFR 982.310, 982.455]

If the owner wishes to terminate the lease, the owner must provide proper notice as stated in the lease.

During the term of the lease, the owner may not terminate the tenancy except for the grounds stated in the HUD regulations.

During the term of the lease the owner may only evict for:

- Serious or repeated violations of the lease, including but not limited to failure to pay rent or other amounts due under the lease, or repeated violation of the terms and conditions of the lease;
- Violations of Federal, state or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises; or criminal activity by the tenant, any member of the household, a guest or another person under the tenant's control that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, or persons residing in the immediate vicinity of the premises or any drug-related criminal activity on or near the premises.
- Other good cause.

During the initial term of the lease, the owner may not terminate the tenancy for “other good cause” unless the owner is terminating the tenancy because of something the family did or failed to do (see 982.310)

The owner must provide the tenant a written notice specifying the grounds for termination of tenancy, at or before the commencement of the eviction action. The notice may be included in, or may be combined with, any owner eviction notice to the tenant.

The owner eviction notice means a notice to vacate, or a complaint, or other initial pleading used under State or local law to commence an eviction action.

Housing assistance payments are paid to the owner under the terms of the HAP Contract. If the owner has begun eviction and the family continues to reside in the unit, the SPHA must 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 tenant.

The SPHA will continue housing assistance payments until the family moves or is evicted from the unit.

The SPHA must continue making housing assistance payments to the owner in accordance with the Contract as long as the tenant continues to occupy the unit and the Contract is not violated. By endorsing the monthly check from the SPHA, the owner certifies that the tenant is still in the unit, the rent is reasonable and she/he is in compliance with the contract.

The eviction notice must specify the cause for the eviction.

The SPHA requires that the owner specify the section of the lease that has been violated and cite some or all of the ways in which the tenant has violated that section as documentation for the SPHA termination of assistance.

If the action is finalized in court, the owner must provide the SPHA with the documentation, including notice of the lock-out date.

If the eviction is not due to a serious or repeated violation of the lease, and if the SPHA has no other grounds for termination of assistance, the SPHA will issue a new certificate or voucher so that the family can move with continued assistance.

D. TERMINATION OF THE CONTRACT BY SPHA

[24 CFR 982.404(a), 982.453, 982.454, 982.552(a)(3)]

The term of the HAP contract terminates when the lease terminates, when the SPHA terminates program assistance for the family, and when the owner has breached the HAP contract. (See "Owner Disapproval and Restriction" chapter)

The SPHA may also terminate the contract if:

- The SPHA terminates assistance to the family.
- The family is required to move from a unit when the unit does not meet the HQS space standards because of an increase in family size or a change in family composition.
- Funding is no longer available under the ACC.

The contract will terminate automatically if 180 days have passed since the last housing assistance payment to the owner.

Notice of Termination

When the SPHA terminates the HAP contract under the violation of HQS space standards, the SPHA will provide the owner and family written notice of termination of the contract, and the HAP contract terminates at the end of the calendar month that follows the calendar month in which the SPHA gives such notice to the owner.

E. TERMINATIONS DUE TO INELIGIBLE IMMIGRATION STATUS

[24 CFR 812.9]

For families who were participants on June 19, 1995, terminations due to the ineligible immigration status of all members of the family, or because a "mixed" family chooses not to accept pro-ration of assistance, may be temporarily deferred for intervals not to exceed six months (up to a maximum of three years) if necessary to permit the family additional time for transition to affordable housing.

The family will be notified in writing at least 60 days in advance of the expiration of the deferral period that termination of assistance will not be deferred because:

- granting another deferral will result in an aggregate deferral period of longer than three years, or
- a determination has been made that other affordable housing is available

F. TERMINATION DUE TO OWNER DISAPPROVAL [24 CFR 982.453]

If the SPHA terminates the contract due to owner disapproval, the SPHA will provide the owner and family with at least thirty days (30) written notice of termination of the contract.

Chapter 15

DENIAL OR TERMINATION OF ASSISTANCE

[24 CFR 5.902, 5.902, 5.903, 5.905, 982.4, 982.54, 982.552, 982.553]

INTRODUCTION

The PHA may deny or terminate assistance for a family because of the family's action or failure to act. The PHA will provide families with a written description of the family obligations under the program, the grounds under which the PHA can deny or terminate assistance, and the PHA's informal hearing procedures. This chapter describes when the PHA is required to deny or terminate assistance, and the PHA's policies for the denial of a new commitment of assistance and the grounds for termination of assistance under an outstanding HAP contract.

A. GROUNDS FOR DENIAL/TERMINATION [24 CFR 982.54, 982.552, 982.553]

If denial or termination is based upon behavior resulting from a disability, the SPHA will delay the denial or termination in order to determine if there is an accommodation that would negate the behavior resulting from the disability.

Form of Denial/Termination

Denial of assistance for an applicant may include any or all of the following:

- Denial for placement on the SPHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a tenancy
- Refusing to process or provide assistance under portability procedures

Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a tenancy
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

Mandatory Denial and Termination [24 CFR 982.54 (d), 982.552(b), 982.553(a), 982.553(b)]

The SPHA must deny assistance to applicants, and terminate assistance for participants if the family is under contract and 180 days (or 12 months, depending on the HAP contract used) have elapsed since the SPHA's last housing assistance payment was made. (See "Contract Terminations" chapter.)

