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CONTINUUM OF CARE PROGRAM
ADMINISTRATIVE PLAN

OR-506 CoC Hillsboro/Beaverton/Washington County, Oregon

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March 2018

VERSION HISTORY

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| 10/13/2016 | Initial Release of Draft Plan | | |
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Links to related documents:

- [CoC Governance: Housing and Supportive Services Network \(HSSN\) Mission and Organization](#)
- [HSSN Relationship with Community Partners](#)
- [CoC and HMIS Governance Charter](#)
- [CoC Program Administration and Monitoring](#)
- [CoC Program Application and Award Process \(Rank/Rate Review\)](#)
- ["Community Connect" Coordinated and Centralized Assessment System](#)

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CHAPTER 1: THE CONTINUUM OF CARE PROGRAM

Introduction

Washington County Department of Housing Services (“Department”) is the jurisdiction’s Continuum of Care (CoC) Collaborative Applicant for the Continuum of Care Program (“CoC Program”) funds from the United States Department of Housing and Urban Development (“HUD”). The Department is a unit of local government that administers the federal CoC Program, the Housing Authority of Washington County (HAWC) programs, and other local and state funded homeless programs.

This Chapter contains information about the Department, and the purpose, intent and use of the CoC Administrative Plan (“Plan”) in administering CoC Program funds in support of ending homelessness in Washington County, Oregon.

There are three parts to Chapter 1:

- **Part 1: The Washington County Department of Housing Services.** This includes a description of the Department, its jurisdiction, programs and mission.
- **Part 2: The CoC Program.** This part contains information about the CoC Program operation, partnerships, roles, and responsibilities.
- **Part 3: The CoC Program Administrative Plan and Policy Manual.** This part provides information on the purpose and organization of the Plan and its revision requirements.

Part 1: Washington County Department of Housing Services

1.1.A Overview of the Department

The Department was formed in 1992 to administer housing programs of the County and the Housing Authority of Washington County (“HAWC”). The HAWC remains a separate legal entity and contracts with the County to implement and administer HAWC programs (e.g. finance, purchasing, and personnel).

The mission of the Department is to provide affordable housing opportunities to help break the cycle of poverty and improve the quality of life in our community.

Working in partnership with both the non-profit and the private sector, the Department combines traditional housing programs with economic opportunity to encourage self-sufficiency, skill enhancement and independence.

The Department administers rent assistance funds for homeless and low-income households through various publicly-funded programs, and also creates affordable housing opportunities in the community for low and moderate income households through a combination of integrated financing and partnerships with public and private entities.

Additionally, the Department is the CoC Lead Agency for administering the jurisdiction’s Homeless Management Information System (HMIS) and implementation of *the* jurisdiction’s homeless response plan – A Road Home.

1.1.B Organization and Structure of Washington County Department of Housing Services

The official governing body of the Department is the Washington County Board of Commissioners (“Board”), a 5-member Council-Manager form of government. The Board’s authority includes legislative, policy, fiscal matters, and designation of a Board-appointed professional county administrator. CoC Program grant applications and grant agreements go before the Board for action.

The Department Director reports to the County Administration and the Board of County Commissioners, and manages the Department’s daily operations to include fiscal management, policies, and agency staff supervision in support of the Department mission.

The Homeless Program Manager reports to the Department Director and is responsible for performing short- and long-term strategic planning, coordination and alignment of community resources with public and nonprofit provider agencies, prepares funding application, administer funding and legal activities for homeless projects, supervise HMIS administration, prepare written standards and policy, and write reports on system and project outcomes.

1.1.C Commitment to Ethics and Service

As a public service agency, the Department is committed to providing excellent service to program participants, households, and property owners in the community. The Department’s standards include:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe and sanitary housing – in compliance with program housing quality standards – for low income households while ensuring that rents are fair, reasonable, and affordable.
- Encourage self-sufficiency of program participants and assist in the expansion of family opportunities which address educational, socio-economic, and other human service needs.
- Promote fair housing and the opportunity for very low-income households of all ethnic backgrounds to experience freedom of housing choice.
- Promote a housing program which maintains quality service and integrity while providing an incentive to private property owners to rent to very low-income households.
- Promote a market-driven housing program that will help qualified low-income households be successful in obtaining affordable housing and increase the supply of housing choices for such households.
- Create positive public awareness and expand the level of family, owner, and community support in accomplishing the Department’s mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the Department’s support systems.

Part 2: The CoC Program

1.2.A Overview of the McKinney-Vento Homeless Assistance Act

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The intent of this section is to provide the public and Department staff with information related to the overall operation of the McKinney-Vento Homeless Assistance Act (“Act”) funded programs. The federally-funded homeless program administered by the Department under the Act is:

- Continuum of Care Program (24 CFR Part 578)

The Act of 1987 is a United States federal law that provides federal money for homeless programs. It was the first significant federal legislative response to homelessness, and was passed and signed into law by President Ronald Reagan on July 22, 1987. The Act has been reauthorized several times over the years.

On May 20, 2009, President Barrack Obama signed into law a bill to reauthorize the Act. The bill was included as part of the Helping Households Save Their Homes Act. The McKinney-Vento reauthorization under the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act:

- Creates homeless definitions that broaden the population of persons who can be served by federally-funded homeless assistance programs;
- Replaces the Emergency Shelter Grant with a new Emergency Solutions Grant that provides more flexible funding to include prevention of homelessness;
- Legislates implementation of Homeless Management Information System (HMIS) Data Standards; and
- Codifies the Continuum of Care (CoC) model and provides federal funding for a new CoC Program that provides housing opportunities to homeless households.

1.2.B Continuum of Care (CoC) Program, 24 CFR Part 578

[CoC Governance, Policy 578.5-OR506CoC; HMIS Governance Charter, Policy 578.7-OR506CoC]

The Department will administer the Act grant funds through collaborative community planning, and administration of federally funded programs with community-based provider agencies.

The purpose of the CoC Program is to:

- Promote community-wide commitment to preventing and ending homelessness through a coordinated and comprehensive community planning process;
- Rapidly re-house homeless people;
- Promote access to and effective utilization of mainstream programs;
- Optimize self-sufficiency among people experiencing homelessness; and
- Implement a HMIS that provider agencies use to track unduplicated client data records for analysis on homeless demographics, planning of housing and service needs, and preparing reports on project and system outcomes.

The CoC Program is composed of five components (24 CFR 578.37) through which funds may be awarded, based on the priorities established by HUD in the Notice of Funding Available (NOFA).

- **Permanent Housing.** Permanent housing (PH) is community-based housing, the purpose of which is to provide housing without a designated length of stay. This component includes permanent supportive housing for persons with disabilities (PSH) and rapid re-housing (RRH).
- **Transitional Housing.** Transitional housing (TH) facilitates the movement of homeless individuals and households to permanent housing within 24 months of entering TH.

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- **Supportive Service Only.** Funds may be used for acquisition, rehabilitation, relocation costs, or leasing of a facility from which supportive services will be provided, and supportive services for unsheltered and sheltered homeless persons for whom the recipient or sub recipient is not providing housing or housing assistance, and HMIS. SSO includes street outreach.
- **Homeless Management Information System.** Funds may be used by HMIS leads to lease a structure in which the HMIS is operated or as funds to operate an HMIS structure.
- **Homelessness Prevention.** Funds may be used by recipients in CoC-designated high-performing communities for housing relocation and stabilization services, and short- and/or medium-term rental assistance necessary to prevent an individual or family from becoming homeless.

1.2.C CoC Community Stakeholders and Partnerships

[CoC Governance, Policy 578.5-OR506CoC; HMIS Governance Charter, Policy 578.7-OR506CoC]

The HEARTH Act codifies in law the requirement for a CoC planning process. The CoC planning activities are governed by the Housing and Supportive Services Network (HSSN), a collaboration of public and nonprofit community partners that perform strategic planning and development of resources to prevent and end homelessness. The HSSN governance and membership roles and responsibilities are outlined in the CoC Governance, Policy 578.5-OR506CoC.

Part 3: The CoC Program Administrative Plan and Policy Manual

1.3.A Overview and Purpose of the Plan

The Administrative Plan (“Plan”) is set forth to define the operational responsibilities of Washington County Department of Housing Services (“Department”) for administering CoC Program funds in context of federal laws and regulations as outlined in 24 CFR Part 578.

Components of the CoC Program not addressed in this Plan are governed by such federal regulations, HUD technical guidance, HUD notices, and other applicable law. The policies in this Plan have been designed to ensure compliance with the CoC Program regulations, HUD-approved applications for program funding, jurisdiction Emergency Solutions Grant (“ESG”) Manual, and the jurisdiction’s Consolidated Plan.

The Department is responsible for complying with all changes in HUD regulations pertaining to the CoC Program. If such changes conflict with this Plan, HUD regulations will have precedence.

The CoC Community Stakeholders are responsible for developing, adopting and implementing policy with written standards that demonstrates compliance with the HEARTH Act regulations, in alignment *A Road Home: Community Plan to Prevent and End Homelessness*, the Consolidated Plan, and other local plans that address the current needs of homeless populations in our community.

1.3.B Contents of the Plan

- Fair Housing and Equal Opportunity
- Determining Rent Reasonableness
- Procedural Guidelines and Performance Standards for Conducting Required Housing Quality Standards (“HQS”) Inspections.
- Informal Hearing Procedure for Program Participants receiving rent assistance
- Policy for Establishing and Revising Rent Payment Standards

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- Homeless Person Represented on Board or Other Policymaking Entity of Recipient or Sub recipient.
- Policies Adopted by the Housing and Supportive Services Network (“HSSN”), the CoC governance body.

1.3.C Mandatory and Discretionary Policy

HUD makes a distinction between:

Mandatory Policies include those driven by regulations, legislation, HUD issued handbooks, notices, and legal opinions.

Discretionary or Optional Policies include non-binding guidance, notices that have expired and recommendations from individual HUD staff.

1.3.D Updating and Revising the Plan

The Department in collaboration with the HSSN Work Group (the CoC Board) will revise this Plan as needed to comply with changes in HUD regulations.

The original Plan and all changes that follow must be reviewed by the HSSN Work Group at a public meeting, with a recommendation approved by majority vote and released to the CoC Program funded recipients, sub-recipients, and public at-large.

The approved Plan will be available to the public on the Washington County website at www.co.washington.or.us/homeless. A hardcopy will be available for public review at the Washington County Department of Housing Services located at 111 NE Lincoln Street, Suite 200-L, Hillsboro, Oregon.

CHAPTER 2: FAIR HOUSING AND EQUAL OPPORTUNITY

Introduction

This Chapter explains the laws and HUD regulations to affirmatively further civil rights and fair housing in all federally-assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and processes. The responsibility to further nondiscrimination pertains to all areas of the Department and CoC operations.

This Chapter describes HUD regulations and Department policies related to these topics in three parts:

- **Part 1: Nondiscrimination.** This part presents the body of laws and regulation governing the responsibilities of the Department regarding nondiscrimination.
- **Part 2: Policies Related to Persons with Disabilities.** This part discusses the rules and policies of the CoC Program related to reasonable accommodation for persons with disabilities. These rules and policies are based on the Fair Housing Act (42.U.S.C.) and Section 504 of the Rehabilitation Act of 1973, and incorporated guidance from the Joint Statement of the Department of Housing and Urban Development and the Department of Justice (“DOJ”), issued May 17, 2004.
- **Part 3: Prohibition of Discrimination against Limited English Proficiency Persons.** This part details the obligations of the Department to ensure meaningful access to the CoC Program and its activities by persons with Limited English Proficiency (LEP). This part incorporates the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons published January 22, 2007.

Part 1: Nondiscrimination

2.1.A Overview

Federal laws require Public Housing Agencies (PHA) to treat all applicants and participants equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. Washington County Department of Housing Services will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments)
- Violence Against Women Reauthorization Act of 2005 (VAWA)
- 24 CFR 5.106
- When more than one civil rights law applies to a situation, the laws will be read and applied together.
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted.

Department Policy

In addition to nondiscrimination based on the federally mandated protected classes, the Department and the Continuum of Care provider agencies will not discriminate on the basis of the following locally mandated protected classes:

- **Oregon Protected Classes: Federal protected classes plus:**
 - Legal source of income
 - Marital status
 - Sexual orientation
 - Gender identity
- **Beaverton: Federal and State protected classes plus:**
 - Type of occupation
 - Age over 18
- **Hillsboro: Federal and State protected classes plus:**
 - Domestic partnership

2.1.B Nondiscrimination

Federal regulations prohibit discrimination against certain protected classes. State and local requirements, as well as Department policies, can prohibit discrimination against additional classes of people.

The Department shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called “protected classes”).

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Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

Department Policy

The Department will not discriminate on the basis of legal source of income, marital status, domestic partnership, sexual orientation, gender identity, type of occupation, or age over 18. The Department will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the Continuum of Care programs
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or participant toward or away from a particular area based any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class.

Providing Information to Households and Owners

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

Discrimination Complaints

If an applicant or participant believes that any family member has been discriminated against by the Department or an owner, the family should advise the Department. HUD requires the Department to make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action. In addition, the Department and sub-recipient agencies are required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 578.93].

Department Policy

- Applicants or participants who believe that they have been subject to unlawful discrimination may notify the Department either orally or in writing.
- The Department will attempt to remedy discrimination complaints made against the Department.
- The Department will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO). If requested, the Department will provide assistance in completing and submitting the form.

Part 2: Policies Related to Persons with Disabilities

2.2.A Overview

[24 CFR Parts 8.3 and 100.201]

One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy a program or dwelling under the program.

The Department must ensure that persons with disabilities have full access to the programs and services administered by the Department. This responsibility begins with the first inquiry of an interested family at Community Connect, and continues through every programmatic area of the CoC Program.

Department Policy

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

“Any individual with a disability or other medical need who needs accommodation with respect to this correspondence should inform the Department.”

2.2.B Definition of Reasonable Accommodation

A person with a disability may require special accommodations in order to have equal access to the CoC Program. The types of reasonable accommodations the Department can provide include changes, exceptions, or adjustments to a rule, policy, practice, or service.

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the Department, or result in a “fundamental alteration” in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider’s operations.

Types of Reasonable Accommodations

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

- Permitting applications and reexaminations to be completed by mail
- Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with Department staff
- Displaying posters and other housing information in locations throughout the Department’s office in such a manner as to be easily readable from a wheelchair.

2.2.C Request for an Accommodation

The Notice of Right to Reasonable Accommodation is provided by Department upon RAP briefing. If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is

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needed because of a disability, HUD requires that the Department treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The family must explain what type of accommodation is needed to provide the person with the disability full access to the CoC Program services.

If the need for the accommodation is not readily apparent or known to the Department, the family must explain the relationship between the requested accommodation and the disability. There must be an identifiable relationship, or nexus, between the requested accommodation and the individual's disability.

Department Policy

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

2.2.D Verification of Disability

The regulatory civil rights definition for persons with disabilities is outlined in 24 CFR Parts 8.3 and 100.201. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability which is used for waiting list preferences and income allowances.

Before providing an accommodation, the Department must determine that the person meets the definition of a person with a disability, and that the accommodation will enhance the family's access to the CoC Program services.

If a person's disability is obvious or otherwise known to the Department, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to the Department, the Department must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

When verifying a disability, the Department will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with confidentiality policies. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination, to include a doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]
- The Department must request only information that is necessary to evaluate the disability-related need for the accommodation. The Department will not inquire about the nature or extent of any disability.
- Medical records will not be accepted nor retained in the participant file.

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- In the event that the Department does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, the Department will dispose of it. In place of the information, the Department will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26].

2.2.E Approval/Denial of a Requested Accommodation

[Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act, Notice PIH 2010-26].

The Department must approve a request for an accommodation if the following three conditions are met:

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

Requests for accommodations must be assessed on a case-by-case basis, taking into account factors such as the overall size of the Department's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

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

Department Policy

After a request for an accommodation is presented, the Department will respond, in writing, within 10 business days.

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

If the Department believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the Department will notify the family, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the family.

Determining Whether to Make the Accommodation

1. Does the applicant/program participant meet the definition of an Individual with Disabilities? (This can be determined through: the applicant's/program participant's eligibility for SSI or SSDI benefits;

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through the certification of disability, using the standard Verification of Disability Status form; or when the disability is self-evident to a reasonable person.)

If NO, the Department is not obligated to make a reasonable accommodation, and may deny the request.

If YES, go to step 2.

If more information is needed, it will be requested and the applicant/program participant will be notified of this request, or a meeting or discussion will be held to obtain additional information.

2. Is the requested accommodation a need directly related to their disability?

If NO, the Department is not obligated to make the accommodation, and may deny the request.

If YES, go to step 3.

If more information is needed, either write for more information and notify the applicant/program participant, or request a meeting or discussion.

3. Is the requested accommodation reasonable? The Guidelines for Determining Reasonableness listed below will be followed in determining the reasonableness of the request.

If YES, the Department will approve the request for reasonable accommodation. A written description of the accommodation will be included in the approval letter.

If NO, the Department may deny the request or suggest/offer an alternative accommodation. The denial or suggestion/offer will be made in writing (in an accessible format, if requested).

If more information is needed, either write for more information and notify the applicant/program participant, or request a meeting or discussion.

Guidelines for Determining Reasonableness

If the Department does not have enough information to approve or deny the requested accommodation, the Department will request that the person with disabilities verify the need for an accommodation to enable him to access and use the housing program. Using the Request for Reasonable Accommodation form, the person with disabilities will be asked to have a qualified individual verify that the requested accommodation is a need directly related to the applicant's/program participant's disability, and:

In most instances the judgment of the person with disabilities, that the requested accommodation is the most appropriate for him, will be accepted. However, The Department retains the right to investigate alternatives to the requested accommodation, and/or alternative methods of providing the requested accommodation.

If a number of potential accommodations will satisfy the needs of the person with disabilities (and are equally effective), the Department retains the right to select the accommodation that is most convenient and cost effective. This includes the option to select a change in procedure or policy, rather than to make a structural change, when the procedure change would be equally effective.

If the requested accommodation constitutes a fundamental alteration, the request will be denied.

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If the requested accommodation creates an undue financial and/or administrative burden, the request will be accommodated up to the extent that it can be met without creating undue burdens.

Denial of a Request for Reasonable Accommodation

If a request for reasonable accommodation is denied, the Department will inform the applicant/program participant in writing (or other appropriate accessible form of communication) of the denial and the reason for the denial. The notice will also advise the applicant/program participant of her right to appeal the decision to deny the accommodation. Reasons for the denial may include:

- The individual requesting the accommodation does not meet the definition of an Individual with Disabilities.
- The requested accommodation is not reasonable. The reason for the decision will be clearly stated.
- There was no correlation between the requested accommodation and the individual's disability (e.g., a wheelchair ramp requested by an individual who has a mental disability, with no physical impairment).
- The requested accommodation will create an undue financial and/or administrative burden for the Department.
- The requested accommodation will change the fundamental nature of the program.
- The requested accommodation would violate a State or Federal statute or regulation.
- The requested accommodation is not a need directly related to the person's disability.

Applicants and program participants of CoC Program services who are denied reasonable accommodations are entitled to an Informal Review as outlined in this plan.

Discontinuation of Reasonable Accommodation

The Department will not unilaterally change or discontinue a particular method of providing a reasonable accommodation without giving notice. Notice of the change or discontinuation of a reasonable accommodation will be given to the program participant with disabilities, including the program participant's right to appeal the decision to change or discontinue the accommodation.

The Department may re-verify the direct need of an approved reasonable accommodation for a participant's disability approximately every 24 months.

Intake and Eligibility for Assistance

The homeless status and program eligibility is determined by Community Connect through a standard assessment. The individual is provided a housing placement referral based on the assessment score (determination of housing need), and available housing. Provider Agencies provide services to include:

- Mental Health
- Substance Addiction
- HIV/AIDS
- Developmental Disabilities
- Other physical and psychological disabilities of a long duration.

The Provider Agency receives the homeless household referral and schedules a meeting with the homeless household to verify eligibility for the program, income, family composition, need for special features, and other required information. Provider Agency assists the homeless household enter the program, to include completing the CoC Program application for rent assistance administered by the Department.

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Application and Waiting List

The Request for Reasonable Accommodation form is available to all applicants upon request, or may be downloaded from the Washington County website.

As a part of the intake process, the Department will verify the applicant's disability status as a qualification for eligibility, deductions and allowances. Prior to housing an applicant in a unit with special features, the Department will document the applicant's need for those features.

Service Provider agencies can access the application through The Cloud upon execution of an MOU with Washington County Housing Services. Applications are only accepted as referrals by authorized service provider agencies. These agencies have received the full CoC application and instructions. Agencies will be provided any subsequent updates.

Applicants will be afforded an opportunity for an Informal Review regarding denial of eligibility or the denial of a reasonable accommodation request.

The Department will consider the information presented and, if acceptable, determine the applicant eligible. If there is not enough information to make a reasonable judgment, the Department will ask the applicant for additional information. If the documentation does not substantiate the applicant's ability to uphold the lease provisions, the Department will determine the applicant to be ineligible. The Department retains the right to be the final judge of what constitutes adequate and credible documentation.

Program Violations/Criminal Activity as Grounds for Program Termination

This Plan requires that the program participant, any member of the household, a guest, or another person under the program participant's control, shall not engage in:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other program participants or employees; or
- Any drug-related criminal activity on or off their premises. (Drug-related criminal activity is prohibited on or near the premises for other housing owned and managed by the Housing Authority of Washington County). Crimes that pose threats to program participants or management staff are grounds for eviction regardless of where they occur.
- Any criminal activity in violation of the preceding statements shall be cause for termination of participation.
- Any violation(s) of the Family Obligations listed in this plan or in documents signed by the family and/or its members.

One time occurrence of some minor criminal activities may not pose a threat but, if engaged in with frequency or duration, can have a very serious impact on individual program participants or the housing community as a whole.

In deciding to terminate participation for criminal activity or violation of Family Obligations, the Department will consider in consultation with the CoC Provider Agency all of the circumstances of the case, including the seriousness of the offense, the extent of participation by family members, and the effects that the termination of assistance would have on family members not involved in the proscribed activity.

If the program participant is an Individual with a Disability and requests a reasonable accommodation that would allow her to comply with the Family Obligations, the Department will require the program participant to document the request in accordance with the standard reasonable accommodation procedures. In order to

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prevent the termination of assistance, the program participant would need to prove, to the Department's satisfaction, that the behavior causing the Family Obligation violations was substantially related to the program participant's disability, and that, because of some change in treatment, services or other verified facts, the behavior will not recur. The Department must determine if the mitigating circumstances and requested reasonable accommodation outweigh the unfavorable information or action.

If, after receiving such an approval for a reasonable accommodation, a program participant violates another Family Obligation, the Department in consultation with the CoC Provider Agency may terminate assistance, unless (1) the new Family Obligation violation is related to a disability and (2) the previous reasonable accommodation was not intended to accommodate this aspect of the disability, another reasonable accommodation may be appropriate.

In reviewing the reasonable accommodation request, the Department will consider the following, at a minimum:

- Does the program participant meet the definition of an Individual with a Disability?
- Did the program participant's disability substantially contribute to the Family Obligation violation?
- What is the likelihood that the requested reasonable accommodation would result in Family Obligation compliance?
- What is the seriousness of the Family Obligation violation? Does the requested reasonable accommodation, in fact, overcome the Family Obligation violation?

Additional Policies

The Department will provide notice of the availability and nature of housing assistance for low-income households under program requirements, and will assure that the notice reaches eligible individuals with disabilities.

The Department will encourage participation by owners, including encouragement of participation by owners having accessible units.

When issuing a CoC Program RAP to a family, which includes an Individual with a Disability, the Department will provide a list of accessible units known to the Department upon request and, if necessary, otherwise assist the family in locating an available accessible dwelling unit, to the extent feasible.

The Department will take into account the special problems associated with locating an accessible unit when considering requests by eligible individuals with disabilities for extensions of rent assistance subsidy past 90 days, pending funds available to support the subsidy.

2.2.F Program Accessibility for Persons with Hearing or Vision Impairments

HUD regulations require that persons with disabilities related to hearing and vision have reasonable access to the CoC Program and Shelter Plus Care programs and services [24 CFR 8.6].

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

Department Policy

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To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display /teletype) communication will be available via relay service. The number is 711.

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

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

2.2.G Physical Accessibility

The Department must comply with a variety of regulations pertaining to physical accessibility, including the following:

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

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

When issuing subsidy to a family that includes an individual with disabilities, the Department will include a current list of available accessible units known to the Department and will assist the family in locating an available accessible unit, if necessary.

In general, owners must permit the family to make reasonable modifications to the unit. However, the owner is not required to pay for the modification and may require that the unit be restored to its original state at the family's expense when the family moves.

2.2.H Denial or Termination of Assistance

The Department's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 982.552 (2)(iv)].

When applicants with disabilities are denied assistance, the notice of denial must inform them of the Department's informal review process and their right to request a hearing. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal hearing process.

When a participant family's assistance is terminated, the notice of termination must inform them of the Department's informal hearing process and their right to request a hearing and reasonable accommodation.

When reviewing reasonable accommodation requests, the Department in consultation with the CoC Provider Agency must consider whether any mitigating circumstances can be verified to explain and overcome the

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problem that led to the Department's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the Department must make the accommodation.

Part 3: Improving Access to Services for Persons with Limited English Proficiency (LEP)

2.3.A Overview

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the CoC and Shelter Plus Care programs. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007, in the Federal Register.

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

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

In order to determine the level of access needed by LEP persons, the Department will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the CoC and Shelter Plus Care programs; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the Department and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the Department.

2.3.B Oral Interpretation

In a courtroom, a hearing, or situations in which health, safety, or access to important benefits and services are at stake, the Department will generally offer, or ensure that the family is offered through other sources, competent services free of charge to the LEP person.

Department Policy

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

Where feasible, the Department will train and hire bilingual staff to be available to act as interpreters and translators, and will standardize documents. Where feasible and possible, the Department will encourage the use of qualified community volunteers.

The Department will provide an interpreter upon a family's request. However, the Department will be allowed a reasonable amount of time to secure an interpreter.

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The Department may allow the LEP persons to bring their own interpreter to a meeting. However, it is the policy of the Department to ensure effective communications between family members and Department staff.

Generally, the Department will not allow an individual under the age of 18 to act as an interpreter. Therefore, the Department reserves the right to refuse to use such an interpreter if it appears that such an interpreter may impede effective communication between the family and Department staff. In such cases, the Department staff will request the services of a third party to do provide interpretation services.

2.3.C Written Translation

Translation is the replacement of a written text from one language into an equivalent written text in another language.

Department Policy

In order to comply with written-translation obligations, the Department will take the following steps: The Department will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the Department does not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

2.3.D Implementation Plan

After completing the four-factor analysis and deciding what language assistance services are appropriate, the Department shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If the Department determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to the CoC and Shelter Plus Care programs and services.

Department Policy

The Department will follow its previously developed and implemented LEP Plan.

CHAPTER 3: ELIGIBILITY

Introduction

The Department is responsible for ensuring that every individual and family admitted to the CoC programs meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide any information needed by the Department to confirm eligibility and determine the level of the family's assistance.

To be eligible for the programs:

- The applicant family must:
 - Qualify as a family as defined by HUD.

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- Have income at or below 30% income limits.
- Qualify on the basis of citizenship or the eligible immigrant status of family members.
- Provide social security number information for family members as required.
- Consent to the Department's collection and use of family information as provided for in Department-provided consent forms.
- The Department must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the Department.

This Chapter contains three parts:

- **Part 1: Definitions of Family and Household Members.** This part contains HUD definitions of family and household members and explains initial and ongoing eligibility issues related to these members.
- **Part 2: Basic Eligibility Criteria.** This part discusses income eligibility, and rules regarding citizenship, social security numbers, and family consent.
- **Part 3: Denial of Assistance.** This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause the Department to deny assistance.

Part 1: Definitions of Family and Household Members

3.1.A Overview

Some eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the assisted unit. This part provides information that is needed to correctly identify family and household members, and to apply HUD's eligibility rules.

3.1.B Family and Household

[24 CFR 5.403]

The terms family and household have different meanings in the CoC program.

Individual and Family

To be eligible for assistance, an applicant can qualify as an individual or family. An individual is a single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person. Family as defined by HUD for the Continuum of Care includes, but is not limited to, regardless of marital status, actual or perceived sexual orientation, or gender identity, any group of persons presenting for assistance together with or without children and irrespective of age, relationship, or whether or not a member of the household has a disability.

Department Policy

Completion of intake or re-examination paperwork, including the signatures of all adult parties and reporting all income sources available to the household, will be considered certification that each individual's income and resources will be available to meet the needs of the family. Each family must identify the individuals to be included in the family at the time of application, and must update this information if the family's composition changes.

Household

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Household is a broader term that includes additional people who, with the Department's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

3.1.C Household Breakup and Remaining Member of Tenant Household

Qualifying head of household always retains the rental subsidy.

Remaining Member of a Tenant Household

[24 CFR Part 578.51(i) Vacancies]

The "eligible participant" in the CoC Program assisted head of household retains the eligibility of the benefit at the time of household break-up. If the "eligible participant" in the CoC Program is deceased before the expiration of the lease, the CoC Program rent assistance for the housing unit may continue for a maximum of 30-days from the end of the month in which the unit was vacated (deceased) by the eligible participant and the remaining household members may remain in the unit during this period. The remaining household members are required to enter into appropriate housing lease agreements with the landlord/property owner.

3.1.D Head of Household

[24 CFR 5.504(b)]

Head of household means the adult member, if the household is made up of adult and children, of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a co-head or spouse.

The head of household is the adult member, if the household is made up of adult and children, 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 Oregon law. Emancipated minors who qualify under Oregon law will be recognized as head of household.

The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a co-head or spouse.

3.1.E Spouse, Co-head, and Other Adult

A family may have a spouse or co-head, but not both [HUD-50058 IB, p. 14].

Spouse

Spouse means the marriage partner of the head of household.

Department Policy

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

Co-head

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A co-head is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can have only one co-head.

Department Policy

Minors who are emancipated under state law may be designated as a co-head.

Other Adult

Other adult means a family member, other than the head, spouse, or co-head, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults.

3.1.F Dependent

[24 CFR 5.603]

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

Joint Custody of Dependents

Department Policy

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

“50 percent or more of the time” is defined as 183 days or more per year, which do not have to run consecutively.”

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

3.1.G Guests

[24 CFR 5.100]

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

Department Policy

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

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

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

Former program participants who have been terminated from any rental assistance program administered by the Department are not permitted as overnight guests.

Guests who represent the unit address as their residence address for receipt of benefits or other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be considered unauthorized occupants, and their presence may constitute violation of family obligations. [24 CFR 5.609]

Foster adults are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone. The term foster child is not specifically defined by the regulations.

Foster children and foster adults that are living with an applicant or assisted family are considered household members but not family members. The income of foster children/adults is not counted in family annual income, and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603; HUD-50058 IB, p. 14].

Department Policy

A foster child is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of HQS space standards according to 24 CFR 982.401.

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required prior to Department approval of any foster child or adult being added to the household.

Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3.1.L.

3.1.H Absent Family Members

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

Definitions of Temporarily and Permanently Absent:

Department Policy

Generally an individual who is or is expected to be absent from the assisted unit for 90 consecutive days or less is considered temporarily absent and continues to be considered a family member.

Generally an individual who is or is expected to be absent from the assisted unit for more than 90 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

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In the case of single person households, absences exceeding three (3) consecutive months will be considered permanent absences.

Absent Students

Department Policy

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

Such information will include, but not be limited to:

- Photo identification or driver's license with an address that differs from the household; or
- Enrollment paperwork reflecting a different address

Absences Due to Placement in Foster Care

[24 CFR 5.403]

Children temporarily absent from the home as a result of placement in foster care are considered members of the family.

Department Policy

If a child has been placed in foster care, the Department will verify with the appropriate agency whether and when the child is expected to be returned to the home.

Generally, If the agency verifies that the child(ren) is expected to return to the home in no more than six months, the child(ren) will be considered members of the household. If the agency verifies that it reasonably believes the child(ren) will be placed in foster care for more than six months, the child(ren) will be considered permanently absent from the household.

If the agency indicates that a condition of the child(ren) returning to the household is the provision of proper sleeping space for the child(ren), the Department may consider the children as part of the household for the purpose of determining Rent Assistance bedroom size; however, if the child(ren) is not returned within 180 days, the Department may reduce the subsidy bedroom size of the household.

Absent Head, Spouse, or Co-head

Department Policy

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

Absent Sole Member

Department Policy

A sole member of a household is absent for ninety (90) consecutive days will be considered permanently absent.

Family Members Permanently Confined for Medical Reasons

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted.

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Department Policy

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

Return of Permanently Absent Family Members

Department Policy

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

3.1.I Live-In Aide

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the persons, (2) is not obligated for the support of the persons, and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

The Department must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8, to make the program accessible to and usable by the family member with disabilities.

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

Department Policy

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member. For continued approval, the family must submit a new, written request-subject to Department verification at each annual reexamination.

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

The live-in aide must meet all eligibility criteria applied to applicants and participants of the program, with the exception of income, as described in Part 2 of this Chapter.

The Department will not approve a particular person as a live-in aide, and may withdraw such approval if:

- 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

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

If a live-in aide has been determined to be medically necessary, but a specific individual has not been identified by the assisted family to act as the live-in aide, the Dependent shall issue the family the appropriate size Rental Assistance to accommodate the addition of a potential live-in aide. The Department shall provide the family with a period of up to sixty (60) calendar days from the date the family takes possession of an appropriate-sized unit to identify a potential live-in aide. The family will have the opportunity to request an extension of this sixty day period should there be mitigating circumstances.

Part 2: Basic Eligibility Criteria

3.2.A Homeless Status

Homeless Definitions: Homeless, Chronically Homeless and At Risk of Homeless

[24 CFR Part 578.100]

At risk of homelessness:

An individual or family who:

- Has an annual income below 30 percent of median family income for the area, as determined by HUD;
- Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the — Homeless definition in this section; and meets one of the following conditions:
 - Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
 - Is living in the home of another because of economic hardship;
 - Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days of the date of application for assistance;
 - Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low-income individuals;
 - Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons, or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;
 - Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
 - Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan;
- A child or youth who does not qualify as "homeless" under this section, but qualifies as "homeless" under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(m) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(m)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or

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- A child or youth who does not qualify as "homeless" under this section, but qualifies as "homeless" under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.

Chronically Homeless

- An individual whom:
 - Is homeless and lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and
 - Has been homeless and living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter continuously for at least 12 months or cumulatively on at least four (4) separate occasions in the last three (3) years; and
 - Can be diagnosed with one or more of the following conditions: substance use disorder, serious mental illness, developmental disability (as defined in section 102 of the Developmental Disabilities Assistance Bill of Rights Act of 2000 (42 U.S.C. 15002)), post-traumatic stress disorder, cognitive impairments resulting from brain injury, or chronic physical illness or disability;
- An individual whom has been residing in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital, or other similar facility, for fewer than 90 days and met all of the criteria in paragraph (1) of this definition, before entering that facility; or
- A family with an adult head of household (or if there is no adult in the family, a minor head of household) who meets all of the criteria in paragraph (1) of this definition, including a family whose composition has fluctuated while the head of household has been homeless.

Homeless

- An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
 - An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
 - An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or
 - An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;
- An individual or family who will imminently lose their primary nighttime residence provided that:
 - The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
 - No subsequent residence has been identified; and
 - The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks needed to obtain other permanent housing;
- Unaccompanied youth under 25 years of age, or households with children and youth, who do not otherwise qualify as homeless under this definition, but who:
 - Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012),

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section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);

- Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
- Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
- Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or
- Any individual or family who:
 - Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;
 - Has no other residence; and
 - Lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, to obtain other permanent housing.

3.2.B Income Eligibility and Targeting

Income Limits

HUD is required by law to set income limits that determine the eligibility of applicants for HUD's assisted housing programs, including the CoC. The income limits are published annually and are based on HUD estimates of median family income in a particular area or county, with adjustments for family size.

Types of Low-Income Households

[24 CFR 5.603(b)]

Extremely low-income family: A family whose annual income does not exceed the higher of:

- (i) 30 percent of the median income for the area, adjusted for family size; or
- (ii) The poverty guidelines established by the Department of Health and Human Services applicable to the size of the family involved

Using Income Limits for Eligibility

Income limits are used for eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, a family must be an extremely low-income family.

HUD permits the CoC partners to establish additional categories of low-income households that may be determined eligible. The additional categories must be consistent with the CoC Program Administrative Plan and the Consolidated Plan for local governments within the Department's jurisdiction.

Department Policy

The CoC has not established any additional categories of eligible low-income households.

3.2.C Citizenship or Eligible Immigration Status

[Housing and Community Development Act of 1980, Section 214 and Supportive Housing Desk Guide 2008, pp 18]

Supportive Housing Program (Transitional Housing, Rapid Re-Housing and Permanent Supportive Housing) is available to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), and noncitizens.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 imposed restrictions on eligibility for receipt of public benefits. Essentially, the law provides that illegal aliens *are not* to receive public benefits and specifies how the inquiry into a person's status is to be conducted. However, there is an exception to the law for community programs that are necessary for protection of life or safety. *SHP transitional housing* has been determined to be excepted because it provides short-term shelter or housing assistance, non-cash services at the community level and is not means-tested.

The exception does not apply to SHP permanent housing projects. For permanent housing projects, grantees that are governments are required to comply with the law and should contact their legal counsel for advice on how to comply. Grantees that are nonprofit charitable organizations are not required to, but may, verify an applicant's citizenship or immigration status before providing assistance. If a nonprofit elects to verify citizenship or immigration status, they must follow the procedures required by the Act and should consult with their legal counsel on how to comply.

Department Policy

HUD's Homeless Assistance Programs HUD's homeless programs include the Shelter Plus Care (S+C) program, the Supportive Housing Program (SHP), the Single Room Occupancy (SRO) program, and the Emergency Shelter Grants (ESG) program, all of which are funded under the Homeless Assistance Grants account, as well as the Housing for Persons with AIDS (HOPWA) program. One of the programs funded through the Homeless Assistance Grants is a Section 214-covered program: the SRO program. Housing units for homeless individuals provided through the SRO program are developed through the Section 8 Moderate Rehabilitation program and receive Section 8 rental assistance. As a result, nonqualified aliens (e.g., nonimmigrants and unauthorized aliens) as defined by Section 214 are ineligible for the SRO program. However, HOPWA and the remaining homeless programs—S+C, SHP, and ESG—are not covered by Section 214.

Citizenship Declaration for SRO Programs

Declaration

[24 CFR 5.508]

HUD requires an individual applying for RAP for an SRP to declare whether the individual is a citizen, a national, or an eligible noncitizen. For citizens, nationals and eligible noncitizens the declaration must be signed personally by the individual applying. The No declaration is required for live-in aides, foster children, or foster adults.

3.2.D Social Security Numbers

[24 CFR 5.216 and 5.218, Notice PIH 2010-3]

The applicant for an SRO or 1 bedroom unit must submit the complete and accurate social security number (SSN) assigned to him/her, and the documentation necessary to verify the SSN. All, if any, other household members are not required to submit verification of SSN, but will need to do so to factor in for household size proration of rents and assistance. A detailed discussion of acceptable documentation is provided in Chapter 7.

Note: These requirements do not apply to noncitizens who do not contend eligible immigration status.

In addition, each participant who has not previously disclosed a SSN, has previously disclosed a SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.

3.2.E Household Consent to Release of Information

[24 CFR 5.230]

HUD requires each adult family member, and the head of household, spouse, or co-head, regardless of age, to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

The Department must deny admission to the program if the member of a single individual household applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR 5, Subparts B and F.

Person with Disabilities

The Department will use the statutory definition under section 3(b)(3)(E) of the 1937 Act to determine whether a student is a person with disabilities (see Exhibit 3-1).

Veteran

Department Policy

A veteran is a person who served in the active United States military, naval, or air service and who was discharged or released from such service under conditions other than dishonorable.

Part 3: Denial of Assistance

3.3.A Overview

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied assistance.

In addition, HUD requires or permits the Department and CoC Provider Agency's to deny assistance based on certain types of current or past behaviors of family members.

Forms of Denial

[24 CFR 982.552(a)(2)]

Denial of assistance includes any of the following:

- Not placing the family's name on the waiting list.
- Denying or withdrawing rent assistance.
- Not approving a request for tenancy or refusing to enter into a RAP contract.
- Refusing to process a request for or to provide assistance for transferring rent assistance out of the CoC jurisdiction (Washington County, Oregon).

Prohibited Reasons for Denial of Program Assistance

[24 CFR 578.93; 24 CFR 5.100]

HUD rules prohibit denial of program assistance to the program based on any of the following criteria:

- Age, disability, race, color, religion, sex, or national origin (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
- Where a family lives prior to admission to the program
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, the CoC does not currently allow portability of assistance outside of the Continuum of Care.
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock
- Whether the family includes children
- Whether a family decides to participate in a family self-sufficiency program
- Whether or not a qualified applicant is or has been a victim of domestic violence, dating violence, or stalking if the applicant is otherwise qualified for assistance (See section 3.3.G)

3.3.B Screening

Screening for Suitability as a Tenant

[24 CFR 982.307]

The Department has no liability or responsibility to the owner for the family's behavior or suitability for tenancy. The Department may opt to conduct additional screening to determine whether an applicant is likely to be a suitable tenant.

Department Policy

The Department will not conduct additional screening to determine an applicant family's suitability for tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. The Department must inform the owner that screening and selection for tenancy is the responsibility of the owner. An owner may consider a family's history with respect to factors such as: payment of rent and utilities, caring for a unit and premises, respecting the rights of other residents to the peaceful enjoyment of their housing, criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

HUD requires the Department to provide prospective owners with the family's current and prior address (as shown in Department records) and the name and address (if known) of the owner at the family's current and prior addresses. HUD permits the Department to provide owners with additional information, as long as households are notified that the information will be provided, and the same type of information is provided to all owners.

The Department may not disclose to the owner any confidential information provided in response to a Department request for documentation of domestic violence, dating violence, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(a)(4)].

Department Policy

The Department will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information upon request with a signed release from the family. The Department will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

Reasonable Accommodation

[24 CFR Part 8]

If the family includes a person with disabilities, the Department’s decision concerning denial of admission is subject to consideration of reasonable accommodation.

Department Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, the Department will determine whether the behavior is related to the disability. If so, upon the family’s request, the Department will determine whether alternative measures are appropriate as a reasonable accommodation. The Department will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of assistance. See Chapter 2 for a discussion of reasonable accommodation.

3.3.C Notice of Eligibility or Denial

If the family is eligible for assistance, the Department will notify the family when it extends the invitation to attend the rent assistance briefing appointment, see Chapter 5.

If the Department determines that a family is not eligible for the program for any reason, the family must be notified promptly. The notice must describe: (1) the reasons for which assistance has been denied, (2) the family’s right to an informal review, and (3) the process for obtaining the informal review. The Department will notify the provider agency of the denial of eligibility.

Department Policy

The family will be notified of a decision to deny assistance in writing within 10 business days of the determination.

Notice requirements related to eligibility of assistance to noncitizens are contained in Section 3.2.B.

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, stalking, or sexual assault, are contained in Section 3.3.G.

3.3.D Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, Stalking, or Sexual Assault

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The Violence Against Women Act of 2005 (VAWA), the Violence Against Women Reauthorization Act of 2013, and the HUD regulation at 24 CFR 5.2005(b) prohibit Departments from denying an applicant admission to the CoC program “on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking, if the applicant otherwise qualifies for assistance or admission.” HUD published in the Code of Federal Register, effective December 16, 2016, its final rule (5720-F-03) regarding the implementation of housing protections authorized in the VAWA of 2013.