The SPHA must permanently deny assistance to applicants, and terminate the assistance of persons convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing.

The SPHA must deny admission to the program for applicants, and terminate assistance for program participants if the SPHA determines that any household member is currently engaging in illegal use of a drug. See section B of this chapter for the PHA's established standards.

The SPHA must deny admission to the program for applicants, and terminate assistance for program participants if the SPHA determines that it has reasonable cause to believe that a household member's illegal drug use or a pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents. See Section B of this chapter for the PHA's established standards.

The SPHA must deny admission to an applicant if the SPHA determines that any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. See section B of this chapter for the SPHA's established standards regarding criminal background investigation and determining whether a member of the household is subject to a lifetime registration requirement under a State sex offender registration program.

The SPHA must terminate program assistance for a family evicted from housing assisted under the program for serious violation of the lease. If any member of the family has been evicted from federally assisted housing for a serious violation of the lease, the SPHA must deny admission for 5 years after the eviction occurred.

The SPHA must deny admission to the program for an applicant or terminate program assistance for a participant if any member of the family fails to sign and submit consent forms for obtaining information in accordance with Part 5, subparts B and F.

The SPHA must deny admission or terminate assistance when required under the regulations to establish citizenship or eligible immigration status (if no member of the family is a US citizen or eligible immigrant.)

Grounds for Denial or Termination of Assistance [24 CFR 982.552(c)]

The SPHA may at any time deny program assistance for an applicant, or terminate program assistance for a participant, for any of the following reasons:

- If any family member violates any family obligation under the program as listed in 24 CFR 982.551.
- If any family member has violated the family obligation under 24 CFR 982.551 not to engage in any drug-related criminal activity.
- If any family member has violated the family obligation under 24 CFR 982.551 not to engage in any violent criminal activity.
- Any member of the family has been evicted from public housing in the last 5 years.
- If any member of the family commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- The family currently owes rent or other amounts to the SPHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.
- The family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
 - The family breaches an agreement with a PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA. The PHA at its discretion may offer the family the opportunity to enter into a repayment agreement. The PHA will prescribe the terms of the agreement. (See "Repayment Agreements" chapter.)
- The family has engaged in or threatened abusive or violent behavior toward PHA personnel.
 - "Abusive or violent behavior towards PHA personnel" includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate, may be cause for termination or denial.
 - "Threatening" refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.
 - Actual physical abuse or violence will always be cause for termination.
- The SPHA determines that there is reasonable cause to believe that a family member's pattern of illegal use of a controlled substance or abuse of alcohol may interfere with the health, safety or peaceful enjoyment of other residents.

- If a family member is subject to a lifetime registration requirement under a State Sex Offender Registration Program.

Length of Denial of Assistance

Applicants will be banned for life from receiving program assistance for the following reasons:

- The family violated any family obligations under the program as listed in 24 CFR 982.551 while on the program with any PHA.
- Any member of the family has ever been evicted from public housing.
- The family had engaged in or threatened abusive or violent behaviors toward SPHA personnel.
- Persons who commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- Persons who committed drug-related criminal activities or violent criminal activities while on the program.

Note: A person may reapply if after 5 years there are no further convictions and if they have demonstrated successful completion of a rehabilitation program approved by the SPHA.

Persons who currently owe rent or other amounts to the SPHA, or to another PHA in connection with Section 8 or the public housing assistance under 1937 Act will be banned from reapplying until the applicant has made full restitution to the applicable PHA.

Note: An applicant may reapply only if the SPHA's waiting list is open.

B. SCREENING AND TERMINATION FOR DRUG ABUSE AND OTHER CRIMINAL ACTIVITY

Purpose

All federally assisted housing is intended to provide a place to live and raise families, not a place to commit crime, to use or sell drugs or terrorize neighbors. It is the intention of **SPHA** to fully endorse and implement a policy designed to:

- Help create and maintain a safe and drug-free community
- Keep our program participants free from threats to their personal and family safety
- Help maintain an environment where children can live safely, learn and grow up to be productive citizens

Administration

All screening and termination of assistance procedures shall be administered fairly and in such a way as not to violate rights to privacy or discriminate on the basis of race, color, nationality, religion, familial status, disability, sex or other legally protected groups.

Screening of Applicants

In an effort to prevent future drug related and other criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents, and as required by 24 CFR 982, Subpart L and CFR Part 5, Subpart J, the SPHA will endeavor to screen applicants as thoroughly and fairly as possible for drug-related and violent criminal behavior.

Such screening will apply to any member of the household who is 18 years of age or older.

HUD Definitions

Drug-related criminal activity means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against a person or property, and the activity is being engaged in by any family member.

Standard for Violation

The SPHA will deny participation in the program to applicants and terminate assistance to participants in cases where the SPHA determines there is reasonable cause to believe that a household member is illegally using a drug or if the person abuses alcohol in a way that may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents, including cases where the SPHA determines that there is a pattern of illegal use of a drug or a pattern of alcohol abuse.

“Engaged in or engaging in” violent criminal activity means any act within the past 5 years by an applicant or participant or household member which involved criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against a person or property, which resulted in the arrest and conviction of the applicant, participant, or household member..

The existence of the above-referenced behavior by any household member, regardless of the applicant or participant’s knowledge of the behavior, shall be grounds for denial or termination of assistance.