VAWA 2013 expands on the housing protections included in VAWA 2005 for survivors in federally-subsidized housing units/programs by: 1) maintaining current protections; 2) protecting sexual assault victims (in addition to domestic violence, dating violence, and stalking victims); 3) expanding protections to cover all federally-subsidized housing programs; 4) clarifying the notice tenants/participants must receive about their rights under VAWA; and 5) including an emergency transfer policy requirement for landlords, managers and owners.

Covered Housing Programs under HUD VAWA Final Rule

The following programs are subject to implementing the VAWA regulations:

- **Homeless programs under title IV of the McKinney-Vento Homeless Assistance Act** (42 U.S.C. 11360 et seq.), including the **Continuum of Care program (HUD funded programs under the HUD NOFA)** (with implementing regulations at 24 CFR part 578), the **Emergency Solutions Grants (ESG) program** (with implementing regulations at 24 CFR part 576), and the **Rural Housing Stability Assistance program** (with regulations forthcoming).
- **Section 202 Supportive Housing for the Elderly** (12 U.S.C. 1701q), with implementing regulations at 24 CFR part 891.
- **Section 811 Supportive Housing for Persons with Disabilities** (42 U.S.C. 8013), with implementing regulations at 24 CFR part 891.
- **Housing Opportunities for Persons With AIDS (HOPWA) program** (42 U.S.C. 12901 et seq.), with implementing regulations at 24 CFR part 574.
- **HOME Investment Partnerships (HOME) program** (42 U.S.C. 12741 et seq.), with implementing regulations at 24 CFR part 92.
- **Multifamily rental housing under section 221(d)(3) of the National Housing Act** (12 U.S.C. 17151(d)) with a below-market interest rate (BMIR) pursuant to section 221(d)(5), with implementing regulations at 24 CFR part 221.
- **Multifamily rental housing under section 236 of the National Housing Act** (12 U.S.C. 1715z-1), with implementing regulations at 24 CFR part 236.
- **HUD programs assisted under the United States Housing Act of 1937** (42 U.S.C. 1437 et seq.); specifically, **public housing under section 6 of the 1937 Act** (42 U.S.C. 1437d) (with regulations at 24 CFR Chapter IX), **tenant-based and project-based rental assistance under section 8 of the 1937 Act** (42 U.S.C. 1437f) (with regulations at 24 CFR chapters VIII and IX), and **the Section 8 Moderate Rehabilitation Single Room Occupancy** (with implementing regulations at 24 CFR part 882, subpart H).
- **The Housing Trust Fund** (12 U.S.C. 4568) (with implementing regulations at 24 CFR part 93).

NOTE: Any Washington County partner that administers any of the above mentioned programs is responsible for implementing the mandated VAWA protections and regulations detailed in HUD’s final rule.

HUD Final Rule (5720-F-03)

The Final Rule includes the following:

- **Continuation of the core protections** – The rule codifies the core protections across HUD’s covered programs ensuring survivors are not denied assistance as an applicant, or evicted or have assistance terminated due to having been a victim of domestic violence, dating violence, sexual assault, and stalking, or for being affiliated with a victim.
 - VAWA 2013 protections cover “victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender, identity, or sexual orientation. Consistent with the nondiscrimination and equal opportunity requirements at 24 CFR 5.105(a), victims cannot be discriminated against on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability or age. HUD programs must also be operated consistently with HUD’s Equal Access Rule, which requires HUD assisted and HUD-insured housing is made available to all otherwise eligible individuals and families regardless of actual or perceived sexual orientation, gender identity, or marital status”.
 - Affiliated individuals (i.e. spouse, parents, brother, sister, or child of the individual/participant/survivor) are also protected, unless any of the above mentioned individuals is the perpetrator of a violent crime towards the participant/survivor.
- **Emergency transfers** – One of the key elements of VAWA’s housing protections are emergency transfers that allow for survivors to move to another safe and available unit if they fear for their life and safety. VAWA required HUD to adopt a model emergency transfer plan for housing providers and to explain how housing providers must address their tenants’ requests for emergency transfers. HUD’s model emergency transfer plan:
 - Allows a survivor to self-certify their need for an emergency transfer, ensuring documentation is not a barrier to protecting their immediate safety;
 - Allows the survivor to determine what is a safe unit for purposes of the transfer, ensuring that the survivor has control over their own safety planning;
 - Requires housing providers to allow for a resident to move immediately if there is another safe and available unit that does not require the survivor to undergo an application process as a new tenant, ensuring quicker access to safe housing;
 - Requires housing providers to explain the efforts they will take when there is not a safe and available unit available for an emergency transfer and encourages housing providers to partner with victim services and advocates and other housing providers to assist a survivor; and,
 - Requires housing providers to document requests for emergency transfers, including the outcome of the request, and to report annually to HUD.
- **Protections against the adverse effects of abuse** – Domestic violence can often have negative economic and criminal consequences on a survivor. The perpetrator may take out credit cards in a survivor’s name, ruining their credit history, or causing damage to survivor’s property causing eviction and poor rental history. The perpetrator may force a survivor to participate in criminal activity or a survivor may be arrested as part of policies that require arresting of both parties in a domestic disturbance. The final rule ensures that covered housing providers do not deny tenancy or occupancy rights based solely on these adverse factors that are a direct result of being a survivor.
- **Low-barrier certification process** – The final rule makes it clear that under most circumstances, a survivor need only to self-certify in order to exercise their rights under VAWA, ensuring third party documentation does not cause a barrier in a survivor expressing their rights and receiving the protections needed to keep themselves safe.

Under HUD’s Final Rule, covered housing providers are required to develop an Emergency Transfer Plan for program participants and provide applicants and tenants with a “Notice of Occupancy Rights under the Violence

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Against Women Act” and a “*certification form*”. This documentation must be provided to program participants: 1) upon denial of assistance or denial of admission to the housing program; 2) upon admission to the housing program; and 3) with any notification of eviction or termination of assistance.

Notice of Occupancy Rights under the Violence Against Women Act

The “*Notice of Occupancy Rights under the Violence Against Women Act*” details VAWA's core protections and a participant's rights to an Emergency Transfer.

- VAWA 2013 Core statutory protections state that "if an individual meets all eligibility requirements and complies with all occupancy requirements, the individual cannot be denied assistance or have assistance terminated solely on the basis that the individual is a victim of domestic violence, dating violence, stalking, or sexual assault." The purpose of these protections is to prevent discrimination against survivors due to the actions of perpetrators.
- Emergency Transfer Plans ensure that participants have the right to relocate to a different unit if there is an actual and imminent threat of physical danger in order to remain safe and stable in their housing.

HUD's VAWA Final Rule recognizes the importance of providing housing protections and rights to victims of domestic violence, dating violence, sexual assault, and stalking. By increasing opportunities for all individuals to live in safe housing, this will reduce the risk of homelessness and further HUD’s mission of utilizing housing to improve quality of life.

Documentation for Program Participant

In order to effectively implement these regulations, housing providers are required to:

- Provide current and future program participants with “*Notice of Occupancy Rights under the Violence Against Women Act*”.
 - Please refer to [HUD-5380](#) form for access to the Notice in multiple languages.
- Provide current and future program participants with a “*Certification Form*”. Appendix A.

Required Documentation for Record Keeping

- Emergency Transfer Plan requests and outcome of such requests.
- Release of Information whenever sharing program participant information.

Covered Housing Providers are required to maintain documentation on all Emergency Transfers requests for a period of 3 years, or for the period of time specified in program regulations. (Providers will be asked to report, in aggregate form, all Emergency Transfers to HUD, however, this does not imply that program participant protected under VAWA 2013 will have their information entered into a shared data base if they were to request and quality for a transfer.)

Emergency Transfers

If a participant requests, and is eligible for an Emergency Transfer, said participant should be prioritized for the next available housing placement/unit (with the assumption that the next available housing placement is safe and the participant is in compliance with the program’s established policies).

1. Covered Housing Programs should attempt to transfer the participant to the next available unit within your program/agency (*internal emergency transfer*).
 - a. Covered housing providers must allow tenants who meet the rule’s criteria for an emergency transfer to make an internal emergency transfer, where a tenant could reside in a new unit without having to undergo an application process, when a safe unit is immediately available.

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Emergency Transfers will utilize system specific Coordinated Entry/ Coordinated Access to manage emergency transfers, if a covered housing provider is unable to coordinate an internal emergency transfers

2. If no safe units are available within your housing program, we ask that you find a placement for the participant through your system's coordinated entry process (*external emergency transfer*).
3. If there are no available within your systems' Coordinated Entry process, the participant requesting an emergency transfer will be prioritized within the most suitable Coordinated Entry System and will be prioritized for the next available unit within said determined CA system.
 - a. Participants transferred across systems, as well as within a system, must meet the eligibility requirements of the housing program they are transferring to.

Information pertaining to Emergency Transfers must remain confidential. Please obtain an ROI prior to sharing any confidential or identifying information about a covered participant. The ROI must be in writing, informed (details what information will be shared and with whom), time-limited (dated and limited to 30 days), and signed.

Emergency Transfer Logistics and Time Frame

Program participants can qualify for an emergency transfer, at any time, if they reasonably believe there is threat of imminent harm from further violence, regardless of where or when the incident occurred, if they remain in their dwelling unit. Additionally, sexual assault survivors can qualify for an emergency transfer if an incident of SA occurred on the premises during the 90-calendar-day period preceding the date of the request for transfer.

Note: Covered housing programs are encouraged to extend this 90 day period, given that some participants of sexual assault may fear disclosure.

Note: A program participant may request multiple emergency transfers and said participant may not be subjected to additional program requirements as a result of making multiple transfer requests.

If a participant requests an emergency transfer, the covered housing program may request that the participant submit documentation that certifies the incidence of a violent crime directed towards the program participant or "affiliated individuals".

- The certification should establish the victim (eligible for protection), the incident (that meets the applicable definition under the Final Rule), and the perpetrator of the crime.

Note: A covered housing program/provider may allow a program participant to self-certify their need for an emergency transfer (nullifying the need for a "Certification form"), if obtaining documentation results as a barrier to protecting the immediate safety of the survivor/program participant.

Certification for an Emergency Transfer

A tenant/participant may submit any of the following to serve as documentation for the occurrence of domestic violence, dating violence, sexual violence, and stalking.

- A certification form:
 - Signed by an employee, agent, or volunteer of a victim service provider, attorney, or mental health professional from whom the tenant has sought assistance relating to DV, SA, dating violence, or stalking
 - Signed by the tenant or applicant

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- Specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of DV, SA, dating violence and stalking and that the incident meets the applicable definition of domestic violence, dating violence, sexual violence, and stalking
- A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency
- At the discretion of the covered housing provider, a statement or other evidence provided by the participant/tenant

Participant should provide this documentation within 14 business days of it being requested by the housing program

- A covered housing provider may extend the above mentioned 14 day deadline
 - Tenant must receive a certification request in writing
 - Covered housing program should provide participant with a “*Certification Form*”, if not in their possession already

The covered housing provider is entitled to request third party documentation if the certification documents submitted by participant/tenant contain conflicting information (for example, multiple petitioning household members claiming each other as perpetrator).

- The participant has 30 days, from the date requested, to submit third party documentation to the housing provider

The covered housing provider should respond to an emergency transfer as quickly as possible to protect the health and safety of those requesting emergency transfers under VAWA. The covered housing provider should find an alternative unit and transfer the protected participant, and eligible “affiliated individuals” to the new unit as quickly as possible. The housing provider should also make efforts to support the participant during said transfer and bear the costs of any transfer, where permissible.

In the event that the eligible program participant is the perpetrator of a crime, the covered housing provider may make the determination to bifurcate the lease. (Lease bifurcation is not a statutory mandate.)

- Lease bifurcation, or removing a household member from the lease if said member is the perpetrator of a violence crime, should be done without regard to whether the household member is a signatory to the lease, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activities executed by the perpetrator

In the event of a lease bifurcation, the covered housing provider has 90 days, with the possibility of a 60-day extension, to establish eligibility and find alternative housing for any remaining lawful occupant that isn’t eligible for services under the particular housing program.

Under the CoC, if the program participant is the perpetrator of the crime and said individual is terminated assistance/evicted, the remaining lawful occupants, in not eligible for VAWA protections, may stay in the unit until the lease expires.

Covered Housing Program Responsibilities

In the event of an Emergency Transfer, the covered housing provider is responsible for:

- Placing participant in the next available safe unit
- Bifurcating the lease (if applicable) and paying for any fees if agency is able to incur the cost

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- If unable to cover the cost of bifurcating the lease or any fees associated with move in cost, deposit, etc. we encourage the provider to seek other means of assistance such as Oregon Department of Human Services' Temporary Assistance for Domestic Violence Grant.

Confidentiality

Any information submitted to a covered housing provider, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, shall be maintained in strict confidence by the covered housing provider.

- The covered housing provider shall not allow any individual administering assistance on behalf of the covered housing provider or any persons within their agency or any person with whom the agency collaborates to have access to confidential information unless explicitly authorized by the covered housing provider for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.
- The covered housing provider shall not enter confidential information into any shared database (HMIS) or disclose such information to any other entity or individual, except to the extent that the disclosure is:
 - Requested or consented to in writing by the participant in a time-limited release
 - Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
 - Otherwise required by applicable law

Information pertaining to Emergency Transfers must remain confidential. Please obtain an ROI prior to sharing any confidential or identifying information about a covered participant. The ROI must be in writing, informed (details what information will be shared and with whom), time-limited (dated and limited to 30 days), and signed.

Supplementary information

For the original HUD Provided Templates, please refer to the links below.

| | | |
|----------|---|-----------|
| HUD-5380 | Notice of Occupancy Rights Under the Violence Against Women Act | (12/2016) |
| HUD-5381 | Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking | (12/2016) |
| HUD-5382 | Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation | (12/2016) |
| HUD-5383 | Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking | (12/2016) |

To view HUD's Final VAWA Rule, please visit: (November, 16, 2016) <https://www.federalregister.gov/documents/2016/11/16/2016-25888/violence-against-women-reauthorization-act-of-2013-implementation-in-hud-housing-programs#h-85>

For additional guidance to the Final VAWA Rule, please visit: (June 30, 2017)

Part 4: Homeless Verification and Recordkeeping

HOMELESS VERIFICATION AND RECORDKEEPING

Homeless Eligibility Verification, 24 CFR Parts 91.5 and 578.3 “Definitions”

People exiting a residential treatment home or residential treatment facility retain their homeless status when:

- a) The individual was residing in shelter or places not meant for human habitation immediately before entering residential treatment; and
- b) The homeless situation prior to entering residential treatment home/facility can be documented (see recordkeeping); and
- c) The individual is placed in a residential treatment home/facility “designated short-term bed”, similar to a shelter bed stay; and
- d) The bed stay is limited to a maximum of 90-nights. Note: Stays that last 91-days is not short-term and the individual is not homeless even if they were homeless prior to entering residential treatment.

Recordkeeping

The recordkeeping documentation of the evidence relied upon to establish and verify homelessness in the following priority order:

1. Third-party documentation; or
2. Intake worker observations; or
3. Certification from the person seeking assistance.

Records contained in HMIS are acceptable evidence of homelessness as third-party documentation. In addition, other third-party documentation includes a letter from the shelter or outreach worker demonstrating dates and location where homelessness was observed prior to entry into short-term residential treatment home/facility. An example of a third-party letter is attached – please disregard the 45-day comment; however, you would want to collect this letter at the time of intake for residential treatment so it is available for when they exit the short-term treatment facility.

CHAPTER 4: APPLICATIONS AND WAITING LIST

Introduction

Community Connect refers homeless households to provider agencies that verify program eligibility. The family is assisted in completing a CoC Program Rental Assistance Application that is provided to the Department. The Department will process applications in date/time order received and place on a CoC Subsidy wait list. When CoC Program assistance becomes available, the Department must select households from the waiting list in accordance with HUD requirements and Department policies as stated in this administrative plan.

The Department is required to adopt a clear approach to accepting applications, placing households on the waiting list, selecting households from the waiting list and must follow this approach consistently.

Department Policy

The Department will prioritize Chronically Homeless Individuals as outlined in the HEARTH Act as Amended.

HUD regulations require that all households have an equal opportunity to apply for and receive housing assistance, and that the Department affirmatively further fair housing goals in the administration of the program [24 CFR Part 578.93]. Adherence to the selection policies described in this Chapter ensures that the Department will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This Chapter describes HUD and CoC policies for taking screening, assessing and referring placing individuals and households for CoC Program assistance. The policies outlined in this Chapter are organized into three sections, as follows:

- **Part 1: The Screening Process.** This part provides an overview of the screening process for individuals and households seeking assistance.
- **Part 2: The Assessment Process.** This part provides an overview of the assessment process which determines the needs of people seeking homeless assistance to effectively match each household with the most appropriate resources available to address that household's needs.
- **Part 3: Referral and Housing Placement Process.** This part describes the process in which referrals are made to pen beds and/or programs with current capacity to serve as well as to projects that maintain a wait list.

Part 1: The Screening Process

[24 CFR Part 91.5]

4.1.A Overview

This part describes the CoC's Coordinated and Centralized Assessment System, Community Connect as well as the Department's obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with limited English Proficiency (LEP).

4.1.B The Screening Process

The screening process will determine at imminent risk of homelessness or homeless status of the individual or family seeking assistance, also referred to as a household.

CoC Policy

Households will be required to meet the federal homeless definition defined in 24 CFR Part 91.5 to be eligible McKinney-Vento homeless programs aligned with Community Connect. Eligibility of homelessness for people with developmental disability will be in compliance with 24 CFR Part 582.5 and Part 583.5. Households meeting the State definition (doubled-up or shared housing) are eligible for non-HUD funded program resources, as available.

4.1.C Accessibility of the Screening Process

Policy Number 578.7a-OR506CoC

Call (503)640-3263 24 hours a day to access Community Connect. A screening will be completed over the phone to determine homeless eligibility using the written standards identified in the Screening Tool.

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Households actively fleeing domestic violence, dating violence, sexual assault, and stalking will receive information on domestic violence resources. Households identifying as HIV/AIDS positive will receive information for the central intake at Cascade AIDS Project. Veteran households will receive information for veteran services with Washington County Disability, Aging and Veteran Services and Veteran Community Resource and Referral Center.

Determination - Eligible for Homeless Assistance

A household that meets the homeless definition will receive information and referral to emergency assistance resources to include; prevention, diversion and emergency shelter serving youth or households, to the extent these resources are available. Households not going into shelter will be scheduled to meet with a Community connect Assessment Specialist. The meeting will be schedule within 5 business days from the initial screening defined in this section, with the household receiving information on the date, time and location of the assessment meeting. Veterans meeting the HUD homeless definition will be offered an assessment with assistance, as well as contact referral for DAVS and CRRC. Data collected during the screening interview is entered into HMIS, and will be used for assessment purposed and system performance evaluation.

Determination – Not Eligible for Homeless Assistance

A household that does not meet the homeless definition will receive information and referral to available community resources, to include 211 Info, mainstream resources serving people in poverty, and systems of care.

Limited English Proficiency

The Department is required to take reasonable steps to ensure meaningful access to programs and activities by persons with Limited English Proficiency [24 CFR 1]. Chapter 2 provides a full discussion on the Department’s policies related to ensuring access to people with limited English proficiency (LEP).

Part 2: Assessment Process

4.2.A Overview

If a household qualifies for assistance though the Community Connect Screening, a meeting will be set up with the household and Assessment Specialist to determine the needs of those asking for homeless assistance, and effectively match each household with the most appropriate resources available to address that household’s particular needs.

4.2.B Sheltered Households-Assessment Process

Households in one of five emergency shelters in Washington County, to include three family shelters: Community Action, Family Promise and Good Neighbor Center, Monika’s House for victims fleeing domestic violence, and Safe Place for Youth Shelter will be assessed by Shelter Staff to include:

- Shelter staff will complete the assessment of housing and service needs using the HMIS Assessment Tool.
- With the exception of Monika’s House, the shelter staff will enter household data in HMIS, and upload supporting documentation for Verification of Homelessness and identification (include all that are applicable)
 - Homeless Verification and Self-Declaration of Housing Form
 - Resource Eligibility and Housing Options
 - Staff Affidavit form
 - Photocopy of Identification; e.g. Driver License, Social Security Card

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- Informed Consent Form
- The Assessment Specialist at Monika's House will maintain data in the HMIS comparable database for victim of domestic violence data. The Assessment Specialist will compile hardcopies of the following documents that will be made available upon referral/housing placement with the Community Connect Assessment Specialist:
 - Homeless Verification and Self-Declaration of Housing Form
 - Resource Eligibility and Housing Options
 - Staff Affidavit form
 - Photocopy of Identification; e.g. Driver License, Social Security Card
 - Informed Consent Form
- The Assessment Specialist from the five shelter facilities will schedule a meeting with Community Connect Assessment Specialist to complete the Scoring Criteria in preparation for the referral/housing placement process.

4.2.C Non-Sheltered Households – Assessment Process

- The household will meet with the Community Connect Assessment Specialist for assessment of need, or a mobile assessment performed by trained outreach workers using the same assessment criteria.
- With the homeless household, the Assessment Specialist will complete the housing and service needs using the HMIS Assessment Tool or the Mobile Assessment Specialist duties performed by the PATH and other outreach workers using the paper Assessment Tool.
- IN HMIS, upload homeless eligibility documentation:
 - Homeless Verification and Self-Declaration of Housing Form
 - Resource Eligibility and Housing Options
 - Staff Affidavit form
 - Photocopy of Identification; e.g. Driver License, Social Security Card
 - Informed Consent Form

4.2.D The Assessment Tools and Scoring Process for All Households

The Assessment Specialist will determine the appropriate housing and service program using the HMIS Assessment Tool to identify the household needs and strengths.

- Six categories of the Assessment Tool align with an Assessment Scoring Guild that applies points based on low, medium and high housing barriers and household service needs, and prioritizes which eligible household will received transitional, rapid re-housing and permanent supportive housing assistance.
- The HMIS Assessment Tool will apply points in each category of the assessment based on the client response, up to a total of 138 points.
 - Monthly Income and Benefits – 10 points
 - Housing History – 12 Points
 - Employment – 12 Points
 - Financial Status/Debts – 10 points
 - Criminal History 36 points
 - Health – 40 points

Part 3: Referral and Housing Placement

4.3.A Overview

The Community Connect Assessment refers households to the most appropriate housing program to address the household needs.

CoC Policy

Referrals are made to housing programs with capacity to serve. When no housing resources are available, the household is advised of other community resources to address basic needs. *Note: For chronic homeless households, the household is referred to housing programs that have open beds and projects that maintain a wait list.*

4.3.B. Prioritizing Populations for Permanent Housing Placement

The local continuum prioritizes housing and resources in alignment with *A Road Home: 10-Year Plan to End Homelessness in Washington County* and *Opening Doors: Federal Strategic Plan*. The local priority will be delivered in the following order through new resources and turn-over of housing unit not dedicated and/or not prioritized for occupancy.

First Priority – Homeless Households with a Disability with Long Periods of Episodic Homelessness and Severe Service Needs

- The CoC prioritized new and turn-over non-chronic designated units for persons experiencing chronic homelessness and other vulnerable homeless populations in permanent supportive housing and will comply with recordkeeping requirements for documenting chronic homeless status, in aligned with HUD CPD 16-11.
- Eligible persons who have experienced 4 or more occasions where they have been living or residing in a place not meant for human habitation, a safe haven, or in shelter but where the cumulative time homeless is at least 12 months and has been identified as having severe service needs.

Second Priority – Homeless Households with a Disability with Severe Service Needs and Length of Time (LOT) Homeless

- The CoC will prioritize eligible persons residing in a place not meant for human habitation, a safe haven, or in shelter and has been identified as having severe service needs.
- The CoC will prioritize people with the longest length of homelessness.

Third Priority – Homeless Households with a Disability Coming from Places Not Meant for Human Habitation, Safe Haven or Emergency Shelter without Severe Service Needs and Length of Time (LOT) Homeless

- The CoC will prioritize eligible persons residing in a place not meant for human habitation, a safe haven, or in shelter where the person has not been identified as having severe service needs.
- The CoC will prioritize people with the longest length of homelessness, but there is not a minimum length of time required.

Fourth Priority – Homeless Individuals and Households with a Disability Coming from Transitional Housing

- The CoC will prioritize eligible persons residing in transition housing, where prior to residing in the transitional housing had lived in a place not meant for human habitation, shelter or safe haven.

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- This priority includes persons fleeing domestic violence or attempting to flee domestic violence, dating violence, human trafficking, sexual assault, or stalking and prior to residing in that transition housing they did not live in a place not mean for human habitation, shelter or safe haven.

Prioritized Single Wait List

- The CoC has a single wait list for permanent supportive housing “tenant-based” programs serving households managed by Washington County Department of Housing Services, with wait lists for permanent supportive housing in “facility-base” programs management by the project sponsor agency in alignment with this policy and CoC system operations.

4.3.C Determining Housing Placement

The Assessment Specialist will enter the household Assessment Score, Housing Status and Household Type into the Program Eligibility Tool. The Program Eligibility Tool will identify the appropriate Project and Homeless Provider Agency.

- Using the HPA Project(s) identified in the Program Eligibility Tool, the Assessment Specialist will view available bed/unit data for the specific project in HMIS. The Bed/unit availability data is maintained in HMIS by each project agency, and published daily by the HMIS Lead Agency
- For bed/unit data not maintained in HMIS, the Assessment Specialist will contact the HPA for available bed/unit information
- The Assessment Specialist will advise the homeless household of the available program options.
- The Assessment Specialist will contact the HPA via phone to advise a referral is in process, and confirm the availability of the bed/unit in HMIS. A confirmation email will be sent referencing the unique client ID number in HMIS where the results of the screening, assessment and the uploaded Verification of Homelessness and ID documentation is stored,
- The household will be responsible for scheduling an intake briefing with the HPA once the referral has been made by Community Connect.
- The Assessment Specialist will complete entry/exit data in HMIS, and ensure all documentation is scanned and uploaded in HMIS within 24 hours of the Assessment.

4.3.D Intake and Disposition of Referral/Housing Placement

The HPA will schedule an Intake Briefing with the household referred by Community Connect. The HPA will meet with the household and have access to the screening, assessment and related documentation uploaded into HMIS, to include the Verification of Homelessness and Personal Identification. The HPA enrolls the new program participant into the program or the HPA determines the household is not eligible for the program as a result of an inappropriate referral

- The HPA will contact the Assessment Specialist who made the initial referral and follow-up with an email documenting the reasons for not accepting the household referral; e.g. sending a non-chronic homeless household to a program that can only serve persons who meet the federal definition of chronically homeless
- The household is the referred back to the Community Connect Assessment Specialist

4.3.E Rapid Re-Housing Rent Subsidy Determination

Rapid Re-Housing (RRH) is a community-based permanent housing model funded by the CoC Program and the ESG Program. The standards adopted for the ESG-RRH program in consultation with the HSSN (Homeless Support Service Network), and the standards for the CoC-RRH program.

- CoC Program Interim Rule 24 CFR Part 578.51(a)1(i) reads that rental assistance can be provided up to 24 months.

HUD Response December 21, 2017:

Under the CoC Program interim rule, Section 578.37(a)(1)(ii) states that a recipient is required to limit the rental assistance to no more than 24 months to a program participant (or the maximum amount determined by the CoC written standards), but may also choose to provide a shorter amount of assistance. Regarding your specific question, the first month an individual resides in the housing (even if only for half of the month) would count as one full month toward this 24 month cumulative total.

In addition, please keep the following in mind regarding when a recipient administers RRH and determines the amount of rental assistance to provide:

- CoC rapid-rehousing funds may be used to provide eligible supportive services, and short-term (up to 3 months) and/or medium-term (3-24 months) tenant-based rental assistance. The recipient is required to limit the rental assistance to no more than 24 months to a program participant (or the maximum amount determined by the CoC written standards), but may also choose to provide a shorter amount of assistance. All program participants must be the tenant on a lease for a term of at least one year, which is renewable for terms that are a minimum of one month long, and is only terminable for cause.
- Recipients of rapid rehousing funds must follow the written policies and procedures established by the CoC for determining and prioritizing which eligible families and individuals will receive the rapid rehousing assistance, as well as the amount or percentage of rent that each participant may pay. Within these policies and procedures, the recipient may set a maximum amount or percentage of rental assistance that a program participant may receive, a maximum number of months that a program participant may receive assistance, and a maximum number of times a participant may receive assistance.
- Program participants of the RRH project should be notified at program entry the length of time the project intends to provide assistance on their behalf.

CHAPTER 5: BRIEFINGS AND RENT SUBSIDY ISSUANCE

Introduction

This Chapter explains the Legacy Shelter Plus Care briefing and Rent Assistance process administered by the Department. When a household is determined to be eligible for the Legacy Shelter Plus Care (SPC) program, the Department must ensure that the household fully understands the way the program operates and the household's obligations under the program. This is accomplished through both an oral briefing and provision of a briefing packet containing written documentation of information the household needs to know. Once the household is fully informed of the program's requirements, the Department issues a written statement of the household's approval for Rent Assistance. The written notice includes the unit size the household qualifies for

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based on the CoC's subsidy standards, as well as the dates of issuance and expiration of the promise of rental assistance. The written documentation is the document that permits the household to begin its search for a unit, and limits the amount of time the household has to successfully locate an acceptable unit.

This Chapter describes HUD regulations and Department policies related to these topics in two parts:

- **Part 1: Briefings and Family (Household) Obligations.** This part details the program's requirements for briefing households orally, and for providing written materials describing the program and its requirements. It includes a particular focus on the household's obligations under the program.
- **Part 2: Subsidy Standards and Rental Assistance Issuance.** This part discusses the Department's standards for determining how many bedrooms for which a household of a given composition qualifies. It also discusses the policies that dictate how rental assistance is issued, and how long households have to locate a unit.

Part 1: Briefings and Family/Household Obligations

5.1.A. Overview

HUD regulations require the Department to conduct mandatory briefings for applicant households. The briefing provides a broad description of owner and household responsibilities, explains the Department procedures, and includes instructions on how to lease a unit. This part describes how oral briefings will be conducted, specifies what written information will be provided to households, and lists the household's obligations under the program.

5.1.B. Briefing

[24 CFR 982.301]

The Department must give the household an oral briefing and provide the household with a briefing packet containing written information about the program. Households may be briefed individually or in groups. At the briefing, the Department must ensure effective communication in accordance with Section 504 requirements (Section 504 of the Rehabilitation Act of 1973), and ensure that the briefing site is accessible to individuals with disabilities. For a more thorough discussion of accessibility requirements, refer to Chapter 2.

Department Policy

Briefings can be conducted in group meetings.

Generally, the head of household is required to attend the briefing. If the head of household is unable to attend, the Department may approve another adult household member to attend the briefing.

Households that attend group briefings and still need individual assistance will be referred to an appropriate Department staff person.

Briefings will be conducted in English. For Limited English Proficiency (LEP) applicants, the Department will provide translation services in accordance with the Department's LEP plan (See Chapter 2).

Notification and Attendance

Department Policy

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Households will be notified of their eligibility for assistance at the time they are invited to attend a briefing. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing.

Applicants who fail to attend a scheduled briefing will automatically be scheduled for another briefing. The Department will notify the household of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without Department approval, may be denied assistance.

Oral Briefing

[24 CFR 982.301(a)]

Each briefing must provide information on the following subjects:

- How the Legacy Shelter Plus Care (SPC) program works;
- Household and owner responsibilities;
- Where the household can lease a unit. Note: CoC policy decision that CoC Program rent assistance is not portable outside of CoC-506; and
- For households living in high-poverty census tracts, an explanation of the advantages of moving to areas outside of high-poverty concentrations.

Briefing Packet

[24 CFR 982.301(b) and 24 CFR 578.77(b) and(c)]

Documents and information provided in the briefing packet must include the following:

- The term of the Rental Assistance, and the Department's policies on any extensions or suspensions of the term. If the Department allows extensions, the packet must explain how the household can request an extension.
- A description of the method used to calculate the rent assistance payment for a household, how the Department determines total tenant payment for a household, and information on the utility allowance schedule.
- An explanation of how the Department determines the Rent Reasonableness for an assisted unit.
- Where the household may lease a unit as the CoC does not port outside of Washington County
- The HUD-required tenancy addendum, which must be included in the lease.
- The form the household must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy.
- A statement of the Department policy on providing information about households to prospective owners.
- The Department's rent reasonableness standards including.
- The HUD brochure on how to select a unit.
- The HUD pamphlet on lead-based paint entitled Protect Your Family from Lead in Your Home.
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form.
- Notice that if the household includes a person with disabilities, the family may request a list of available accessible units known to the Department.
- The household obligations under the program.
- The grounds on which the Department may terminate assistance for a participant household because of household action or failure to act.
- Department informal hearing procedures including when the Department is required to offer a participant household the opportunity for an informal hearing, and how to request the hearing.

Additional Items to Be Included in the Briefing Packet

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In addition to items required by the regulations, the Department may wish to include supplemental materials to help explain the program to both participants and owners.

Department Policy

- The Department will provide the following additional materials in the briefing packet:
- Information on how to fill out and file a housing discrimination complaint form
- Information about the protections afforded by the Violence against Women Act of 2005 (VAWA) to victims of domestic violence, dating violence, stalking, or sexual assault and a copy of the applicable certification form (HUD-50066)
- “Is Fraud Worth It?” (form HUD-1141-OIG), which explains the types of actions a household must avoid and the penalties for program abuse

5.1.C. Household/Family Obligations

Caretakers for a Child

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

- If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a household member until a determination of custody or legal guardianship is made.
- If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a household member unless information is provided that would confirm that the caretaker’s role is temporary. In such cases the Department will extend the caretaker’s status as an eligible visitor.
- At any time that custody or guardianship legally has been awarded to a caretaker, the RAP will be transferred to the caretaker.
- During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the household for any deductions from income.

Obligations of the household/family are described in the Family Tenancy Agreement written documentation of rental assistance. These obligations include responsibilities the household is required to fulfill, as well as prohibited actions. The Department must inform households of these obligations during the oral briefing, and the same information must be included in the briefing packet. When the household’s unit is approved and the (Rental Assistance Payment) RAP contract is executed, the household must meet those obligations in order to continue participating in the program. Violation of any obligation may result in termination of assistance, as described in Chapter 11.

Time Frames for Reporting Changes Required By Tenancy Agreement

Department Policy

Unless otherwise noted below, when Family Obligations require the household to respond to a request or notify the Department of a change, notifying the Department of the request or change within 10 business days is considered prompt notice.

When a family is required to provide notice to the Department, the notice must be in writing.

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Tenancy Agreement

[24 CFR 982.551 and 24 CFR 578]

Following is a listing of a participant household's obligations under the CoC Program Rent Assistance requirements:

- The family must supply any information that the Department or HUD determines to be necessary.
- The family must supply any information requested by the Department or HUD for use in a regularly scheduled reexamination or interim reexamination of household income and composition.
- The household must disclose and verify social security numbers and sign and submit consent forms for obtaining information. For requirements and acceptable forms in lieu of Social Security card see section 7.2.b.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.
- Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.
- The household must allow the Department to inspect the unit at reasonable times and after reasonable notice (See Chapter 8).
- The household must not commit any serious or repeated violation of the lease.

Department Policy

The Department will determine if a household has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction or an owner's notice to evict.

Serious and repeated lease violations will include, but not be limited to: nonpayment of rent, disturbance of neighbors, and destruction of property, living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].

- The family must notify the Department and the owner before moving out of the unit or terminating the lease.
- The household must comply with lease requirements regarding written notice to the owner. The household must provide written notice to the Department at the same time the owner is notified.
- The household must promptly give the Department a copy of any owner eviction notice.
- The household must use the assisted unit for residence by the household. The unit must be the household's only residence.
- The composition of the assisted household residing in the unit must be approved by the Department. The household must promptly notify the Department in writing of the birth, adoption, or court-awarded custody of a child. The household must request Department approval to add any other household member as an occupant of the unit.

Department Policy

The request to add a household member must be submitted in writing and approved prior to the person moving into the unit (See Chapter 10). The Department will determine eligibility of the new member in accordance with the policies in Chapter 3.

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- The family must promptly notify the Department in writing if any household member no longer lives in the unit.
- If the Department has given approval, a foster child or a live-in aide may reside in the unit. The Department has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when Department consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides.
- The household must not sublease the unit, assign the lease, or transfer the unit.
- Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a household member.
- The household must supply any information requested by the Department to verify that the household is living in the unit or information related to household absence from the unit.
- The household must promptly notify the Department when the household is absent from the unit.
- Notice is required under this provision only when all household members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the Department at the start of the extended absence.
- The household must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646].
- The household must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Household members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program.
- Household members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.
- An assisted household or member of the household must not receive Rental Assistance through the CoC SPC Program while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A household must not receive CoC RAP assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the household, unless the Department has determined (and has notified the owner and the household of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a household member who is a person with disabilities. [Form HUD-5264]

Part 2: Subsidy Standards and Rental Assistance Payment Issuance

5.2.A. Overview

The Department must establish subsidy standards that determine the number of bedrooms needed for households of different sizes and compositions. This part presents the policies that will be used to determine the household unit size a particular household should receive, and the policies that govern making exceptions to those standards. The Department also must establish policies related to the issuance of the RAP, to the term of RAP, and to any extensions or suspensions of that term.

5.2.B. Determining Household Unit Size

Rental Assistance Contract, CoC-506, 24 CFR Part 578

For each household, the Department determines the appropriate number of bedrooms under the Department standards and enters the household unit size on the Family Tenancy Agreement that is issued to the household.

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The household unit size does not dictate the size of unit the household must actually lease, nor does it determine who within a household will share a bedroom/sleeping room.

The following requirements apply when the Department determines household unit size:

- The RAP standards must provide for the smallest number of bedrooms needed to house a household without overcrowding.
- The RAP standards must be consistent with space requirements under the housing quality standards.
- The RAP standards must be applied consistently for all households of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the household in determining the household unit size.
- A household that consists of a pregnant woman (with no other persons) must be treated as a two-person household.
- Any live-in aide (approved by the Department to reside in the unit to care for a household member who is disabled or is at least 50 years of age) must be counted in determining the household unit size;
- Unless a live-in-aide resides with a household, the household unit size for any household consisting of a single person must be either a zero- or one-bedroom unit, as determined under the Department subsidy standards.

The Department will assign one bedroom for each two persons within the household, except in the following circumstances:

- Persons of the opposite sex (other than spouses, and children under age 6) will be allocated separate bedrooms.
- Live-in aides will be allocated a separate bedroom. Additional bedrooms are not provided for the household members of live-in aides.
- Single person households will be allocated one bedroom.

The Department will reference the following chart in determining the appropriate RAP size for a household:

| RAP Unit Size | Minimum Persons | Maximum Persons* |
|---------------|-----------------|------------------|
| 1 | 1 | 4 |
| 2 | 2 | 6 |
| 3 | 3 | 8 |
| 4 | 4 | 10 |
| 5 | 5 | 12 |

*Generally, the maximum occupancy of a unit shall be determined by calculating two persons per bedroom, plus 2 persons for any living area that may also be used as a sleeping area (such as a living room or household room).

5.2.C. Exceptions to Subsidy Standards

In determining household unit size for a particular household, the Department may grant an exception to its established RAP standards if the Department determines that the exception is justified by the age, sex, health, handicap, or relationship of household members or other personal circumstances [24 CFR 982.402(b)(8)].

Reasons may include, but are not limited to:

- A need for an additional bedroom for medical equipment

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- A need for a separate bedroom for reasons related to a household member's disability, medical or health condition

For a single person who is not elderly, disabled, or a remaining household member, an exception cannot override the regulatory limit of a zero or one bedroom [24 CFR 982.402(b)(8)].

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

The household must request any exception to the RAP standards in writing. The request must explain the need or justification for a larger household unit size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source (e.g., doctor or health professional), unless the disability and the disability-related request for accommodation is readily apparent or otherwise known. The household's continued need for an additional bedroom due to special medical equipment must be re-verified at annual reexamination.

The Department will respond to the household's request for an exception within 10 business days of receiving the household's request and will make its best efforts to provide the household with a prompt decision in accordance with its Reasonable Accommodation policy outlined in Chapter 2. If a participant household's request is denied, the notice will inform the household of their right to request an informal hearing.

5.2.D. Rental Assistance Payment (RAP) Issuance

Rental Assistance Contract, CoC-506, 24 CFR Part 578

When a household is selected from the waiting list (or as a special admission as described in Chapter 4), or when a participant household wants to move to another unit, the Department issues a Household Tenancy Agreement. This Chapter deals only with RAP issuance for applicants. For RAP issuance associated with moves of program participants, please refer to Chapter 10.

The Household Tenancy Agreement is the household's authorization to search for housing. It specifies the unit size for which the household qualifies, and includes both the date of RAP issuance and date of expiration. It contains a brief description of how the program works and explains the household obligations under the program. The subsidy is evidence that the Department has determined the household to be eligible for the program, and that the Department expects to have money available to subsidize the household if the household finds an approvable unit. However, the Department does not have any liability to any party by the issuance of the Household Tenancy Agreement, and does not give the household any right to participate in the Department's Rental Assistance Program.

A Household Tenancy Agreement can be issued to an applicant household only after the Department has determined that the household is eligible for the program based on information received within the 60 days prior to issuance [24 CFR 982.201(e)] and after the household has attended an oral briefing.

Household Tenancy Agreement will be issued to eligible applicants immediately following the mandatory briefing.

The Department should have sufficient funds to house an applicant before issuing a Household Tenancy Agreement. If funds are insufficient to house the household at the top of the waiting list, the Department must wait until it has adequate funds before it calls another household from the waitlist.

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If the Department determines that there is insufficient funding after a Household Tenancy Agreement has been issued, the Department may rescind the Household Tenancy Agreement and place the affected household back on the waiting list, if there is one.

5.2.E. Rental Assistance Payment term, Extensions, and Suspensions

RAP Term

The initial term of a Family Tenancy Agreement must be at least 90 calendar days. The initial term must be stated on the Household Tenancy Agreement.

Department Policy

The initial RAP term will be 90 calendar days.

The household must submit a Request for Tenancy Approval and proposed lease within the 90-day period unless the Department grants an extension.

Extensions of Household Tenancy Agreement Term

Rental Assistance Contract, CoC-506, 24 CFR Part 578

The Department has the authority to grant extensions of search time, to specify the length of an extension, and to determine the circumstances under which extensions will be granted. There is no limit on the number of extensions that the Department can approve. Discretionary policies related to extension and expiration of search time must be described in the Department's administrative plan.

The Department must approve additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose.

The household must be notified in writing of the Department's decision to approve or deny an extension. The Department's decision to deny a request for an extension of the Household Tenancy Agreement term is not subject to informal review [24 CFR 982.554(c)(4)].

The Department will automatically approve one 30-day extension upon written request from the household.

- The Department will approve additional extensions only in the following circumstances:
- It is necessary as a reasonable accommodation for a person with disabilities.
- It is necessary due to reasons beyond the household's control, as determined by the Department. Following is a list of extenuating circumstances that the Department may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:
 - Serious illness or death in the household
 - Other household emergency
 - Obstacles due to employment (or lack thereof)
 - Whether the household has already submitted requests for tenancy approval that were not approved by the Department
 - Whether household size or other special requirements make finding a unit difficult

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Generally, the Department will not extend the Household Tenancy Agreement beyond a total of 120 days, unless it is necessary as a reasonable accommodation for a person with disabilities.

Any request for an additional extension must include the reason(s) an additional extension is necessary. The Department may require the household to provide documentation to support the request.

All requests for extensions to the Household Tenancy Agreement term must be made in writing and submitted to the Department prior to the expiration date of the Household Tenancy Agreement (or extended term of the subsidy).