Drug Related and Violent Criminal Activity

Ineligibility for admission if Evicted for Drug-Related Activity: Persons evicted from public housing, Indian housing, Section 23 or any Section 8 program because of drug-related criminal activity are ineligible for admission to the Section 8 program for a three year period beginning on the date of such eviction.

Applicants will be denied assistance if they have been:

- Convicted/evicted from a unit assisted under the Housing Act of 1937 due to violent criminal activity within the last 5 years prior to the date of the certification interview

The SPHA will also deny assistance to any applicant where the HA determines:

- The applicant is illegally using a controlled substance,
- There is reasonable cause to believe that an applicant abuses alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents,
- There is reasonable cause to believe that the applicant's pattern of illegal use of a controlled substance may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents,
- There is reasonable cause to believe that the applicant's pattern of abuse of alcohol may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The SPHA may waive these policies if the applicant demonstrates to the SPHA's satisfaction that the applicant is no longer engaging in illegal use of a controlled substance or abuse of alcohol and:

- Has successfully completed a supervised drug or alcohol rehabilitation program;
- Has otherwise been rehabilitated successfully; or
- Is participating in a supervised drug or alcohol rehabilitation program.

The SPHA will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the Termination of Assistance.

The SPHA will waive the requirement regarding drug-related criminal activity if:

- The person demonstrates successful completion of a credible rehabilitation program approved by the SPHA, or
- The circumstances leading to the eviction no longer exist.

Denial of Assistance for Sex Offenders

The SPHA will deny admission if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. In screening applicants, the SPHA will perform criminal history background checks to determine whether any household member is subject to a lifetime sex offender registration requirement.

Termination of Assistance for Participants

Assistance will be terminated for participants who have been:

Convicted or evicted from a unit assisted under any Federally assisted housing program for drug-related or violent criminal activity during participation in the program, and within the last 5 years prior to the date of the notice to terminate assistance, and whose activities have created a disturbance in the building or neighborhood.

If the family violates the lease for drug-related or violent criminal activity, the SPHA will terminate assistance.

Notice of Termination of Assistance

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

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

If the SPHA terminates for criminal activity as shown by a criminal record, the SPHA must provide the subject of the record and the tenant with a copy of the criminal record. The SPHA will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the Termination of Assistance.

Required Evidence

Preponderance of evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. The intent is not to prove criminal liability, but to establish that the act(s) occurred. Preponderance of 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.

The SPHA will pursue fact-finding efforts as needed to obtain credible evidence.

Confidentiality of Criminal Records

The SPHA will ensure that any criminal record received is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which it was requested is accomplished.

C. FAMILY OBLIGATIONS [24 CFR 982.551]

1. The family must supply any information that the SPHA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR 982.551). "Information" includes any requested certification, release or other documentation.
2. The family must supply any information requested by the SPHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.
3. The family must disclose and verify Social Security Numbers (as provided by 24 CFR 5.216) and must sign and submit consent forms for obtaining information in accordance with 24 CFR 5.230.
4. All information supplied by the family must be true and complete.
5. The family is responsible for an HQS breach caused by the family as described in 982.404(b).
6. The family must allow the SPHA to inspect the unit at reasonable times and after reasonable notice.
7. The family may not commit any serious or repeated violations of the lease.
8. The family must notify the owner and, at the same time, notify the SPHA before the family moves out of the unit or terminates the lease upon notice to the owner.
9. The family must promptly give the SPHA a copy of any owner eviction notice.

10. The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
11. The composition of the assisted family residing in the unit must be approved by the SPHA. The family must promptly inform the SPHA of the birth, adoption or court-awarded custody of a child. The family must request SPHA approval to add any other family member as an occupant of the unit.
12. The family must promptly notify the SPHA, in writing within 10 days, if any family member no longer resides in the unit.
13. If the SPHA has given approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or SPHA approval is denied, the family may not allow a foster child or live-in aide to reside with the assisted family.
14. Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit as a residence by members of the family.
15. The family must not sublease or let the unit.
16. The family must not assign the lease or transfer the unit.
17. The family must supply any information or certification requested by the SPHA to verify that the family is living in the unit, or relating to family absence from the unit, including any SPHA-requested information or certification on the purposes of family absences. The family must cooperate with the SPHA for this purpose. The family must promptly notify the SPHA of absence from the unit.
18. The family must not own or have any interest in the unit.
19. The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with any Federal housing program.
20. The household members may not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents. Under 24 CFR 5.2005(c)(2), criminal activity directly related to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of tenancy, occupancy rights, or assistance of the victim, if the tenant or immediate family member of the tenant is the victim. The members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

21. An assisted family, or members of the family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) federal, State or local housing assistance program.

Housing Authority Discretion [24 CFR 982.552(c)]

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the SPHA has discretion to consider all of the circumstances in each case, including the seriousness of the case. The SPHA will use its discretion in reviewing the extent of participation or culpability of individual family members and the length of time since the violation occurred. The SPHA may also review the family's more recent history and record of compliance and the effects that denial or termination of assistance may have on other family members who were not involved in the action or failure to act.

Enforcing Family Obligations

Explanations and Terms

The term "promptly" when used with the family obligations always means "within 10 days." Denial or termination of assistance is always optional except where this Plan or the regulations state otherwise.

HQS Breach

The inspector or supervisor will determine if an HQS breach as identified in 24 CFR 982.404 (b) is the responsibility of the family. Families may be given extensions to cure HQS breaches by the supervisor.