The Department will decide whether to approve or deny an extension request within 10 business days of the date the request is received, and will immediately provide the household written notice of its decision.

Expiration of Rent Subsidy Term

If an applicant household's Tenancy Agreement term or extension expires before the household has submitted a Request for Tenancy Approval (RTA), the Department will require the household to be re-screened for assistance.

If the household still wishes to receive assistance, the Department will require that the household reapply. Such a household does not become ineligible for the program on the grounds that it was unable to locate a unit before the Family Tenancy Agreement expired.

Within 10 business days after the expiration of the Household Tenancy Agreement term or any extension, the Department will notify the service provider agency in writing that the FTA term has expired and that the household may need to be rescreened in order to be eligible for CoC assistance.

CHAPTER 6: INCOME AND SUBSIDY DETERMINATIONS

[24 CFR Part 5, Subparts E and F; 24 CFR 982]

Introduction

A household's income determines eligibility for assistance and is also used to calculate the household's payment and the Department's RAP. The Department will use the policies and methods described in this Chapter to ensure that only eligible households receive assistance and that no household pays more or less than its obligation under the regulations. This Chapter describes HUD regulations and Department policies related to these topics in three parts as follows:

- **Part 1: Annual Income.** HUD regulations specify the sources of income to include and exclude to arrive at a household's annual income. These requirements and Department policies for calculating annual income are found in Part 1.
- **Part 2: Adjusted Income.** Once annual income has been established HUD regulations require the Department to subtract from annual income any of five mandatory deductions for which a household qualifies. These requirements and Department policies for calculating adjusted income are found in Part 2.
- **Part 3: Calculating Household Share and Department RAP.** This part describes the statutory formula for calculating Total Tenant Payment (TTP), the use of utility allowances, and the methodology for determining Department RAP and required household payment.

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Part 1: Annual Income

6.1.A. Overview

The general regulatory definition of annual income shown below is from 24 CFR 5.609.

5.609 Annual Income.

Annual income means all amounts, monetary or not, which go to, or on behalf of, the household head or spouse (even if temporarily absent) or to any other household member; or

- Are anticipated to be received from a source outside the household during the 12-month period following admission or annual reexamination effective date; and
- Are not specifically excluded in paragraph [5.609(c)].
- Annual income also means amounts derived (during the 12-month period) from assets to which any member of the household has access.

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets:

- Annual Income Inclusions
- Annual Income Exclusions
- Treatment of Household Assets
- Earned Income Disallowance for Persons with Disabilities
- The Effect of Welfare Benefit Reduction

Sections 6.1.B and 6.1.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this plan, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in section 6.1.D). Verification requirements for annual income are discussed in Chapter 7.

6.1.B. Household Composition and Income

Income received by all household members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in household composition. The rules on which sources of income are counted vary somewhat by household member. The chart below summarizes how household composition affects income determinations.

Summary of Income Included and Excluded by Person

| Summary of Income Included and Excluded by Person | |
|---|--|
| Live-in aides | Income from all sources is excluded [24 CFR 5.609(c)(5)]. |
| Foster child or foster adult | Income from all sources is excluded [24 CFR 5.609(c)(2)]. |
| Head, spouse, or co-head Other adult household members | All sources of income not specifically excluded by the regulations are included. |
| Children under 18 years of age | Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included. |
| Full-time students 18 years of age or | Employment income above \$480/year is excluded [24 CFR |

| | |
|--------------------------------------|---|
| older (not head, spouse, or co-head) | 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included. |
|--------------------------------------|---|

Temporarily Absent Household Members

The income of household members approved to live in the unit will be counted, even if the household member is temporarily absent from the unit.

Department Policy

Generally an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a household member.

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

In the case of single person households, absences exceeding three (3) consecutive months will be considered permanent absences.

Absent Students

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

Such information will include, but not be limited to:

- Photo identification or driver's license with an address that differs from the household; or
- Enrollment paperwork reflecting a different address

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care are considered members of the household [24 CFR 5.403].

Department Policy

If a child has been placed in foster care, the Department will verify with the appropriate agency whether and when the child is expected to be returned to the home.

Generally, If the agency verifies that the child(ren) is expected to return to the home in no more than six months, the child(ren) will be considered members of the household. If the agency verifies that it reasonably believes the child(ren) will be placed in foster care for more than six months, the child(ren) will be considered permanently absent from the household.

If the agency indicates that a condition of the child(ren) returning to the household is the provision of proper sleeping space for the child(ren), the Department may consider the children as part of the household for the purpose of determining RAP unit size; however, if the child(ren) is not returned within 180 days, the Department may reduce the RAP unit size of the household.

Absent Head, Spouse, or Co-head

Department Policy

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

Household Members Permanently Confined for Medical Reasons

If a household member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a household member and the income of that person is not counted.

Department Policy

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

Joint Custody of Dependents

Department Policy

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

“50 percent or more of the time” is defined as 183 days or more per year, which do not have to run consecutively.

When more than one applicant or participant household is claiming the same dependents as household members, the household with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which household should claim them, the Department will make the determination based on available documents such as court orders, school enrollment, or an IRS return showing which household has claimed the child for income tax purposes.

Return of Permanently Absent Household Members

The household must request Department approval for the return of any adult household members that the Department has determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed elsewhere in this Administrative Plan.

6.1.C. Anticipating Annual Income

The Department is required to count all income “anticipated to be received from a source outside the household during the 12-month period following admission or annual reexamination effective date” [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.

Basis of Annual Income Projection

The Department generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the Department to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected

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- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]
- The Department believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

Department Policy

When available, the Department will use year-to-date earned income to project income for the upcoming 12 month period. When the year-to-date income amount is not available, or is not reflective of expected income (i.e. hours have reduced or increased, or pay rate has significantly changed), the Department will use alternative methods to calculate expected income and the file will be documented to reflect the method(s) employed.

The Department will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

The Department will review and analyze current data to anticipate annual income. In all cases, the household file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the Department annualized projected income.

When the Department cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the Department will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

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

Known Changes in Income

If the Department verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period.

Example: An employer reports that a full-time employee who has been receiving \$12/hour will begin to receive \$12.50 /hour in the eighth week after the effective date of the reexamination. In such a case the Department would calculate annual income as follows: $(\$12/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$12.50 \times 40 \text{ hours} \times 45 \text{ weeks})$.

The household may present information that demonstrates that implementing a change before its effective date would create a hardship for the household. In such cases the Department will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the Department's policy on reexaminations does not require interim reexaminations for other types of changes.

When tenant-provided third-party documents are used to anticipate annual income, they will be dated within the last 60 days of the reexamination interview date.

6.1.D. Earned Income

Types of Earned Income Included in Annual Income

Wages and Related Compensation

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The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income [24 CFR 5.609(b)(1)].

Department Policy

When available, the Department will use year-to-date earnings to project anticipated annual income.

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

Some Types of Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are counted [24 CFR 5.609(b)(8)] except for the special pay to a household member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(c)(7)].

Types of Earned Income Not Counted in Annual Income Temporary, Nonrecurring, or Sporadic Income

[24 CFR 5.609(c)(9)]

This type of income (including gifts) is not included in annual income. Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than 180 days.

Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.

Children's Earnings

Employment income earned by children (including foster children) under the age of 18 years is not included in annual income [24 CFR 5.609(c)(1)].

Certain Earned Income of Full-Time Students

Earnings in excess of \$480 for each full-time student 18 years old or older (except for the head of household, spouse, or co-head) are not counted [24 CFR 5.609(c)(11)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program.

Income of a Live-in Aide

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)].

Income Earned under Certain Federal Programs

Income from some federal programs is specifically excluded from consideration as income [24 CFR 5.609(c)(17)], including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b))

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- Awards under the federal work-study program (20 U.S.C. 1087 uu)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

Resident Service Stipend

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed \$200 per individual per month) received by a resident for performing a service for the Department 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, resident initiatives coordination, and serving as a member of the Department's governing board. No resident may receive more than one such stipend during the same period of time [24 CFR 5.600(c)(8)(iv)].

State and Local Employment Training Programs

Incremental earnings and benefits to any household member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a household member as resident management staff are excluded from annual income. 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 household member participates in the training program [24 CFR 5.609(c)(8)(v)].

The Department defines training program as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period to time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education”.

The Department defines incremental earnings and benefits as the difference between: (1) the total amount of welfare assistance and earnings of a household member prior to enrollment in a training program, and (2) the total amount of welfare assistance and earnings of the household member after enrollment in the program.

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

End of participation in a training program must be reported in accordance with the Department's interim reporting requirements.

HUD-Funded Training Programs

Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

Department Policy

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To qualify as a training program, the program must meet the definition of training program provided above for state and local employment training programs.

Earned Income Tax Credit

Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. Although many households receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

6.1.E. Business Income

[24 CFR 5.609(b)(2)]

Annual income includes “the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the household” [24 CFR 5.609(b)(2)].

Business Expenses

Net income is “gross income less business expense”.

Department Policy

To determine business expenses that may be deducted from gross income, the Department will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.

Business Expansion

HUD regulations do not permit the Department to deduct from gross income expenses for business expansion.

Department Policy

Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

Capital Indebtedness

HUD regulations do not permit the Department to deduct from gross income the amortization of capital indebtedness.

Department Policy

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the Department will allow as a business expense interest, but not principal, paid on capital indebtedness.

Negative Business Income

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

Withdrawal of Cash or Assets from a Business

HUD regulations require the Department to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a household member for cash or assets invested in the business by the household.

Department Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted household provided an up-front loan of \$2,000 to help a business get started, the Department will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

Department Policy

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

6.1.F. Assets

[24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]

Overview

There is no asset limitation for participation in the CoC SPC program. However, HUD requires that the Department include in annual income the "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the Department must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated

This section begins with a discussion of general policies related to assets and then provides HUD rules and Department policies related to each type of asset.

General Policies

Income from Assets

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

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Department Policy

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

Valuing Assets

The calculation of asset income sometimes requires the Department to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth (e.g., the amount a buyer would pay for real estate or the balance in an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

Department Policy

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

Lump-Sum Receipts

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a household in a form recognizable as an asset (e.g., deposited in a savings or checking account) (For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6.1.H and 6.1.I.)

Imputing Income from Assets

[24 CFR 5.609(b)(3)]

When net household assets are \$5,000 or less, the Department will include in annual income the actual income anticipated to be derived from the assets. When the household has net household assets in excess of \$5,000, the will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all household assets by the current HUD-established passbook savings rate.

Determining Actual Anticipated Income from Assets

It may or may not be necessary for the Department to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a household receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

Withdrawal of Cash or Liquidation of Investments

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the household. For example, when a household member retires, the amount received by the household from a retirement plan is not counted as income until the household has received payments equal to the amount the household member deposited into the retirement fund.

Jointly Owned Assets

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The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes “amounts derived (during the 12-month period) from assets to which any member of the household has access.”

Department Policy

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

If an asset is owned by more than one person, including a household member, but the household member does not have unrestricted access to the asset, the Department will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the Department will prorate the asset evenly among all owners.

Assets Disposed Of for Less than Fair Market Value

[24 CFR 5.603(b)]

HUD regulations require the Department to count as a current asset any business or household asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

Minimum Threshold

The Department will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$2,500.

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

Assets placed by the household in non-revocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

Separation or Divorce

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

Department Policy

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a household member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

Household Declaration

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Households must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The Department may verify the value of the assets disposed of if other information available to the Department does not appear to agree with the information reported by the household.

Types of Assets

Checking and Savings Accounts

For regular checking accounts and savings accounts, cash value has the same meaning as market value. If a checking account does not bear interest, the anticipated income from the account is zero.

Department Policy

- In determining the value of a checking account, the Department will use the average monthly balance for the last six months.
- In determining the value of a savings account, the Department will use the current balance.
- In determining the anticipated income from an interest-bearing checking or savings account, the Department will multiply the value of the account by the current rate of interest paid on the account.

Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

Department Policy

In determining the market value of an investment account, the Department will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), the Department will calculate asset income based on the earnings for the most recent reporting period.

Equity in Real Property or Other Capital Investments

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset.

Equity in real property and other capital investments is considered in the calculation of asset income except for the following types of assets:

- Equity in real property when a household member's main occupation is real estate. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6.1.E.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation

A household may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a household member, the

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anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a household member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the household in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

Department Policy

In the case of capital investments owned jointly with others not living in a household's unit, a prorated share of the property's cash value will be counted as an asset unless the Department determines that the household receives no income from the property and is unable to sell or otherwise convert the asset to cash.

Trusts

A trust is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

Revocable Trusts

If any member of a household has the right to withdraw the funds in a trust, the value of the trust is considered an asset. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the household or deposited in the trust.

Non-revocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a household, the value of the trust fund is not considered an asset. However, any income distributed to the household from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6.1.G. Lump-sum receipts are discussed earlier in this section.)

Retirement Accounts

Company Retirement/Pension Accounts

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the Department must know whether the money is accessible before retirement.

While a household member is employed, only the amount the household member can withdraw without retiring or terminating employment is counted as an asset.

After a household member retires or terminates employment, any amount distributed to the household member is counted as a periodic payment or a lump-sum receipt, as appropriate, except to the extent that it represents funds invested in the account by the household member. (For more on periodic payments, see section 6.1.G.) The balance in the account is counted as an asset only if it remains accessible to the household member.

IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty.

Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset.

Department Policy

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In determining the value of personal property held as an investment, the Department will use the household's estimate of the value. The Department may obtain an appraisal to confirm the value of the asset if there is reason to believe that the household's estimated value is off by \$50 or more. The household must cooperate with the appraiser, but cannot be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

Department Policy

Necessary personal property consists of only those items not held as an investment, and may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.

Life Insurance

The cash value of a life insurance policy available to a household member before death, such as a whole life or universal life insurance policy, is included in the calculation of the value of the household's assets. The cash value is the surrender value. If such a policy earns dividends or interest that the household could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the household actually receives it.

6.1.G. Periodic Payments

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are and are not included in annual income.

Periodic Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions are not counted. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the household [24 CFR 5.609(b)(4) and (b)(3)].
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4)].

Lump-Sum Payments for the Delayed Start of a Periodic Payment

Most lump-sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income [CFR 5.609(b)(4)]. Additionally, any deferred disability benefits that are received in a lump-sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [FR Notice 11/24/08].

Department Policy

When a delayed-start payment is received and reported during the period in which the Department is processing an annual reexamination, the Department will adjust the household share and the Department RAP retroactively for the period the payment was intended to cover. The household may pay in full any amount due or request to enter into a repayment agreement with the Department.

Treatment of Overpayment Deductions from Social Security Benefits

The Department must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the Department must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2010-3].

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted household, who are unable to live alone) [24 CFR 5.609(c)(2)]. Kinship guardianship assistance payments (Kin-GAP) and other similar guardianship payments are treated the same as foster care payments and are likewise excluded from annual income [Notice PIH 2008-30].

Department Policy

The Department will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency.

- Amounts paid by a state agency to a household 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 household member at home [24 CFR 5.609(c)(16)].
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)].
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)].
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. Note: EITC may be paid periodically if the household elects to receive the amount due as part of payroll payments from an employer.
- Lump-sums received as a result of delays in processing Social Security and SSI payments (see section 6.1.I.) [24 CFR 5.609(b)(4)].
- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [FR Notice 11/24/08].

6.1.H. Payments In Lieu Of Earnings

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in section 6.1.G and the discussion of lump-sum receipts in section 6.1.F.)

Sanctions Resulting in the Reduction of Welfare Benefits

[24 CFR 5.615]

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The Department must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain households. The requirements are summarized below. This rule applies only if a household was receiving RAP assistance at the time the sanction was imposed.

Covered Households

The households covered by 24 CFR 5.615 are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a State or other public agency (‘welfare agency’) under a program for which Federal, State or local law requires that a member of the household must participate in an economic self-sufficiency program as a condition for such assistance” [24 CFR 5.615(b)]

Imputed Income

When a welfare agency imposes a sanction that reduces a household’s welfare income because the household commits fraud or fails to comply with the agency’s economic self-sufficiency program or work activities requirement, the Department must include in annual income “imputed” welfare income. The Department must request that the welfare agency inform the Department when the benefits of a CoC RAP participant household are reduced. The imputed income is the amount the household would have received if the household had not been sanctioned.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a household member is unable to find employment even though the household member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a household member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

Offsets

The amount of the imputed income is offset by the amount of additional income the household begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

6.1.I Periodic and Determinable Allowances

[24 CFR 5.609(b)(7)]

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with an assisted household.

Alimony and Child Support

The Department must count alimony or child support amounts awarded as part of a divorce or separation agreement.

Department Policy

The Department will count court-awarded amounts for alimony and child support unless the Department verifies that: (1) the payments are not being made, and (2) the household has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments.

Households who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

Regular Contributions or Gifts

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The Department must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted household [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

Department Policy

Examples of regular contributions include: (1) regular payment of a household's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any household member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a household on a regular basis.

Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by the Department. For contributions that may vary from month to month (e.g., utility payments), the Department will include an average amount based upon past history.

Student Financial Assistance Excluded from Annual Income

[24 CFR 5.609(c)(6)]

Any student financial assistance not subject to inclusion under 24 CFR 5.609(b)(9) is fully excluded from annual income under 24 CFR 5.609(c)(6), whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:

- Students residing with parents who are seeking or receiving RAP
- Students who are enrolled in an educational institution that does not meet the 1965 HEA definition of institution of higher education
- Students who are over 23 AND have at least one dependent child
- Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

6.1.J Additional Exclusions from Annual Income

Other exclusions contained in 24 CFR 5.609(c) that have not been discussed earlier in this Chapter include the following:

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- 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) [(24 CFR 5.609(c)(8)(ii)]
- 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 [24 CFR 5.609(c)(10)]
- Adoption assistance payments in excess of \$480 per adopted child [24 CFR 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a household 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 household member at home [24 CFR 5.609(c)(16)]

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- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17)]. HUD publishes an updated list of these exclusions periodically. It includes:
 - The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
 - Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
 - Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
 - 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)
 - Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(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).)
 - Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
 - The first \$2,000 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).
 - Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
 - 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 Orange" product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
 - Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
 - 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)
 - Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
 - 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)
 - Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
 - 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)
 - 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)
 - Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

Part 2: Adjusted Income

6.2.A. Introduction

Overview

HUD regulations require Departments to deduct from annual income any of five mandatory deductions for which a household qualifies. The resulting amount is the household's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611(a) Mandatory Deductions

In determining adjusted income, the responsible entity [Department] must deduct the following amounts from annual income:

- \$480 for each dependent;
- \$400 for any elderly household or disabled household;
- The sum of the following, to the extent the sum exceeds three percent of annual income:
 - Unreimbursed medical expenses of any elderly household or disabled household;
 - Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the household who is a person with disabilities, to the extent necessary to enable any member of the household (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by household members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
- Any reasonable child care expenses necessary to enable a member of the household to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

Anticipating Expenses

Department Policy

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

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

6.2.B. Dependent Deduction

A deduction of \$480 is taken for each dependent [24 CFR 5.611(a)(1)]. Dependent is defined as any household member other than the head, spouse, or co-head who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6.2.C. Elderly or Disabled Household Deduction

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A single deduction of \$400 is taken for any elderly or disabled household [24 CFR 5.611(a)(2)]. An elderly household is a household whose head, spouse, co-head, or sole member is 62 years of age or older, and a disabled household is a household whose head, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403].

6.2.D. Medical Expenses Deduction

[24 CFR 5.611(a)(3)(i)]

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62 or is a person with disabilities. If a household is eligible for a medical expense deduction, the medical expenses of all household members are counted.

Definition of Medical Expenses

HUD regulations define medical expenses at 24 CFR 5.603(b) to mean “medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.”

Department Policy

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

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

Households That Qualify for Both Medical and Disability Assistance Expenses

Department Policy

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This policy applies only to households in which the head, spouse, or co-head is 62 or older or is a person with disabilities.

When expenses anticipated by a household could be defined as either medical or disability assistance expenses, the Department will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6.2.E. Disability Assistance Expenses Deduction

[24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Reasonable expenses for attendant care and auxiliary apparatus for a disabled household member may be deducted if they: (1) are necessary to enable a household member 18 years or older to work, (2) are not paid to a household member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the household member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A household can qualify for the disability assistance expense deduction only if at least one household member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of “earned income received by household members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

Department Policy

The household must identify the household members enabled to work as a result of the disability assistance expenses. In evaluating the household’s request, the Department will consider factors such as how the work schedule of the relevant household members relates to the hours of care provided, the time required for transportation, the relationship of the household members to the person with disabilities, and any special needs of the person with disabilities that might determine which household members are enabled to work.

When the Department determines that the disability assistance expenses enable more than one household member to work, the expenses will be capped by the sum of the household members’ incomes.

Eligible Disability Expenses

HUD advises Departments to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Auxiliary Apparatus

Department Policy

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

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Eligible Attendant Care

The household determines the type of attendant care that is appropriate for the person with disabilities.

Department Policy

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

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

If the care attendant also provides other services to the household, the Department will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a household member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Payments to Household Members

No disability assistance expenses may be deducted for payments to a member of an assisted household [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted household may be deducted if they are not reimbursed by an outside source.

Necessary and Reasonable Expenses

The household determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a household member to work. The household must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

Department Policy

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

Households That Qualify for Both Medical and Disability Assistance Expenses

Department Policy

This policy applies only to households in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a household could be defined as either medical or disability assistance expenses, the Department will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6.2.F. Child Care Expense Deduction

HUD defines child care expenses at 24 CFR 5.603(b) as “amounts anticipated to be paid by the household for the care of children under 13 years of age during the period for which annual income is computed, but only

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where such care is necessary to enable a household 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.”

Clarifying the Meaning of Child for This Deduction

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted household’s household. However, child care expenses for foster children that are living in the assisted household, are included when determining the household’s child care expenses.

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

The household must identify the household member(s) enabled to pursue an eligible activity. The term eligible activity in this section means any of the activities that may make the household eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the household’s request, the Department will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the household member(s) to the child, and any special needs of the child that might help determine which household member is enabled to pursue an eligible activity.

Seeking Work

If the child care expense being claimed is to enable a household member to seek employment, the household must provide evidence of the household member’s efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the household member’s job search efforts are not commensurate with the child care expense being allowed by the Department.

Furthering Education

If the child care expense being claimed is to enable a household member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The household member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

Being Gainfully Employed

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

Earned Income Limit on Child Care Expense Deduction

When a household member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a household member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

The Department must not limit the deduction to the least expensive type of child care. If the care allows the household to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working.

Department Policy

When the child care expense being claimed is to enable a household member to work, only one household member's income will be considered for a given period of time. When more than one household member works during a given period, the Department generally will limit allowable child care expenses to the earned income of the lowest-paid member. The household may provide information that supports a request to designate another household member as the person enabled to work.

Eligible Child Care Expenses

The type of care to be provided is determined by the assisted household. The Department may not refuse to give a household the child care expense deduction because there is an adult household member in the household that may be available to provide child care.

Allowable Child Care Activities

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

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

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

Necessary and Reasonable Costs

Child care expenses will be considered necessary if: (1) a household adequately explains how the care enables a household member to work, actively seek employment, or further his or her education, and (2) the household certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

Department Policy

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a household member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child care costs, the Department will use the most recently published Child Care Market Rate Study (or equivalent document) from the State of Oregon Department of Human Services.

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Households may present, and the Department will consider, justification for costs that exceed typical costs in the area.

Part 3: Calculating Household Share and Department RAP

6.3.A. Overview of Rent and RAP Calculations

Calculating Occupancy Charges and Rent

[24 CFR 578.77]

HUD regulations specify the formula for calculating the total participant payment (TPP) for an assisted household. TPP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the household's monthly adjusted income (adjusted income is defined in Part 2)
- 10 percent of the household's monthly gross income (annual income, as defined in Part 1, divided by 12)
- The welfare rent (in as-paid states only)

Welfare Rent

[24 CFR 5.628]

Department Policy

Welfare rent does not apply in this locality.

Department RAP

[24 CFR 578.51(g)]

HUD will only provide rental assistance for a unit if the rent is reasonable. The recipient or sub recipient must determine whether the rent charged for the unit receiving rental assistance is reasonable in relation to rents being charged for comparable unassisted units, taking into account the location, size type, quality, amenities, facilities, and management and maintenance of each unit. Reasonable Rent must not exceed rent currently being charged by the same owner for comparable unassisted units

Utility Reimbursement

[24 CFR 982.514(b)]

When the Department subsidy for a household exceeds the rent to owner, the household is due a utility reimbursement. HUD permits the Department to pay the reimbursement to the household or directly to the utility provider.

Department Policy

The Department will make utility reimbursements to the household.

6.3.B. Applying Utility Allowances

[24 CFR 578, 42 U.S.C. 11371, et seq.]

Overview

A Department-established utility allowance schedule is used in determining household share and Department subsidy. The Department must use the appropriate utility allowance for the size of dwelling unit actually leased by a household rather than the RAP unit size for which the household qualifies using Department subsidy standards. See Chapter 5 for information on the Department's subsidy standards.

Reasonable Accommodation

HUD program regulations require a Department to approve a utility allowance amount higher than shown on the Department's schedule if a higher allowance is needed as a reasonable accommodation for a household member with a disability. For example, if a household member with a disability requires such an accommodation, the Department will approve an allowance for air-conditioning, even if the Department has determined that an allowance for air-conditioning generally is not needed.

The household must request the higher allowance and provide the Department with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required.

Utility Allowance Revisions

At reexamination, the Department must use the current utility allowance schedule.

Department Policy

Revised utility allowances will be applied to a household's rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted.

CHAPTER 7: VERIFICATION

[24 CFR 5.230, Notice PIH 2010-19]

Introduction

The Department must verify all information that is used to establish the household's eligibility and level of assistance and is required to obtain the household's consent to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The Department must not pass on the cost of verification to the household.

The Department will follow the verification guidance provided by HUD in Notice PIH 2010-19 and any subsequent guidance issued by HUD. This Chapter summarizes those requirements and provides supplementary Department policies.

Part 1: General Verification Process. More detailed requirements related to individual factors are provided in subsequent parts including household information.

Part 2: Verifying Household Information.

Part 3: Verifying Income and Assets.

Part 4: Verifying Mandatory Deductions.

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

Part 1: General Verification Requirements

7.1.A Household Consent to Release of Information

[24 CFR 5.230]

The household must supply any information that the Department or HUD determines is necessary to the administration of the program and must consent to Department verification of that information.

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Consent Forms

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the household's consent only for the specific purposes listed on the form. Adult household members must sign other consent forms as needed to collect information relevant to the household's eligibility and level of assistance.

Penalties for Failing to Consent

[24 CFR 5.232]

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

7.1.B. Overview of Verification Requirements

HUD's Verification Hierarchy

[Notice PIH 2010-19]

HUD authorizes the Department to use six methods to verify household information and specifies the circumstances in which each method will be used. In general HUD requires the Department to use the most reliable form of verification that is available and to document the reasons when the Department uses a lesser form of verification.

Department Policy

In order of priority, the forms of verification that the Department will use are:

1. Written Third-Party Verification (may be provided by applicant or participant)
2. Written Third-party Verification Form
3. Oral Third-party Verification
4. Self-Certification

Each of the verification methods is discussed in subsequent sections below.

Requirements for Acceptable Documents

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

Print-outs from Web pages are considered original documents.

The Department staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.

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

File Documentation

The Department must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification

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process will be recorded in the household's file in sufficient detail to demonstrate that the Department has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

The Department will document, in the household file, the following:

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

When the Department is unable to obtain 3rd party verification, the Department will document in the household file the reason that third-party verification was not available.

7.1.B. Third-Party Written and Oral Verification

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to the Department by the household. If written third-party verification is not available, the Department must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

Written Third-Party Verification

Written third-party verification documents must be original and authentic and may be supplied by the household or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

The Department is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

The Department may reject documentation provided by the household if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

Department Policy

Third-party documents provided by the household must be dated within 60 days of the Department request date.

If the Department determines that third-party documents provided by the household are not acceptable, the Department will explain the reason to the household and request additional documentation.

As verification of earned income, the Department will request pay stubs covering the 60-day period prior to the Department's request.

Written Third-Party Verification Form

When the household is unable to provide written third-party documents, the Department must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents

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administrative burdens and risks which may be reduced through the use of household-provided third-party documents.

A written third-party verification form is mandatory when there is an unreported source of income or a substantial difference in reported income (\$2400 annually or more) and there is no tenant-provided documentation to support the income discrepancy.

Departments may mail, fax, or e-mail third-party written verification form requests to third-party sources.

Department Policy

The Department will send third-party verification forms directly to the third party.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by the Department.

Oral Third-Party Verification

For third-party oral verification, Departments contact sources, identified by the household, by telephone or in person.

Oral third-party verification is mandatory if neither form of written third-party verification is available.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

Departments should document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

Department Policy

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

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

When Third-Party Verification is not Required

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the household's total tenant payment.

Department Policy

The cost of verification will not be passed on to the household.

If the household cannot provide original documents, the Department may opt to pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification.

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

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

Imputed Assets

The Department will accept a self-certification from a household as verification of assets disposed of for less than fair market value.

7.1.C. Self-Certification

Self-certification, or “participant declaration,” is used as a last resort when the Department is unable to obtain third-party verification.

When the Department relies on a tenant declaration for verification of income, assets, or expenses, the household’s file must be documented to explain why third-party verification was not available.

Department Policy

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

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

The self-certification must be made in a format acceptable to the Department and must be signed by the household member whose information or status is being verified. The Department may require that a self-certification be signed in the presence of a Department representative or Department notary public.

Self-certification will not be accepted for verification of identity or custody arrangements involving minor children.

Part 2: Verifying Household Information

7.2.A. Verification of Legal Identity

Department Policy

The Department will require households to furnish verification of legal identity for each household member. If a document submitted by a household is illegible or otherwise questionable, more than one of these documents may be required. Legal identity will be verified prior to program admission and on an as needed basis.

Verification of Legal Identity for Adults

Any form of identification used to verify legal identity of adults must be current (not expired), valid, and must include a photo. The original document must be presented for review by Department staff. Photocopies of the documents will not be accepted without review of the original.

The Department will accept the following as verification of legal identity for adults:

- Current, valid driver's license or photo identification issued by the Department of Motor Vehicles
- Current, valid immigration status card or naturalization paperwork issued by the U.S. government
- Current, valid identification issued by the U.S. Military
- U.S. passport
- Current, valid identification issued by a non-U.S. government entity (such as the Mexican Consulate)

Verification of Legal Identity for Children

Any form of identification used to verify legal identity of children must be current, valid, and include the child's date of birth and full name. The original document must be presented for review by Department staff.

Photocopies of documents will not be accepted without review of the original (with the exception of original certified copies).

The Department will accept the following as verification of legal identity for children:

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

7.2.B. Social Security Numbers

[24 CFR 5.216]

The household must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

The Department must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- Acceptable forms of documentation in lieu of the actual social security card:
 - Medicare/Medicaid card with the social security number is printed on the card.
 - Oregon Department of Human Services document with the social security number printed on the document.
 - State of Oregon probation and parole document with the social security number printed on the document.
 - Other official government issued document with the social security number printed on the document (at the discretion of the Department of Housing Services).
- In addition, verification in the form of a receipt from Social Security showing the applicant has applied for a replacement social security card must be submitted.

The Department may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document, if the original document has been altered, mutilated, or is not legible, or if the document appears to be forged.

Department Policy

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The Department will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the Department within 90 days.

The Department will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the household, or other emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, the Department will terminate the individual's assistance.

When the participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The Department may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the Department determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period the Department is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

Social security numbers must be verified only once during continuously-assisted occupancy.

The Department will verify each disclosed SSN by:

- Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers
- Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," the Department should remove and destroy copies of documentation accepted as evidence of social security numbers by no later than the next reexamination.

7.2.C. Documentation of Age

A birth certificate or other official record of birth is the preferred form of age verification for all household members. For elderly household members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

Department Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the Department will require the household to submit other documents that support the reported age of the household member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously-assisted occupancy.

7.2.D. Household Relationships

Applicants and program participants are required to identify the relationship of each household member to the head of household.

Department Policy

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

Birth certificates or custody documentation must be supplied for each minor child in the household.

If the minor child is not related to the head of household, spouse or co-head, and is not a Foster child, custody documentation is required.

Marriage

Certification by the head of household is normally sufficient verification. If the Department has reasonable doubts about a marital relationship, the Department will require the household to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

Certification by the head of household is normally sufficient verification. If the Department has reasonable doubts about a separation or divorce, the Department will require the household to document the divorce, or separation.

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

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be accepted.

Absence of Household Members

Generally an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less for educational activities, placement in foster care, employment, illness, incarceration, and court order is considered temporarily absent and continues to be considered a household member. Generally an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a household member.

Absence of any household member or the entire household for reasons other than those named above will be limited to sixty (60) consecutive days unless approved by the Department.

Exceptions to this general policy are discussed below.

Absent Students

When someone who has been considered a household member attends school away from home, the person will continue to be considered a household member unless information becomes available to the Department indicating that the student has established a separate household or the household declares that the student has established a separate household. Such information will include, but not be limited to:

- Photo identification or driver's license with an address that differs from the household; or
- Enrollment paperwork reflecting a different address

Absences Due to Placement in Foster Care

Children and adults temporarily absent from the home as a result of placement in foster care are considered members of the household [24 CFR 5.403].

If a household member has been placed in foster care, the Department will verify with the appropriate agency whether and when the member is expected to be returned to the home.

Generally, if the agency verifies that the household member is expected to return to the home in no more than six months, the household member will be considered a member of the assisted household. If the agency verifies that it reasonably believes the member will be placed in foster care for more than six months, the member will be considered permanently absent from the household.

If the agency indicates that a condition of returning to the household is the provision of proper sleeping space for the household member, the Department may consider the children as part of the household for the purpose of determining subsidy bedroom size; however, if the member is not returned within 180 days, the Department may reduce the RAP.

Absent Head, Spouse, or Co-head

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

Household Members Permanently Confined for Medical Reasons

If a household member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a household member and the income of that person is not counted.

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

When an individual who has been counted as a household member is determined permanently absent, the household is eligible for the medical expense deduction only if the remaining head, spouse, or co-head, qualifies as an elderly person or a person with disabilities.

Joint Custody of Dependents

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

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When more than one applicant or participant household is claiming the same dependents as household members, the household with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which household should claim them, the Department will make the determination based on available documents such as court orders, or an IRS return showing which household has claimed the child for income tax purposes.

Absences Due to Incarceration

If the sole member of the household is incarcerated for more than 180 days, he/she will be considered permanently absent.

Any member of the household other than the sole member may be considered permanently absent if he/she is incarcerated for 3 consecutive months or more.

Household members absent due to incarceration may not be eligible for rental assistance upon release from custody, dependent upon the nature of the criminal activity that resulted in the incarceration. Refer to Chapter 12 for the Department's policies regarding criminal activity and termination of assistance.

7.2.E. Documentation of Disability

The Department must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The Department is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The Department may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the Department receives a verification document that provides such information, the Department will not place this information in the tenant file. Under no circumstances will the Department request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at www.os.dhhs.gov.

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Household Members Receiving SSA Disability Benefits

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions.

Department Policy

The Department will request a current (dated for the current benefit year) SSA benefit verification letter from each household member claiming disability status. If the household is unable to provide the document(s), the Department will ask the household to request a benefit verification letter by either calling SSA at 1-800-772-

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1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter they will be required to provide it to the Department.

Household Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603.

Department Policy

For household members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the household member meets the HUD definition of disability. See the Eligibility Chapter for the HUD definition of disability. The knowledgeable professional will verify whether the household member does or does not meet the HUD definition.

7.2.F Citizenship or Eligible Immigration Status

[24 CFR 5.508]

Overview

U.S. Citizens and Nationals

HUD requires a declaration for each household member who claims to be a U.S. citizen or national. The declaration must be signed personally by any household member 18 or older and by a guardian for minors.

The Department may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

Department Policy

Household members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the Department receives information indicating that an individual's declaration may not be accurate.

Eligible Immigrants

Documents Required

All household members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the household began receiving HUD-funded assistance.

Department Verification

For household members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7.2.C. of this plan. No further verification of eligible immigration status is required.

For household members under the age of 62 who claim to be eligible immigrants, the Department must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

The Department will follow all USCIS protocols for verification of eligible immigration status.

7.2.G. Verification of Preference Status

The Department must verify any preferences claimed by an applicant.

Department Policy

The Department will offer a preference to any household that has been terminated from the CoC RAP program due to insufficient program funding. The Department will verify this preference using the Department's termination records.

Part 3: Verifying Income and Assets

Chapter 6, Part 1 of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the household must be verified. This part provides Department policies that supplement the general verification procedures specified in Part 1 of this Chapter.

7.3.A. Earned Income

Tips

Department Policy

Unless tip income is included in a household member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year, or provide a copy of the submitted tax return from the previous year showing the amount of tip income claimed.

7.3.B. Business and Self Employment Income

Department Policy

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

- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.
- All schedules completed for filing federal and local taxes in the preceding year.
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

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

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

If a household member has been self-employed less than three (3) months, the Department will accept the household member's certified estimate of income and schedule an interim reexamination in three (3) months. If

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the household member has been self-employed for three (3) to twelve (12) months the Department will require the household to provide documentation of income and expenses for this period and use that information to project income.

7.3.C. Periodic Payments and Payments In Lieu Of Earnings

Social Security/SSI Benefits

Department Policy

To verify the SS/SSI benefits of applicants, the Department will request a current (dated for the current benefit year) SSA benefit verification letter from each household member that receives social security benefits. If the household is unable to provide the document(s), the Department will help the applicant request a benefit verification letter from SSA's Web site at www.socialsecurity.gov or ask the household to request one by calling SSA at 1-800-772-1213. Once the applicant has received the benefit verification letter they will be required to provide it to the Department.

7.3.D. Alimony or Child Support

Department Policy

The way the Department will seek verification for alimony and child support differs depending on whether the household declares that it receives regular payments.

If the household declares that it receives regular payments, verification will be sought in the following order:

1. Third-party verification form from the state or local child support enforcement agency
2. Copy of the receipts and/or payment stubs for the 60 days prior to Department request
3. Third-party verification form from the person paying the support
4. Household'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.

7.3.E. Assets and Income from Assets

Assets Disposed of for Less than Fair Market Value

The household must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The Department needs to verify only those certifications that warrant documentation.

Department Policy

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

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

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

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

Net Household Assets of Less Than \$5,000

Tenants with assets below \$5,000 typically generate minimal income from these assets which results in small changes to tenant rental payments. However, Departments spend significant time verifying such assets which strains Department budgets, and leads to increased staff errors. This provision is intended to simplify the requirements associated with determining a participant's annual income (24 CFR 5.609(b)(3)).

Households with assets are required to report all assets annually. The amount of interest earned on those assets is included as income used to calculate the tenant's rent obligation. Currently, where the household has net household assets in excess of \$5,000, annual income includes the greater of the actual income derived from all net household assets or a percentage of the value of such assets based on the current passbook savings rate.

The Department will accept a household's declaration of the amount of assets of less than \$5,000, and the amount of income expected to be received from those assets.

The Department's application and reexamination documentation, which is signed by all adult household members, can serve as the declaration. Where the household has net household assets equal to or less than \$5000, the Department does not need to request supporting documentation (e.g. bank statements) from the household to confirm the assets or the amount of income expected to be received from those assets. Where the household has net household assets in excess of \$5000, the Department must obtain supporting documentation (e.g. bank statements) from the household to confirm the assets. Any assets will continue to be reported on HUD Form 50058.

Department Policy

The Department will not request supporting documentation to confirm the assets or the amount of income expected to be received from those assets if the household self-certifies that it has net household assets equal to or less than \$5000 unless the Department has reasonable cause to believe that the household has misrepresented the value of its assets.

7.3.F. Net Income from Rental Property

Department Policy

The household must provide:

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

7.3.G. Retirement Accounts

Department Policy

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

The type of original document that will be accepted depends upon the household member's retirement status:

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

7.3.H. Income from Excluded Sources

A detailed discussion of excluded income is provided in Chapter 6, Part 1.

7.3.I. Student Financial Assistance

[24CFR 5.609]

Any financial assistance, in excess of amounts received for tuition, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving RAP [.

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving RAP assistance, the full amount of student financial assistance is excluded from annual income. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher learning. Excluded amounts are verified only if, without verification, the Department would not be able to determine whether or to what extent the income is to be excluded (see Section 7.3.H).

Department Policy

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

In addition, the Department will request written verification of the student's tuition amount.

If the Department is unable to obtain third-party written verification of the requested information, the Department will pursue other forms of verification following the verification hierarchy in Section 7.1.B.

Part 4: Verifying Mandatory Deductions

7.4.A. Dependent and Elderly/Disabled Household Deductions

The dependent and elderly/disabled household deductions require only that the Department verify that the household members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 (6.2.B.) for a full discussion of this deduction. The Department must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or co-head of the household and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Household Deduction

See Eligibility Chapter for a definition of elderly and disabled households and Chapter 6 (6.2.C.) for a discussion of the deduction. The Department must verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

7.4.B. Medical Expense Deduction

Policies related to medical expenses are found in 6.2.D. The amount of the deduction will be verified following the standard verification procedures described in Part 1.

Amount of Expense

Medical expenses will be verified through:

- Written third-party documents provided by the household, such as Department printouts or receipts.
- The Department will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The Department will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.
- Written third-party verification forms, if the household is unable to provide acceptable documentation.
- If third-party or document review is not possible, written household certification as to costs anticipated to be incurred during the upcoming 12 months.

In addition, the Department must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62, or a person with disabilities. The Department must verify that the household meets the definition of an elderly or disabled household provided in the Eligibility Chapter and as described in Chapter 7 (7.4.A.) of this plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6.2.D.) for the Department's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

Department Policy

The household will be required to certify that the medical expenses are not paid or reimbursed to the household from any source.

Expenses Incurred in Past Years

- When anticipated costs are related to on-going payment of medical bills incurred in past years, the Department will verify:
- The anticipated repayment schedule
- The amounts paid in the past, and
- Whether the amounts to be repaid have been deducted from the household's annual income in past years

7.4.C. Disability Assistance Expenses

Policies related to disability assistance expenses are found in 6.2.E. The amount of the deduction will be verified following the standard verification procedures described in Part 1.

Amount of Expense Attendant Care

The Department will accept written third-party documents provided by the household.

If household-provided documents are not available, the Department will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Written third-party documents provided by the household, such as receipts or cancelled checks.
- Third-party verification form signed by the provider, if household-provided documents are not available.
- If third-party verification is not possible, written household certification as to costs anticipated to be incurred for the upcoming 12 months.

Auxiliary Apparatus

Expenses for auxiliary apparatus will be verified through:

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

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In addition, the Department must verify that:

- The household member for whom the expense is incurred is a person with disabilities (as described in 7.2.F above).
- The expense permits a household member, or members, to work (as described in 6.2.E.).
- The expense is not reimbursed from another source (as described in 6.2.E.).

Household Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The Department will verify that the expense is incurred for a person with disabilities (See 7.2.F.).

Household Member(s) Permitted to Work

The Department must verify that the expenses claimed actually enable a household member, or members, (including the person with disabilities) to work.

Department Policy

The Department will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another household member, or members, to work (See 6.2.E.). This documentation may be provided by the household.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the household must certify that the disability assistance expense frees a household member, or members (possibly including the household member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

Department Policy

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

7.4.D. Child Care Expenses

Policies related to child care expenses are found in Chapter 6 (6.2.F). The amount of the deduction will be verified following the standard verification procedures described in Part 1 of this Chapter. In addition, the Department must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a household member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The Department will verify that the child being cared for (including foster children) is under the age of 13 (See 7.2.C.).

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Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

Department Policy

The household will be required to certify that the child care expenses are not paid by or reimbursed to the household from any source.