Lease Violations

The following criteria will be used to decide if a serious or repeated violation of the lease will result in termination of assistance:

- If the owner terminates tenancy through court action for serious or repeated violation of the lease.
- If the owner notifies the family of termination of tenancy assistance for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action, and the SPHA determines that the cause is a serious or repeated violation of the lease based on available evidence.
- If the owner notifies the family of termination of tenancy assistance for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action, and

- If there are police reports, neighborhood complaints or other third party information, that has been verified by the SPHA.

Notification of Eviction

If the family requests assistance to move and they did not notify the SPHA of an eviction within 10 days of receiving the Notice of Lease Termination, the move will be denied.

Proposed Additions to the Family

The SPHA will deny a family's request to add additional family members who are:

- Persons who have been evicted from public housing.
- Persons who have previously violated a family obligation listed in 24 CFR 982.551 of the HUD regulations.
- Persons who have been part of a family whose assistance has been terminated under the Certificate or Voucher program.
- Persons who commit drug-related criminal activity or violent criminal activity.
- Persons who do not meet the SPHA's definition of family.
- Persons who commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- Persons who currently owe rent or other amounts to the SPHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.
- Persons who have engaged in or threatened abusive or violent behavior toward PHA personnel.

Family Member Moves Out

Families are required to notify the SPHA if any family member leaves the assisted household. When the family notifies the SPHA, they must furnish the following information:

- The date the family member moved out.
- The new address, if known, of the family member.
- A statement as to whether the family member is temporarily or permanently absent.

Limitation on Profit-Making Activity in 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 will be considered a violation. If the SPHA determines that the use of the unit as a business is not incidental to its use as a dwelling unit, it will be considered a program violation. If the PHA determines the business is not legal, it will be considered a program violation.

Interest in Unit

The owner may not reside in the assisted unit regardless of whether (s)he is a member of the assisted family, unless the family owns the mobile home and rents the pad.

D. PROCEDURES FOR NON-CITIZENS [24 CFR 5.514, 5.516, 5.518]

Denial or Termination due to Ineligible Immigrant Status

Applicant or participant families in which all members are neither U.S. citizens nor eligible immigrants are not eligible for assistance and must have their assistance terminated. The SPHA must offer the family an opportunity for a hearing. (See "Eligibility for Admission" chapter, section on Citizenship/Eligible Immigration Status.)

Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

False or Incomplete Information

When the SPHA has clear, concrete, or substantial documentation (such as a permanent resident card or information from another agency) that contradicts the declaration of citizenship made by an applicant or participant, an investigation will be conducted and the individual will be given an opportunity to present relevant information.

If the individual is unable to verify their citizenship, the SPHA may give him/her an opportunity to provide a new declaration as an eligible immigrant or an opportunity to elect not to contend their status.

The SPHA will deny or terminate assistance based on the submission of false information or misrepresentation.

Procedure for Denial or Termination

If the family (or any member) claimed eligible immigrant status and the INS primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with the SPHA either after the INS appeal or in lieu of the INS appeal.

After the SPHA has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable).

E. ZERO (\$0) ASSISTANCE TENANCIES [24 CFR 982.455 (a)]

The family has no liability for unpaid rent or damages, and the family may remain in the unit at \$0 assistance for up to 180 days after the last HAP payment. If the family is still in the unit after 180 days, the assistance will be terminated. If, within the 180 day timeframe, an owner rent increase or a decrease in the Total Tenant Payment causes the family to be eligible for a housing assistance payment, the SPHA will resume assistance payments for the family.

In order for a family to move to another unit during the 180 days, the rent for the new unit would have to be high enough to necessitate a housing assistance payment.

F. OPTION NOT TO TERMINATE FOR MISREPRESENTATION [24 CFR 982.551, 982.552(c)]

If the family has misrepresented any facts that caused the SPHA to overpay assistance, the SPHA may choose not to terminate and may offer to continue assistance provided that the family executes a Repayment Agreement and makes payments in accordance with the agreement or reimburses the SPHA in full.

G. MISREPRESENTATION IN COLLUSION WITH OWNER [24 CFR 982.551, 982.552 (c)]

If the family willingly and knowingly commits fraud or is involved in any other illegal scheme with the owner, the SPHA may deny or terminate assistance.

In making this determination, the SPHA will carefully consider the possibility of overt or implied intimidation of the family by the owner and the family's understanding of the events.

H. MISSED APPOINTMENTS AND DEADLINES [24 CFR 982.551, 982.552 (c)]

It is a Family Obligation to supply information, documentation, and certification as needed for the SPHA to fulfill its responsibilities. The SPHA schedules appointments and sets deadlines in order to obtain the required information. The Obligations also require that the family allow the SPHA to inspect the unit, and appointments are made for this purpose.

An applicant or participant who fails to keep an appointment, or to supply information required by a deadline without notifying the SPHA, may be sent a Notice of Denial or Termination of Assistance for failure to provide required information, or for failure to allow the SPHA to inspect the unit.

The family will be given information about the requirement to keep appointments and the number of times appointments will be rescheduled, as specified in this Plan.