Pursuing an Eligible Activity

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

Information to be gathered

The Department will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the household member(s) to the child, and any special needs of the child that might help determine which household member is enabled to pursue an eligible activity.

Seeking work

Whenever possible the Department will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the Department will request household-provided verification from the agency of the member's job seeking efforts to date, and require the household to submit to the Department any reports provided to the other agency.

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

Furthering Education

The Department will request third-party documentation to verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the household.

Gainful Employment

The Department will seek third-party verification that at least one adult in the household is employed. If the child care cost does not seem reasonable in comparison to the amount earned by the employed household member, the Department may request verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more household members could be permitted to work, the work schedules for all relevant household members may be verified. The documentation may be provided by the household.

Allowable Type of Child Care

The type of care to be provided is determined by the household, but must fall within certain guidelines, as discussed in Chapter 6.

Department Policy

- The Department will verify that the type of child care selected by the household is allowable, as described in Chapter 6 (6.2.F).

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- The Department will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible household members).
- The Department will verify that the child care provider is not an assisted household member. Verification will be made through the head of household's declaration of household members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

Department Policy

The actual costs the household incurs will be compared with the Department's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

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

Chapter 8: Housing Quality Standards and Rent Reasonableness Determinations

[24 CFR 578.75]

Introduction

HUD requires that all units occupied by households receiving Rent Assistance Payment (RAP) assistance meet HUD's Housing Quality Standards (HQS) and permits the Department to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and Department-established requirements. HQS inspections are required before the Rent Assistance Payments (RAP) Contract is signed and at least annually during the term of the contract.

HUD also requires Departments to determine that units rented by households assisted under the RAP program have rents that are reasonable when compared to comparable unassisted units in the market area.

This Chapter explains HUD and Department requirements related to housing quality and rent reasonableness as follows:

- **Part 1. Physical Standards.** This part discusses the physical standards required of units occupied by RAP-assisted households and identifies decisions about the acceptability of the unit that may be made by the household based upon the household's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.
- **Part 2. The Inspection Process.** This part describes the types of inspections the Department will make and the steps that will be taken when units do not meet HQS.
- **Part 3. Rent Reasonableness Determinations.** This part discusses the policies the Department will use to make rent reasonableness determinations.

Part 1: Physical Standards

8.1.A. General HUD Requirements

HUD Performance and Acceptability Standards

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HUD's performance and acceptability standards for CoC RAP housing are provided in 24 CFR 982.401 and 24 CFR 578.51. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors

Additional guidance on these requirements is found in the following HUD resources:

- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD 52580 A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

Tenant Preference Items

HUD requires the Department to enforce minimum HQS but also requires that certain judgments about acceptability be left to the household. For example, the Department must ensure that the unit contains the required sanitary facilities, but the household decides whether the cosmetic condition of the facilities is acceptable.

Modifications to Provide Accessibility

Under the Fair Housing Act of 1988 an owner must not refuse the request of a household that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the household's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the household to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained.

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

Department Policy

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Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to the Department for review.

8.1.B. Additional Local Requirements

The Department may impose additional quality standards as long as the additional criteria are not likely to adversely affect the health or safety of participant households or severely restrict housing choice. HUD approval is required if more stringent standards are imposed. HUD approval is not required if the Department additions are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

Thermal Environment

The Department must define a “healthy living environment” for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

Department Policy

The heating system must be capable of maintaining an interior temperature of 65 degrees Fahrenheit between October 1 and May 1.

Clarifications of HUD Requirements

Department Policy

As permitted by HUD, the Department has adopted the following specific requirements that elaborate on HUD standards.

Walls

In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced.

Windows

Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced.

Windows must provide a weather-tight seal.

Doors

All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.

All interior doors must have no holes that breach both sides of the door and be open-able without the use of a key.

Floors

All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be re-secured and made level. If they cannot be leveled, they must be replaced.

All floors must be in a finished state. Raw wood or unsealed concrete is not permitted.

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All floors should have some type of trim or sealing where the flooring meets the wall, or another type of flooring, for a "finished look."

Tripping hazards, including tears, cracks, missing transition trim (from one flooring type to another) must be repaired to the extent that the hazard is eliminated. Repair to the tripping hazard should not cause an additional hazard to the household. An "additional hazard" may include, but is not limited to: exposed nail-heads, loose tape or other securing material, repair of floor with items not normally used for floor repair, etc.

Sinks

All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.

Toilets

All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

Security

If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the household is instructed on the use of the quick release system.

Smoke Detectors

The unit must have at least one (1) working smoke detector installed on each level of the home. If the home has an area for living/sleeping that is generally separated from the main living area (such as a garage that has been converted into a bedroom or a "mother-in-law" apartment that is semi-detached from the main unit), an additional smoke detector unit must be installed in the separated area.

Smoke detectors must have:

- 10-year batteries or hard-wired with battery back-up
- "Test" feature/button
- "Nuisance Alarm" silencer button (also known as a "hush" feature)

Since exposure to smoke has been shown to reduce the effectiveness of smoke detectors, the Department requires that all smoke detectors in the unit be replaced any time there is a fire in the unit that is known to the Department.

Electrical/Mechanical Equipment

If supplied, electrical and/or mechanical equipment not necessarily required by Housing Quality Standards (such as dishwashers, laundry equipment, etc.) that is supplied by the landlord must be in good working order and must not pose a danger to the household.

Water Heaters

Water heaters are required to have a discharge line from the temperature/pressure relief valve that is aimed toward the floor, or plumbed into the unit's drainage system. The discharge line must be of a material made to handle water at temperatures exceeding 120 degrees Fahrenheit. If the discharge line is not made of metal pipe, the material must be clearly labeled indicating its temperature rating.

Modifications to the Unit to Accommodate a Disability

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Any modifications or adaptations to the unit to accommodate a disability, such as an entrance ramp, must meet all applicable Housing Quality Standards and building codes.

Extension for repair items relating to a modification/adaptation to the unit to accommodate a disability that are not required by HQS will be granted if agreed to by the tenant and landlord. The Department will allow execution of the RAP contract if the unit meets all requirements and the modification does not affect the livability of the unit.

Bedrooms

For the purpose of determining whether or not a room meets the definition of a "sleeping room" by having at least one window, sliding glass doors will be considered to meet the requirement to provide ventilation and egress.

Bedrooms are not required to have a closet in order to be considered a bedroom or "sleeping room".

Exterior Identification of the Unit

The address of the unit must be identifiable from the exterior of the unit. For single household homes, the street number of the home must be displayed on the exterior of the home. For multi-household units, the unit number must be displayed on the exterior of the unit. In all cases, the street number or unit number must be readable so that, in the event of an emergency, emergency response personnel could locate the unit.

Potable Water

Units that have a water source other than a municipal connection (i.e. wells, pumps, springs, etc.) must have water tested for potability by an appropriate testing agency at initial inspection. It is recommended that the water be periodically tested throughout the tenancy, however, it is not required on any regular basis. Testing of the water for potability may be required in subsequent year(s) of the tenancy if conditions warrant (i.e. water is discolored or malodorous).

8.1.C. Life Threatening Conditions

HUD requires the Department to define life threatening conditions and to notify the owner or the household (whichever is responsible) of the corrections required. The responsible party must correct life threatening conditions within 24 hours of Department notification.

Department Policy

The following are considered life threatening conditions:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks
- Any electrical problem or condition that could result in shock or fire
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit
- Inoperable smoke detectors

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If a household fails to correct a household caused life threatening condition as required by the Department, the Department may terminate the household's assistance.

The owner will be required to repair an inoperable smoke detector unless the Department determines that the household has intentionally disconnected it (by removing batteries or other means). In this case, the household will be required to repair the smoke detector within 24 hours.

8.1.D. Owner and Household Responsibilities

Household Responsibilities

The household is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain household-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.

Owner Responsibilities

The owner is responsible for all HQS violations not listed as a household responsibility above, even if the violation is caused by the household's living habits (e.g., vermin infestation). However, if the household's actions constitute a serious or repeated lease violation the owner may take legal action to evict the household.

8.1.E. Special Requirements for Children with Environmental Intervention Blood Lead Level

[24 CFR 35.1225]

If a Department is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in a RAP unit has been identified as having an environmental intervention blood lead level, the Department must complete a risk assessment of the dwelling unit. The risk assessment must be completed in accordance with program requirements, and the result of the risk assessment must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the risk assessment report from the Department, or the evaluation from the public health Department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the owner does not complete the "hazard reduction" as required, the dwelling unit is in violation of HQS and the Department will take action in accordance with Section 8.2.G.

Department reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 16.

8.1.F. Violation of HQS Space Standards

If the Department determines that a unit does not meet the HQS space standards because of an increase in household size or a change in household composition, the Department must issue the household a new subsidy, and the household and Department must try to find an acceptable unit as soon as possible. If an acceptable unit

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is available for rental by the household, the Department must terminate the RAP contract in accordance with its terms.

Part 2: The Inspection Process

8.2.A. Overview

Types of Inspections

The Department conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- **Initial Inspections.** The Department conducts initial inspections in response to a request from the household to approve a unit for participation in the CoC RAP program. The unit must pass the HQS inspection before the effective date of the RAP Contract.
- **Annual Inspections.** HUD requires the Department to inspect each unit under lease at least annually to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the household's annual reexamination but also may be conducted separately.
- **Special Inspections.** A special inspection may be requested by the owner, the household, or a third party as a result of problems identified with a unit between annual inspections.
- **Quality Control Inspections.** HUD requires that a sample of units be reinspected by a supervisor or other qualified individual to ensure that HQS are being enforced correctly and uniformly by all inspectors.

Notice and Scheduling

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

Department Policy

Both the household and the owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:00 a.m. and 5:00 p.m. Generally inspections will be conducted on business days only. In the case of a life-threatening emergency, the Department will give as much notice as possible, given the nature of the emergency.

The Department will not reschedule inspection appointments, except for bona fide, verifiable emergencies.

Owner and Household Inspection Attendance

HUD permits the Department to set policy regarding household and owner presence at the time of inspection.

Department Policy

When a household occupies the unit at the time of inspection, an adult (at least 18 years of age) must be present for the inspection. The adult may be a household member, or another adult selected by the household to be at the unit in their stead. The presence of the owner or the owner's representative is encouraged but is not required.

If the Head of Household or other adult (at least 18 years of age) cannot be present at the scheduled inspection and the household chooses to have the owner/manager present and give the Department access to the unit for

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the inspection, the household must notify the Department in writing and the Department must receive the household's written notice not less than three (3) business days prior to the date of the inspection.

At initial inspection of a vacant unit, the presence of a household representative is permitted, but is not required. The inspector may enter a vacant unit without a representative of the owner present if the owner has granted such permission.

"No Show" Inspections

A regularly scheduled inspection where the household occupies the unit to be inspected will be considered a "no show" if:

- No adult representative of the household, age 18 or over, is present for a scheduled inspection, including owner/manager stand-in for the household, or
- No one is present at the unit for a scheduled inspection

If the household is not present, or does not arrange for an adult to be present, at two (2) consecutively scheduled inspections, the household will be considered to be in non-compliance with the household obligation of allowing the Department to inspect the unit at reasonable times and after reasonable notice and the Department may initiate termination procedures as outlined in this plan.

Additionally, if the household establishes a history of consistently missing inspections or failing to arrange for a representative to be at the unit at the scheduled inspection time, the Department may initiate termination procedures for non-compliance with household obligations, as described above. For the purpose of this section of the plan, an "established history" is defined as having three "no show" inspections as described above within a 36-month period, whether or not they were consecutively scheduled.

The Department reserves the right to consider mitigating circumstances when determining whether or not to take action to terminate a participant's rental assistance for "no show" inspections.

The owner is not responsible for the tenant's obligation of allowing the Department to inspect the dwelling. In no event will the Department abate or otherwise withhold housing assistance payments to the owner due to a tenant's non-compliance with the obligation to attend inspection appointments.

8.2.B. Initial HQS Inspection

Timing of Initial Inspections

HUD requires the unit to pass HQS before the effective date of the lease and RAP Contract. HUD requires Departments with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the household of the determination within 15 days of submission of the Request for Tenancy Approval (RTA). For Departments with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection.

Department Policy

The Department will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the household of the determination within 15 days of submission of the Request for Tenancy Approval (RTA).

Inspection Results and Re-inspections

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Department Policy

If any HQS violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by the Department for good cause. The Department will re-inspect the unit within 5 business days of the date the owner notifies the Department that the required corrections have been made.

If the time period for correcting the deficiencies (or any Department-approved extension) has lapsed, or the unit fails HQS at the time of the re-inspection, the Department will notify the owner and the household that the unit has been rejected and that the household must search for another unit. The Department may agree to conduct a second re-inspection, for good cause, at the request of the household and owner.

Following a failed re-inspection, the household may submit a new Request for Tenancy Approval for the unit if the household has not found another unit by the time the owner completes all repairs and the household continues to wish to live in the unit.

Utilities

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the household will be responsible for paying.

Department Policy

If utility service is not available for testing at the time of the initial inspection, the Department will allow the utilities to be placed in service after the unit has met all other HQS requirements. The Department will re-inspect the unit to confirm that utilities are operational before the RAP contract is executed by the Department.

Appliances

Department Policy

If the household is responsible for supplying the stove and/or refrigerator, the Department will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the RAP contract is executed by the Department. The Department will execute the RAP contract based upon a certification from the household that the appliances have been installed and are working. A confirmatory inspection will be scheduled within 30 days of RAP contract approval.

8.2.C. Annual HQS Inspections

[24 CFR 982.405(a)]

Scheduling the Inspection

Each unit under RAP contract must have an annual inspection no more than 12 months after the most recent inspection.

Department Policy

It is the responsibility of the household to arrange for an adult, at least 18 years of age, to be at the unit to allow the inspector access at the time scheduled by the Department. The Department will not reschedule inspections, except for bona fide, verifiable emergencies.

If the household misses the first scheduled appointment or does not arrange to have an adult representative at the unit for the inspection, the Department will follow its policy regarding “No Show” inspections as stated in Section 8.2.A of this plan.

8.2.D. Special Inspections

The Department will conduct a special inspection if the owner, household, or another source reports HQS violations in the unit.

Department Policy

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

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

8.2.E. Quality Control Inspections

HUD requires a Department supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample will include (1) each type of inspection (initial, annual, and special), (2) inspections completed by each inspector, and (3) units from a cross-section of neighborhoods.

8.2.F. Inspection Results and Re-inspections for Units Under RAP Contract

Notification of Corrective Actions

The owner and the household will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the Department will determine (1) whether or not the failure is a life threatening condition and (2) whether the household or owner is responsible.

Department Policy

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

When non-life threatening failures are identified, the Department will send the owner and the household a written notification of the inspection results within 5 business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally not more than 30 days will be allowed for the correction.

The notice of inspection results will inform the owner that if life threatening conditions are not corrected within 24 hours, and non-life threatening conditions are not corrected within the specified time frame (or any Department-approved extension), the owner's RAP will be abated in accordance with Department policy (see 8.2.G.). Likewise, in the case of household caused deficiencies, the notice will inform the household that if corrections are not made within the specified time frame (or any Department-approved extension, if applicable) the household's assistance will be terminated in accordance with Department policy (see Chapter 12).

Extensions

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For conditions that are life-threatening, the Department cannot grant an extension to the 24 hour corrective action period. For conditions that are not life-threatening, the Department may grant an exception to the required time frames for correcting the violation, if the Department determines that an extension is appropriate.

Department Policy

Extensions will be granted in cases where the Department has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

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

The length of the extension will be determined on a case by case basis, but will not exceed 60 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided.

Re-inspections

Department Policy

The Department will conduct a re-inspection immediately following the end of the corrective period, or any Department approved extension.

The household and owner will be given reasonable notice of the re-inspection appointment. If the deficiencies have not been corrected by the time of the re-inspection, the Department will send a notice of abatement to the owner, or in the case of household caused violations, a notice of termination to the household, in accordance with Department policies. If the Department is unable to gain entry to the unit in order to conduct the scheduled re-inspection, the Department will consider the household to have violated its obligation to make the unit available for inspection. This may result in termination of the household's assistance in accordance with Chapter 12.

8.2.G. Enforcing Owner Compliance

If the owner fails to maintain the dwelling unit in accordance with HQS, the Department must take prompt and vigorous action to enforce the owner obligations.

RAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by the Department, HUD requires the Department to abate rental assistance payments no later than the first of the month following the specified correction period (including any approved extension). No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the household's responsibility.

Department Policy

The Department will make all RAP abatements effective the first of the month following the expiration of the Department specified correction period (including any extension).

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The Department will inspect abated units within 5 business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

During any abatement period the household continues to be responsible for its share of the rent. The owner must not seek payment from the household for abated amounts and may not use the abatement as cause for eviction.

RAP Contract Termination

The Department must decide how long any abatement period will continue before the RAP contract will be terminated. The Department should not terminate the contract until the household finds another unit, provided the household does so in a reasonable time and must give the owner reasonable notice of the termination. The Department will issue subsidy to permit the household to move to another unit as described in Chapter 10.

Department Policy

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

Reasonable notice of RAP contract termination by the Department is 30 days.

8.2.H. Enforcing Household Compliance with HQS

[24 CFR 982.404(b)]

Households are responsible for correcting any HQS violations listed in paragraph 8.1.D. If the household fails to correct a violation within the period allowed by the Department (and any extensions), the Department will terminate the household's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the household is responsible under the lease, the owner may bill the household for the cost of the repair.

Part 3: Rent Reasonableness

8.3.A. Overview

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

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

8.3.B. When Rent Reasonableness Determinations Are Required

Owner-initiated Rent Determinations

The Department must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and household first negotiate the rent for a unit. The Department (or independent agency in the case of Department-owned units) will assist the household with the negotiations upon request. At initial occupancy the Department must determine whether the proposed rent is reasonable before a RAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the household. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

Department Policy

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

If the Department has, within the last 12 months, determined the maximum reasonable rent for the unit is an amount equal to or higher than the requested rent, the Department will not re-determine rent reasonableness.

If no such determination exists, or the maximum reasonable rent is below the requested increase, or rental market conditions known to the Department have changed significantly since the determination was made, the Department will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

All rent adjustments will be effective the first of the month following 60 days after the Department's receipt of the owner's request or on the date specified by the owner, whichever is later.

Department- and HUD-Initiated Rent Reasonableness Determinations

HUD requires the Department to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 5 percent decrease in the Fair Market Rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the Department to make a determination at any other time. The Department may decide that a new determination of rent reasonableness is needed at any time.

Department Policy

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

8.3.C. How Comparability Is Established

Factors to Consider

HUD requires Departments to take into consideration the factors listed below when determining rent comparability. The Department may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the RAP unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single household, duplex, garden, low-rise, high-rise)

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- The quality of the units including the quality of the original construction, maintenance and improvements made.
- Amenities, services, and utilities included in the rent

Units That Must Not Be Used as Comparables

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance. *Note: Notice PIH 2010-18, issued May 10, 2010, provides further guidance on the issue of what constitutes an assisted unit.*

Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the Department payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the Department information regarding rents charged for other units on the premises.

8.3.D. Department Rent Reasonableness Methodology

How Market Data is Collected

Department Policy

The Department will collect and maintain data on market rents in the Department's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries. The data will be updated on an ongoing basis and rent information that is more than 24 months old will be eliminated from the database.

How Rents are Determined

Department Policy

The rent for a unit proposed for RAP will be compared to the rent charged for comparable units in the same market area. The Department will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for RAP will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for RAP, the Department may make adjustments to the range of prices to account for these differences.

The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas).

Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

The adjustment must reflect the rental value of the difference – not its construction costs (e.g., it might cost \$20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rental units are presumed to have functioning roofs).

If information is not generally available about rentals in a sparsely populated area, the Department may use comparable units from a neighboring market area and adjust the approved rent amount based upon experience and knowledge of the housing market. The reasoning behind any such adjustment must be documented.

The Department will notify the owner of the rent the Department can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The Department will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within 10 business days of the Department's request for information or the owner's request to submit information.

CHAPTER 9: GENERAL LEASING POLICIES

Introduction

Chapter 9 covers the lease-up process from the household's submission of a Request for Tenancy Approval to execution of the RAP contract.

In order for the Department to assist a household in a particular dwelling unit, or execute a Rent Assistance Payments (RAP) contract with the owner of a dwelling unit, the Department must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit
- The unit must be inspected by the Department and meet the Housing Quality Standards (HQS) [24 CFR 578.51]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum
- The rent to be charged by the owner for the unit must be reasonable
- The owner must be an eligible owner, approvable by the Department, with no conflicts of interest

Part 1: General Leasing

9.1.A. Tenant Screening

The Department has no liability or responsibility to the owner or other persons for the household's behavior or suitability for tenancy.

The Department may elect to screen applicants for household behavior or suitability for tenancy. See Chapter 3 for a discussion of the Department's policies with regard to screening applicant households for program eligibility.

The owner is responsible for screening and selection of the household to occupy the owner's unit. At or before Department approval of the tenancy, the Department must inform the owner that screening and selection for tenancy is the responsibility of the owner. The Department must also inform the owner or manager of his/her rights and obligations under the Violence against Women Act of 2005 (VAWA) [24 CFR 5.2005(a)(2)].

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The Department must provide the owner with the household's current and prior address (as shown in the Department records) and the name and address (if known to the Department) of the landlord at the household's current and prior address.

The Department is permitted, but not required, to offer the owner other information in the Department's possession about the household's tenancy.

The Department's policy on providing information to the owner must be included in the household's briefing packet.

The Department may not disclose to the owner any confidential information provided in response to a Department request for documentation of domestic violence, dating violence, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(b)(4)].

Department Policy

- The Department will not screen applicants for household behavior or suitability for tenancy.
- The Department will not provide additional screening information to the owner.

9.1.B. Requesting Tenancy Approval

[Form HUD-52517]

After the household is issued a Family Tenancy Agreement, the household must locate an eligible unit. Once a household finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the household must request the Department to approve the assisted tenancy in the selected unit.