Appointments will be scheduled and time requirements will be imposed for the following events and circumstances:

- Eligibility for Admissions
- Verification Procedures
- Certificate/Voucher Issuance and Briefings
- Housing Quality Standards and Inspections
- Recertifications
- Appeals

Acceptable reasons for missing appointments or failing to provide information by deadlines are:

- Medical emergency
- Incarceration
- Family emergency

Procedure when Appointments are Missed or Information not Provided

For most purposes in this Plan, the family will be given 2 opportunities before being issued a notice of termination or denial for breach of a family obligation.

After issuance of the termination notice, if the family offers to correct the breach within the time allowed to request a hearing:

- The notice will be rescinded if the family offers to cure and the family does not have a history of non-compliance.

Chapter 16

OWNER DISAPPROVAL AND RESTRICTION

[24 CFR 982.54, 982.306, 982.453]

INTRODUCTION

It is the policy of the PHA to recruit owners to participate in the voucher program. The PHA will provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout the jurisdiction of the PHA. The regulations define when the PHA must disallow an owner participation in the program, and they provide the PHA discretion to disapprove or otherwise restrict the participation of owners in certain categories. This chapter describes the criteria for owner disapproval, and the various penalties for owner violations.

A. DISAPPROVAL OF OWNER [24 CFR 982.306, 982.54(d)(8)]

The SPHA will conduct background searches on all applying landlords through the Florida Department of Law Enforcement and will charge a fee commensurate with the cost of providing the check. A history of five (5) years will be reviewed. The owner does not have a right to participate in the program. For purposes of this section, "owner" includes a principal or other interested party.

The SPHA will disapprove the owner for the following reasons:

- HUD or other agency directly related has informed the SPHA that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.
- HUD has informed the SPHA that the Federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other Federal equal opportunity requirements and such action is pending.
- HUD has informed the SPHA that a court or administrative agency has determined that the owner has violated the Fair Housing Act or other Federal equal opportunity requirements.
- Unless their lease was effective prior to June 17, 1998, the owner may not be a parent, child, grandparent, grandchild, sister or brother of any family member. The PHA will waive this restriction as a reasonable accommodation for a family member who is a person with a disability.
- In cases where the owner and tenant bear the same last name, the SPHA may, at its discretion, require the family and or owner to certify whether they are related to each other in any way.

- The owner has violated obligations under a housing assistance payments contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).
- The owner has committed fraud, bribery or any other corrupt act in connection with any Federal housing program.
- The owner has engaged in drug-related criminal activity or any violent criminal activity.
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other Federal housing program.
- The owner has a history or practice of renting units that fail to meet State or local housing codes.
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity by the tenant, any member of the household, a guest or another person under the control of any member of the household that:
 - Threatens the right to peaceful enjoyment of the premises by other residents;
 - Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of the housing.
 - 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
 - Is drug-related criminal activity or violent criminal activity;
 - The owner has not paid State or local real estate taxes, fines or assessments.

B. OWNER RESTRICTIONS AND PENALTIES [24 CFR 982.453]

If an owner has committed fraud or abuse or is guilty of frequent or serious contract violations, the SPHA will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. The SPHA may also terminate some or all contracts with the owner.

Before imposing any penalty against an owner the SPHA 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.

The SPHA guidelines for restrictions are contained in the table below:

DISAPPROVAL OF OWNERS/PARTICIPATION RESTRICTIONS

<u>Breach</u>	<u>Penalty</u>
HUD notification of owner disbarment/suspension	Termination
HUD notification of violation of fair housing federal equal opportunity	Termination
Violation of contract obligations	Termination
Owner fraud, bribery or other corrupt act in a Federal housing program	Termination/ Debarment
Owner engaged in drug trafficking	Termination/ Debarment
History of noncompliance with HQS	Termination/ Debarment
History of renting units below code	Termination
State/local real estate taxes, fines or assessments	Termination
Drug related or violence criminal activity	Termination/ Debarment

C. OTHER REMEDIES FOR OWNER VIOLATIONS

Overpayments

If the landlord has been overpaid as a result of fraud, misrepresentation or violation of the Contract, the SPHA may terminate the Contract and arrange for restitution to the SPHA and/or family as appropriate.

The SPHA will make every effort to recover any overpayments made as a result of landlord fraud or abuse. Payments otherwise due to the owner may be debited in order to repay the SPHA or the tenant, as applicable.

Chapter 17

OWNER OR FAMILY DEBTS TO THE PHA

[24 CFR 982.552]

INTRODUCTION

This chapter describes the PHA's policies for the recovery of monies which have been overpaid for families, and to owners. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts. It is the PHA's policy to meet the informational needs of owners and families, and to communicate the program rules in order to avoid owner and family debts. Before a debt is assessed against a family or owner, the file must contain documentation to support the PHA's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the owner, the family or other interested parties.

When families or owners owe money to the PHA, the PHA will make every effort to collect it. The PHA will use a variety of collection tools to recover debts including, but not limited to:

- Requests for lump sum payments
- Civil suits
- Repayment agreements
- Abatements
- Reductions in HAP to owner
- Collection agencies
- Credit bureaus
- Income tax set-off programs

A. REPAYMENT AGREEMENT FOR FAMILIES [24 CFR 982.552 (c)(v-vii)]

A Repayment Agreement as used in this Plan is a document entered into between the SPHA and a person who owes a debt to the SPHA. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of payment, any special provisions of the agreement, and the remedies available to the SPHA upon default of the agreement.

The following outline defines the SPHA Repayment Agreement process as amended;

- The initial recoupment calculation worksheet with the file is forwarded to the Compliance Department for review.
- The file is returned to the respective Housing Specialist by the Compliance Department with a copy of the Repayment Agreement. The Housing Specialist then prepares a "Notice of Termination" letter for unreported income within the next 48 hours and present to the Housing Choice Voucher Officer or designee for review (i.e., grammar, amount, dates) and approval.
- Once approved, the Documentation Specialist mails the termination letter to the tenant/family and delivers the file to the Compliance Department for creation of the Fraud File.

- Upon request by the tenant/family notified of termination, the Compliance Department shall schedule a hearing. At the hearing the Housing Authority, at its discretion, may offer the tenant/family the Repayment Agreement to be signed on this date by both the Tenant/Family and a SPHA representative. **The maximum length of time the SPHA will enter into a payment agreement with a tenant/family is 60 days.** If the debt is paid before the hearing date, the hearing is dismissed.
- If a hearing is **NOT** requested by the tenant/family, the tenant file will be returned to the Housing Specialist by the Compliance Department to send a Final Termination letter to the tenant/family.
- The Fraud File shall be retained by the Compliance Department to enter and post the information on HUD's EIV database as debts owed to a housing authority.

Late Payments

A payment will be considered to be in arrears if the payment has not been received by the close of the business day on which the payment was due. If the due date is on a weekend or holiday, the due date will be at the close of the next business day.

If the family's repayment agreement is in arrears, the SPHA may:

- Require the family to pay the balance in full
- Pursue civil collection of the balance due
- Terminate the housing assistance
- Grant an extension of 10 days

If the family requests a move to another unit, the family will be required to pay the balance of the repayment agreement in full prior to the issuance of a voucher.

<p><u>Repayment Schedule for Monies Owed to the SPHA</u></p>

Repayment Agreements will consist of **two (2) equal payments:**

The initial payment for all Repayment Agreements will be fifty percent (50%) of the total amount due, with the remaining fifty percent (50%) balance due the following month on the date(s) specified in the agreement plan.

There are some circumstances in which the SPHA may not, or may choose to not enter into a repayment agreement. They are:

- If the family already has a Repayment Agreement in place.
- If the SPHA determines that the family committed program fraud.
- If the family has a documented history of failure to report income timely which has resulted in repeated (2 or more) Repayment Agreements.

Guidelines for Repayment Agreements

Repayment Agreements will be executed between the SPHA and the head of household and spouse.

Monthly payments may be decreased in cases of hardship with the prior notice of the family, verification of the hardship, and the approval of the supervisor.

No move will be approved until the debt is paid in full unless the move is the result of one of the following causes, and payments on the Repayment Agreement are current:

- Family size exceeds the HQS maximum occupancy standards or family is over-housed due to change in family size.
- The HAP contract is terminated due to owner non-compliance or opt-out
- A natural disaster

Additional Monies Owed: If the family has a Repayment Agreement in place and incurs an additional debt to the SPHA:

- Additional amounts owed by the family may be added to the existing repayment agreement as long as the total amount owed does not exceed the limits outlined earlier in this chapter.
- If a Repayment Agreement is in arrears more than 15 days, any new debts must be paid in full.

B. DEBTS DUE TO MISREPRESENTATIONS/NON-REPORTING OF INFORMATION [24 CFR 982.163]

HUD's definition of program fraud and abuse is a single act or pattern of actions that:

Constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead, and that results in payment of Section 8 program funds in violation of Section 8 program requirements.

Family Error/Late Reporting

Families who owe money to the SPHA due to the family's failure to report increases in income will be required to repay in accordance with the payment procedures for program fraud, below.

Program Fraud

Families who owe money to the SPHA due to program fraud will be required to pay in accordance with the payment procedures for program fraud, below.

If a family owes an amount which equals or exceeds \$1,000.00 as a result of program fraud, the case will be referred to the Inspector General. Where appropriate, the SPHA will refer the case for criminal prosecution.

Repayment Procedures for Program Fraud

Families who commit program fraud or untimely reporting of increases in income will be subject to the following procedures:

- The duration of the agreement will not exceed the duration of the violation.
- The maximum time period for a Payment Agreement will be 12 months.
- The family will be required to pre-pay half of the amount owed prior to or upon execution of the Repayment Agreement.
- The minimum monthly payment will be \$10.00.

C. OWNER DEBTS TO THE PHA [24 CFR 982.453(b)]

If the SPHA determines that the owner has retained housing assistance or claim payments the owner is not entitled to, the SPHA may reclaim the amounts from future housing assistance or claim payments owed the owner for any units under contract.

If future housing assistance or claim payments are insufficient to reclaim the amounts owed, the SPHA will:

- Require the owner to pay the amount in full within 30 days.
- Enter into a payment agreement with the owner for the amount owed.
- Pursue collections through the local court system.
- Restrict the owner from future participation.

D. WRITING OFF DEBTS

Debts will be written off if:

- The debtor's whereabouts are unknown and the debt is more than 2 years old.
- A determination is made that the debtor is judgment proof.
- The debtor is deceased.
- The debtor is confined to an institution indefinitely or for more than 2 years.
- The amount is less than \$200.00, and the debtor cannot be located.

Chapter 18

COMPLAINTS AND APPEALS

INTRODUCTION

The informal hearing requirements defined in HUD regulation are applicable to participating families who disagree with an action, decision, or inaction of the PHA. This chapter describes the policies, procedures and standards to be used when families disagree with a PHA decision. The procedures and requirements are explained for preference denial meetings, informal reviews and hearings. It is the policy of the PHA to ensure that all families have the benefit of all protections due to them under the law.

A. COMPLAINTS TO THE PHA

The SPHA will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. The SPHA may require that complaints other than HQS violations be put in writing. HQS complaints may be reported by telephone.

Categories of Complaints

Complaints from families: If a family disagrees with an action or inaction of the SPHA or owner.

- Complaints from families will be referred to a supervisor.

Complaints from owners: If an owner disagrees with an action or inaction of the SPHA or a family.

- Complaints from owners will be referred to a supervisor.

Complaints from staff: If a staff person reports an owner or family either violating or not complying with program rules.

- Complaints from staff will be referred to a supervisor.

Complaints from the general public: Complaints or referrals from persons in the community in regard to the SPHA, a family or an owner.

- Complaints from the general public will be referred to a supervisor.

B. PREFERENCE DENIALS

When the SPHA denies a preference to an applicant, the family will be notified in writing of the specific reason for the denial and offered the opportunity for a meeting with SPHA staff to discuss the reasons for the denial and to dispute the SPHA's decision.

The person who conducts the meeting will be:

- Any officer or employee of the SPHA except the person who made or approved the decision or a subordinate of those persons.

C. INFORMAL REVIEW PROCEDURES FOR APPLICANTS

[24 CFR 982.54(d)(12), 982.554]

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 citizenship or eligible immigrant status, the applicant is entitled to an informal hearing.

When the SPHA determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain:

1. The reason(s) they are ineligible
2. The procedure for requesting a review if the applicant does not agree with the decision
3. The time limit for requesting a review

The SPHA must provide applicants with the opportunity for an informal review of decisions denying:

- Qualification for preference
- Listing on the SPHA's waiting list
- Issuance of a voucher
- Participation in the program

Informal reviews are not required for established policies and procedures and SPHA determinations such as:

- Discretionary administrative determinations by the SPHA
- General policy issues or class grievances
- A determination of the family unit size under the SPHA subsidy standards
- Refusal to extend or suspend a voucher
- Disapproval of lease
- Determination that unit is not in compliance with HQS
- Determination that unit is not in accordance with HQS due to family size or composition

Procedure for Review

A request for an informal review must be received in writing by the close of the business day, no later than 10 days from the date of the SPHA's notification of denial of assistance. The informal review will be scheduled within 15 days from the date the request is received.

The informal review may not be conducted by the person who made or approved the decision under review, nor a subordinate of such person.

The review may be conducted by:

- A supervisory level staff person
- An individual from outside the SPHA

The applicant will be given the option of presenting oral or written objections to the decision. Both the SPHA and the family may present evidence and witnesses. The family may use an attorney or other representative to assist them at their own expense.

The review may be conducted by mail and/or telephone if acceptable to both parties.

A notice of the review findings will be provided in writing to the applicant within 15 days after the review. It shall include the decision of the review officer, and an explanation of the reasons for the decision.

All requests for a review, supporting documentation, and a copy of the final decision will be retained in the family's file.

D. INFORMAL HEARING PROCEDURES [24 CFR 982.555(a-f), 982.54(d)(13)]

The SPHA will provide a copy of the hearing procedures in the family briefing packet.

When the SPHA makes a decision regarding the eligibility and/or the amount of assistance, applicants and participants must be notified in writing. The SPHA will give the family prompt notice of such determinations which will include:

- The proposed action or decision of the SPHA
- The date the proposed action or decision will take place
- The family's right to an explanation of the basis for the SPHA's decision
- The procedures for requesting a hearing if the family disputes the action or decision
- The time limit for requesting the hearing
- To whom the hearing request should be addressed
- A copy of the SPHA's hearing procedures

When terminating assistance for criminal activity as shown by a criminal record, the SPHA will provide the subject of the record and the tenant/participant with a copy of the criminal record upon which the decision to terminate was based.

The SPHA must provide participants with the opportunity for an informal hearing for decisions related to any of the following SPHA determinations:

- Determination of the family's annual or adjusted income and the computation of the housing assistance payment
- Appropriate utility allowance used from schedule
- Family unit size determination under SPHA subsidy standards
- Determination to terminate assistance for any reason
- Determination that program family is under occupied in their current unit and a request for exception is denied
- Determination to terminate a family's FSS contract, withhold supportive services, or propose forfeiture of the family's escrow account
- Determination to pay an owner claim for damages, unpaid rent, or vacancy loss

The SPHA must always provide the opportunity for an informal hearing before termination of assistance.

Informal hearings are not required for established policies and procedures and SPHA determinations such as:

- Discretionary administrative determinations by the SPHA
- General policy issues or class grievances
- Establishment of the SPHA schedule of utility allowances for families in the program
- An SPHA determination not to approve an extension or suspension of a voucher term
- An SPHA determination not to approve a unit or lease
- An SPHA determination that an assisted unit is not in compliance with HQS (SPHA must provide hearing for family breach of HQS because that is a family obligation determination)
- An SPHA determination that the unit is not in accordance with HQS because of the family size
- An SPHA determination to exercise or not exercise any right or remedy against the owner under a HAP contract

Notification of Hearing

It is the SPHA's objective to resolve disputes at the lowest level possible, and to make every effort to avoid the most severe remedies. However, if this is not possible, the SPHA will ensure that applicants and participants will receive all of the protections and rights afforded by the law and the regulations.

When the SPHA receives a request for an informal hearing, a hearing shall be scheduled within 15 days. The notification of hearing will contain:

1. The date and time of the hearing
2. The location where the hearing will be held
3. The family's right to bring evidence, witnesses, legal or other representation at the family's expense

4. The right to view any documents or evidence in the possession of the SPHA upon which the SPHA based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing.
5. A notice to the family that the SPHA will request a copy of any documents or evidence the family will use at the hearing. Requests for such documents or evidence must be received no later than 10 days before the hearing date.

The SPHA's Hearing Procedures

After a hearing date is scheduled, the family may request to reschedule only upon showing "good cause," which is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

If a family does not appear at a scheduled hearing and has not rescheduled the hearing in advance, the family must contact the PHA within 24 hours, excluding weekends and holidays. The SPHA will reschedule the hearing only if the family can show good cause for the failure to appear.

Families have the right to:

- Present written or oral objections to the SPHA's determination.
- Examine the documents in the file which are the basis for the SPHA's action, and all documents submitted to the Hearing Officer;
- Copy any relevant documents at their expense;
- Present any information or witnesses pertinent to the issue of the hearing;
- Request that SPHA staff be available or present at the hearing to answer questions pertinent to the case; and
- Be represented by legal counsel, advocate, or other designated representative at their own expense.

If the family requests copies of documents relevant to the hearing, the SPHA will make the copies for the family and assess a charge of \$.15 per copy. In no case will the family be allowed to remove the file from the SPHA's office.

In addition to other rights contained in this Chapter, the SPHA has a right to:

- Present evidence and any information pertinent to the issue of the hearing;

- Be notified if the family intends to be represented by legal counsel, advocate, or another party;
- Examine and copy any documents to be used by the family prior to the hearing;
- Have its attorney present; and
- Have staff persons and other witnesses familiar with the case present.

The informal hearing shall be conducted by the Hearing Officer appointed by the SPHA who is neither the person who made or approved the decision, nor a subordinate of that person. The SPHA appoints hearing officers who:

- Are SPHA commissioners or are SPHA management; or
- Are managers from other departments in the government of the jurisdiction; or
- Are managers from other PHAs; or
- Are professional mediators or arbitrators [employed by the county Bar Association/a mediation, dispute resolution, or arbitration service].

The hearing shall concern only the issues for which the family has received the opportunity for hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

No documents may be presented which have not been provided to the other party before the hearing if requested by the other party. "Documents" includes records and regulations.

The family must request an audio recording of the hearing, if desired, 5 days prior to the hearing date.

The Hearing Officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision.

If the family misses an appointment or deadline ordered by the Hearing Officer, the action of the SPHA shall take effect and another hearing will not be granted.

The Hearing Officer will determine whether the action, inaction or decision of the SPHA is legal in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

A notice of the hearing findings shall be provided in writing to the SPHA and the family within 10 days and shall include:

1. A clear summary of the decision and reasons for the decision;
2. If the decision involves money owed, the amount owed; and
3. The date the decision goes into effect.

The SPHA is not bound by hearing decisions:

1. Which concern matters in which the SPHA is not required to provide an opportunity for a hearing
2. Which conflict with or contradict to HUD regulations or requirements;
3. Which conflict with or contradict Federal, State or local laws; or
4. Which exceed the authority of the person conducting the hearing.

The SPHA shall send a letter to the participant if it determines the SPHA is not bound by the Hearing Officer's determination within 5 days. The letter shall include the SPHA's reasons for the decision.

All requests for a hearing, supporting documentation, and a copy of the final decision will be retained in the family's file.

E. HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS" [24 CFR Part 5, Subpart E]

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the INS appeal.

Assistance to a family may not be terminated or denied while the SPHA hearing is pending but assistance to an applicant may be delayed pending the SPHA hearing.

INS Determination of Ineligibility

If a family member claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, the SPHA notifies the applicant or participant within ten days of their right to appeal to the INS within thirty days or to request an informal hearing with the SPHA either in lieu of or subsequent to the INS appeal.

If the family appeals to the INS, they must give the SPHA a copy of the appeal and proof of mailing or the SPHA may proceed to deny or terminate. The time period to request an appeal may be extended by the SPHA for good cause.

The request for an SPHA hearing must be made within fourteen days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within fourteen days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in this chapter for both applicants and participants. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members the SPHA will:

- Deny the applicant family
- Defer termination if the family is a participant and qualifies for deferral
- Terminate the participant if the family does not qualify for deferral

If there are eligible members in the family, the SPHA will offer to prorate assistance or give the family the option to remove the ineligible members.

All other complaints related to eligible citizen/immigrant status:

- 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.
- Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination.
- Participants 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 described above) are entitled to a hearing based on the right to a hearing regarding determinations of tenant rent and Total Tenant 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.

F. MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES [24 CFR 982.204, 982.552(c)]

When applicants are denied placement on the waiting list, or the SPHA is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal review process.

Examples of mitigating circumstances are: a) A person with a cognitive disorder may not have understood the requirement to report increases in income, b) A person may not understand the need to make regular repayments on a promissory note, c) Minor criminal records for public drunkenness may be due to medication; prior incarcerations for being disorderly may be emotional disorder.