The owner and the household must submit two documents to the Department:

- Completed Request for Tenancy Approval (RTA) – Form HUD-52517
- Copy of the proposed lease

The RTA contains important information about the rental unit selected by the household, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the Department to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the household, unless the Department has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RTA and the proposed lease must be submitted no later than the expiration date stated on the Family Tenancy Agreement.

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Department Policy

The RTA must be signed by both the household and the owner.

The owner may submit the RTA on behalf of the household.

Completed RTA (including the proposed dwelling lease) must be submitted as hard copies, in-person, by mail, fax, or a scanned copy may be sent by email. The Department reserves the right to request the original signed RTA if received by fax or email.

The household may not submit, and the Department will not process, more than one (1) RTA at a time.

When the household submits the RTA the Department will review the RTA for completeness.

If the RTA is incomplete (including lack of signature by household, owner, or both), or if the dwelling lease is not submitted with the RTA, the Department will notify the household and the owner of the deficiencies.

Missing information and/or missing documents will only be accepted as hard copies, in-person, by mail, or by fax. The Department will not accept missing information over the phone.

When the household submits the RTA and proposed lease, the Department will also review the terms of the RTA for consistency with the terms of the proposed lease.

If the terms of the RTA are not consistent with the terms of the proposed lease, the Department will notify the household and the owner of the discrepancies.

Corrections to the terms of the RTA and/or the proposed lease will only be accepted as hard copies, in-person, by mail or by fax. The Department will not accept corrections by phone.

Because of the time sensitive nature of the tenancy approval process, the Department will attempt to communicate with the owner and household by phone, fax, or email. The Department will use mail when the parties can't be reached by phone, fax, or email.

9.1.C. Owner Participation

The Department does not formally approve an owner to participate in the CoC RAP program. However, there are a number of criteria where the Department may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the CoC RAP program.

9.1.D. Eligible Units

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the subsidy program. Generally, an assisted household may choose any available rental dwelling unit on the market in the Department's jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units

The Department may not assist a unit under the subsidy program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f);

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nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

Special Housing Types

HUD regulations permit, but do not generally require, the Department to permit households to use subsidy assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space (where the household owns the manufactured home and leases only the space), cooperative housing and homeownership option.

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

Duplicative Assistance

[24 CFR 578]

A household may not receive the benefit of CoC RAP while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

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

Housing Quality Standards (HQS)

[24 CFR 578.51]

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD’s Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.

Unit Size

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In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A household must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the Family Tenancy Agreement issued to the household, provided the unit meets the applicable HQS space requirements [24 CFR 578]. The household must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the subsidy issued to the household.

Rent Reasonableness

[24 CFR 578.51]

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

9.1.E. Lease and Tenancy Addendum

The household and the owner must execute and enter into a written dwelling lease for the assisted unit. This written lease is a contract between the tenant household and the owner; the Department is not a party to this contract.

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

Lease Form and Tenancy Addendum

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The RAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease is in such standard form.

All provisions in the HUD-required Tenancy Addendum must also be added word-for-word to the owner's standard lease form, for use with the assisted household. The Tenancy Addendum includes the tenancy requirements for the program and the composition of the household as approved by the Department. As a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner and the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

Department Policy

The Department does not provide a model or standard dwelling lease for owners to use in the CoC RAP program.

Lease Information

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant:
- The unit rented (address, apartment number, and any other information needed to identify the contract unit)

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- The term of the lease (initial term and any provisions for renewal)
- The amount of the monthly rent to owner
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the household

Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one year. The initial lease term is also stated in the RAP contract.

The HUD program regulations permit the Department to approve a shorter initial lease term if certain conditions are met.

Department Policy

Generally, the Department will encourage an initial lease term of no less than one (1) year, however a shorter lease term may be approved if it is to the benefit of the tenant; i.e. to prevent the tenant from losing a prospective rental unit or from having to move to a different unit.

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

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease. There are no HUD requirements regarding any renewal extension terms, except that they must be in the dwelling lease if they exist.

The Department may execute the RAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the current HUD FY CoC Homeless Assistance grant funding.

Security Deposit

The owner may collect a security deposit from the tenant. The Department may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted participants. However, if the Department chooses to do so, language to this effect must be added to Part A of the RAP contract [Form HUD-52641].

Department Policy

The Department will allow the owner to collect any security deposit amount the owner determines is appropriate. Therefore, no modifications to the RAP contract will be necessary.

Separate Non-Lease Agreements between Owner and Tenant

Owners may not demand or accept any rent payment from the household in excess of the rent to the owner minus the Department's Rent Assistance Payments to the owner.

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

Department Policy

The Department permits owners and households to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

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Any items, appliances, or other services that are customarily provided to unassisted households as part of the dwelling lease with those households, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted household. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and household. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted households as part of the dwelling lease for those households, are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted households as part of the dwelling lease with those households, are not permanently installed in the dwelling unit and where the household has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the household.

The household is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the household. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the household cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

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

Department Review of Lease

The Department will review the dwelling lease for compliance with all applicable requirements.

Department Policy

If the dwelling lease is incomplete or incorrect, the Department will notify the household and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by mail, fax or email (i.e. scanned copy). The Department will not accept missing and corrected information over the phone.

Because the initial leasing process is time-sensitive, the Department will attempt to communicate with the owner and household by phone, fax, or email. The Department will use mail when the parties can't be reached by phone, fax, or email.

The Department is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if the Department determines that the lease does not comply with State or local law.

Department Policy

The Department will not review the owner's lease for noncompliance with state/local law.

9.1.F. Tenancy Approval

After receiving the household's Request for Tenancy Approval, with proposed dwelling lease, the Department must promptly notify the household and owner whether the assisted tenancy is approved.

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Prior to approving the assisted tenancy and execution of a RAP contract, the Department must ensure that all required actions and determinations, discussed in Part 1 of this Chapter have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by the Department and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit must be reasonable; the owner is an eligible owner, not disapproved by the Department, with no conflicts of interest; the household and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information.

Department Policy

The Department will complete its determination within 10 business days of receiving all required information.

If the terms of the RTA/proposed lease are changed for any reason, including but not limited to negotiation with the Department, the Department will obtain corrected copies of the RTA and proposed lease, signed by the household and the owner.

Corrections to the RTA/proposed lease will only be accepted as hard copies, in-person, by mail, fax or email (scanned copy). The Department will not accept verbal corrections over the phone or in person.

If the Department determines that the tenancy cannot be approved for any reason, the owner and the household will be notified in writing and given the opportunity to address any reasons for disapproval. The Department will instruct the owner and household of the steps that are necessary to approve the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the household must continue to search for eligible housing within the timeframe of the issued subsidy.

If the tenancy is not approvable due to rent reasonableness, the Department will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the household must continue to search for eligible housing within the timeframe of the issued subsidy.

9.1.G. RAP Contract Execution

The RAP contract is a written agreement between the Department and the owner of the dwelling unit occupied by a rent assisted household. Under the RAP contract, the Department agrees to make Rent Assistance Payments to the owner on behalf of a specific household occupying a specific unit and obliges the owner to comply with all program requirements.

If the Department has given approval for the household of the assisted tenancy, the owner and the Department execute the RAP contract.

The Department is permitted to execute a RAP contract even if the funding currently available does not extend for the full term of the RAP contract.

The Department must make a best effort to ensure that the RAP contract is executed before the beginning of the lease term. Regardless, the RAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

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The Department may not pay any housing assistance payment to the owner until the RAP contract has been executed. If the RAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the Department will pay housing assistance payments after execution of the RAP contract (in accordance with the terms of the RAP contract), to cover the portion of the lease term before execution of the RAP contract (a maximum of 60 days).

Any RAP contract executed after the 60 day period is void, and the Department may not pay any housing assistance payment to the owner.

Department Policy

For the purpose of this plan, an "executed" contract: 1) has been received by the Department and 2) has been signed by all parties.

The owner and the assisted household will execute the dwelling lease and the owner must provide a copy to the Department. The Department will ensure that both the owner and the assisted household receive copies of the dwelling lease.

The owner and the Department will execute the RAP contract. The Department will not execute the RAP contract until the owner has submitted IRS form W-9. The Department will ensure that the owner receives a copy of the executed RAP contract.

9.1.H. Changes in Lease or Rent

[24 CFR 982.308]

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the Department a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this Chapter.

Generally, Department approval of tenancy and execution of a new RAP contract are not required for changes in the lease. However, under certain circumstances, RAP in the unit shall not be continued unless the Department has approved a new tenancy in accordance with program requirements and has executed a new RAP contract with the owner. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances
- Changes in lease provisions governing the term of the lease
- The household moves to a new unit, even if the unit is in the same building or complex

In these cases, if the RAP is to continue, the household must submit a new Request for Tenancy Approval (RTA) along with a new dwelling lease containing the altered terms. A new tenancy must then be approved in accordance with this Chapter.

Where the owner is changing the amount of rent, the owner must notify the Department of any changes in the amount of the rent to owner at least 60 days before any such changes go into effect. The Department will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or give the household notice in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease.

Department Policy

Where the owner is requesting a rent increase:

- If the Department has, within the last 12 months, determined the maximum reasonable rent for the unit is an amount equal to or higher than the requested rent, the Department will not re-determine rent reasonableness.
- If no such determination exists, or the maximum reasonable rent is below the requested increase, or rental market conditions known to the Department have changed significantly since the determination was made, the Department will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.
- If the increase is found unreasonable, the owner will be notified of the determination in writing. If the increase is reasonable, the owner and tenant will be notified of the increase through normal Department procedures for changes in RAP and participant rent.
- Rent increases will go into effect on the first of the month following the 60 day period after the owner notifies the Department of the rent change or on the date specified by the owner, whichever is later.

Chapter 10: Reexaminations

Introduction

The Department is required to reexamine each household's income and composition at least annually, and to adjust the household's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This Chapter discusses both annual and interim reexaminations, and the recalculation of household share and RAP that occurs as a result. HUD regulations and Department policies concerning reexaminations are presented in three parts:

- **Part 1: Annual Reexaminations.** This part discusses the process for conducting annual reexaminations.
- **Part 2: Interim Reexaminations.** This part details the requirements for households to report changes in household income and composition between annual reexaminations.
- **Part 3: Recalculating Household Share and RAP Amount.** This part discusses the recalculation of household share and subsidy amounts based on the results of annual and interim re-examinations.

Policies governing reasonable accommodation, household privacy, required household cooperation, and program abuse, as described elsewhere in this plan, applies to both annual and interim reexaminations.

Part 1: Annual Reexaminations

[24 CFR 578.77]

10.1.A. Overview

The Department must conduct a reexamination of household income and composition at least annually. This includes gathering and verifying current information about household composition, income, and expenses. Based on this updated information, the household's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

10.1.B. Scheduling Annual Reexaminations

The Department must establish a policy to ensure that the annual reexamination for each household is completed within a 12-month period, and may require reexaminations more frequently.

Department Policy

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

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

If the household moves to a new unit, the Department will perform a new annual reexamination.

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

Notification of and Participation in the Annual Reexamination Process

The Department is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the Department.

Department Policy

Households generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or co-head. If participation in an in-person interview poses a hardship because of a household member's disability, the household should contact the Department to request a reasonable accommodation (see Chapter 2).

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

If the household is unable to attend a scheduled interview, the household should contact the Department in advance of the interview to schedule a new appointment. If a household does not attend the scheduled interview, the Department will send a second notification with a new interview appointment time.

If a household fails to attend two scheduled interviews without Department approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 11) will be sent to the household's address of record, and to any alternate address provided in the household's file.

An advocate, interpreter, or other assistant may assist the household in the interview process. The household and the Department must execute a certification attesting to the role and assistance of any such third party.

10.1.C. Conducting Annual Reexaminations

As part of the annual reexamination process, households are required to provide updated information to the Department regarding the household's income, expenses, and composition [24 CFR 578.77].

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Department Policy

Households are provided with the Department's reexamination forms via first class mail. The Department will ask the household to complete the form and return it to the Department within ten (10) business days. The reexamination forms include an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the household's income, expenses, and household composition.

Any required documents or information that the Department requests from a household must be provided within 10 business days of the request. If the household is unable to obtain the information or materials within the required time frame, the household may request an extension.

If the household does not provide the required documents or information within the required time frame (plus any extensions), the household will be sent a second request, asking that the information be provided within five business days of the request.

If the household does not provide the required documents or information within the required time frame of the second request, the household will be sent a notice of termination (See Chapter 11).

The information provided by the household generally must be verified in accordance with the policies in Chapter 7. Unless the household reports a change, or the agency has reason to believe a change in information has occurred and is previously unreported by the household, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new household member to the unit causes overcrowding according to the Housing Quality Standards (HQS) (see Chapter 8), the Department must issue the household a new subsidy, and the household and Department must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the household, the Department must terminate the RAP contract in accordance with its terms [24 CFR 982.403].

10.1.D. Effective Dates

The Department must establish policies concerning the effective date of changes that result from an annual reexamination.

Department Policy

In general, an *increase* in the household share of the rent that results from an annual re-examination will take effect on the household's anniversary date, and the household will be notified at least 30 days in advance.

- If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.
- If a household moves to a new unit, the increase will take effect on the effective date of the new lease and RAP contract, and no 30-day notice is required.

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- If the Department chooses to schedule an annual reexamination for completion prior to the household's anniversary date for administrative purposes, the effective date will be the anniversary date, but will always allow for the 30-day notice period.
- If the household causes a delay in processing the annual reexamination, increases in the household share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The household will be responsible for any overpaid subsidy and may be offered a repayment agreement.

In general, a *decrease* in the household share of the rent that results from an annual reexamination will take effect on the household's anniversary date.

- If a household moves to a new unit, the decrease will take effect on the effective date of the new lease and RAP contract.
- If the Department chooses to schedule an annual reexamination for completion prior to the household's anniversary date for administrative purposes, the effective date will be the anniversary date.
- If the household causes a delay in processing the annual reexamination, decreases in the household share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.
- Delays in reexamination processing are considered to be caused by the household if the household fails to provide information requested by the Department by the date specified, and this delay prevents the Department from completing the reexamination as scheduled.

Part 2: Interim Reexaminations

[24 CFR 578.77]

10.2.A. Overview

Household circumstances may change throughout the period between annual reexaminations. HUD and Department policies dictate what kinds of information about changes in household circumstances must be reported, and under what circumstances the Department must process interim reexaminations to reflect those changes. HUD regulations also permit the Department to conduct interim reexaminations of income or household composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted.

In addition to specifying what information the household must report, HUD regulations permit the household to request an interim determination if other aspects of the household's income or composition changes. The Department must complete the interim reexamination within a reasonable time after the household's request.

This part includes HUD and Department policies describing what changes households are required to report, what changes households may choose to report, and how the Department will process both Department and household initiated interim reexaminations.

10.2.B. Changes in Household and Household Composition

The Department must adopt policies prescribing when and under what conditions the household must report changes in household composition. However, due to household obligations under the program, the Department has limited discretion in this area.

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Department Policy

The Department will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations, except as follows:

For new participants, the Department requires successful lease-up for at least 6 months before a request to add a household member will be received and reviewed. The Department may waive the probationary period to add an adult on a case-by-case basis upon written request from the household and with supervisory approval in the following situations:

- If to provide live-in care for an elderly or disabled household member
- If caring for mutual children
- If in a spousal-type relationship
 - Spousal-type relationship includes persons who are spouses by marriage, registered domestic partners, or those in an interdependent relationship.

The Department will permit the addition of adults if not part of the household at initial eligibility with approval of the Service Provider Agency and the landlord.

The Department will not permit addition of household groups (adult and one or more children) if not permitted through case-by-case review as identified above.

New Household Members Not Requiring Approval

The addition of a household member as a result of birth, adoption, or court-awarded custody does not require Department approval. However, the household is required to promptly notify the Department of the addition [24 CFR 578.77].

Department Policy

The household must inform the Department of the birth, adoption, or court-awarded custody of a child within 10 business days.

New Household and Household Members Requiring Approval

With the exception of children who join the household as a result of birth, adoption, or court-awarded custody, a household must request Department approval to add a new household member.

When any new household member is added, the Department must conduct a reexamination to determine any new income or deductions associated with the additional household member and to make appropriate adjustments in the household share of the rent and the RAP payment [24 CFR 578.77].

If a change in household size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), the Department must issue the household a new Family Tenancy Agreement, and the household and Department must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the household, the Department must terminate the household's RAP contract in accordance with its terms.

Department Policy

Households must request Department approval to add a new household member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 30 consecutive days or 90 cumulative days within a 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the Department prior to the individual moving into the unit.

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The Department will not approve the addition of adults if not part of the household at initial eligibility, or if not permitted through case-by-case review as identified earlier in this section. This includes parents, siblings, cousins, aunts, uncles and any others.

The Department will not approve addition of household groups (adult and one or more children) if not permitted through case-by-case review as identified earlier in this section.

The Department will not approve the addition of an adult unless the landlord has approved their addition to the lease. Landlord approval shall be verified by receipt of an addendum to the rental agreement or signed and dated written confirmation on landlord letterhead. The Department reserves the right to determine if the verification of landlord approval is sufficient.

The Department will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If the Department determines an individual meets the Department's eligibility criteria and documentation requirements, the Department will provide written approval to the household. If the approval of a new household member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the household will be issued a Family Tenancy Approval and will be required to move.

If the Department determines that an individual does not meet the Department's eligibility criteria or documentation requirements, the Department will notify the household in writing of its decision to deny approval of the new household or household member and the reasons for the denial.

The Department will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Departure of a Household or Household Member

Households must promptly notify the Department if any household member no longer lives in the unit [24 CFR 578.77].

Because household members are considered when determining the household unit size, the Department also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

Department Policy

If a household member ceases to reside in the unit, the household must inform the Department within 10 business days. This requirement also applies to a household member who has been considered temporarily absent at the point that the household concludes the individual is permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the household must inform the Department within 10 business days.

10.2.C. Changes Affecting Income or Expenses

Interim reexaminations can be scheduled either because the Department has reason to believe that changes in income or expenses may have occurred, or because the household reports a change. When a household reports a change, the Department may take different actions depending on whether the household reported the change voluntarily, or because it was required to do so.

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Department-Initiated Interim Re-examinations

Department-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the Department. They are not scheduled because of changes reported by the household.

Department Policy

The Department will conduct interim reexaminations in each of the following instances:

- If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the Department will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.
- If at the time of the annual reexamination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the Department will conduct an interim reexamination.
- The Department may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

Household-Initiated Interim Reexaminations

The Department must adopt policies prescribing when and under what conditions the household must report changes in household income or expenses. In addition, HUD regulations require that the household be permitted to obtain an interim reexamination any time the household has experienced a change in circumstances since the last determination.

Required Reporting

HUD regulations give the Department the freedom to determine the circumstances under which households will be required to report changes affecting income.

Department Policy

Households are required to report all increases in income, including new employment, within 10 business days of the date the change takes effect.

Households are not required to report any other changes in income or expenses.

Optional Reporting

The household may request an interim reexamination any time the household has experienced a change in circumstances since the last determination. The Department must process the request if the household reports a change that will result in a reduced household income.

If a household reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the household's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

Department Policy

If a household reports a change that it was not required to report and that would result in an increase in the household share of the rent, the Department will note the information in the tenant file, but will not conduct an interim reexamination.

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If a household reports a change that it was not required to report and that would result in a decrease in the household share of rent, the Department will conduct an interim reexamination. See Section 10.2.D. for effective dates.

Households may report changes in income or expenses at any time.

10.2.D. Processing the Interim Reexamination

Method of Reporting

Department Policy

The household may notify the Department of changes either orally or in writing. If the household provides oral notice, the Department may also require the household to submit the changes in writing.

Generally, the household will not be required to attend an interview for an interim reexamination. However, if the Department determines that an interview is warranted, the household may be required to attend.

Based on the type of change reported, the Department will determine the documentation the household will be required to submit. The household must submit any required information or documents within 10 business days of receiving a request from the Department. This time frame may be extended for good cause with Department approval. The Department will accept required documentation by mail, by fax, or in person.

Effective Dates

The Department must establish the time frames in which any changes that result from an interim reexamination will take effect. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the household share of the rent, and whether the household reported any required information within the required time frames.

Department Policy

If the household share of the rent is to increase:

- The increase generally will be effective on the first of the month following 30 days' notice to the household.
- If a household fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The household will be responsible for any overpaid subsidy and may be offered a repayment agreement.

If the household share of the rent is to decrease:

- The decrease will be effective on the first day of the month following the month in which the change was reported and all required documentation was submitted. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

Part 3: Recalculating Household Share and Subsidy Amount

10.3.A. Overview

After gathering and verifying required information for an annual or interim reexamination, the Department must recalculate the household share of the rent and the RAP amount, and notify the household and owner of the changes. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

10.3.B. Changes in Payment Standards and Utility Allowances

In order to calculate the household share of the rent and RAP amount correctly, utility allowances may need to be updated and included in the Department's calculations.

Specific policies governing how utility allowances are applied are discussed below.

Utility Allowances

[24 CFR 982.517(d)]

The household share of the rent and RAP calculations must reflect any changes in the household's utility arrangement with the owner, or in the Department's utility allowance schedule.

When there are changes in the utility arrangement with the owner, the Department must use the utility allowances in effect at the time the new lease and RAP contract are executed.

At reexamination, the Department must use the Department current utility allowance schedule [24 CFR 982.517(d)(2)].

Department Policy

Revised utility allowances will be applied to a household's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

10.3.C. Notification of New Household Share and RAP Amount

The Department must notify the owner and household of any changes in the amount of the RAP payment. The notice must include the following information:

- The amount and effective date of the new RAP payment
- The amount and effective date of the new household share of the rent
- The amount and effective date of the new contract rent to owner

The household must be given an opportunity for an informal hearing regarding the Department's determination of their annual or adjusted income, and the use of such income to compute the rent assistance payment.

Department Policy

The notice to the household will state the procedures for requesting an informal hearing.

10.3.D. Discrepancies

During an annual or interim reexamination, the Department may discover that information previously reported by the household was in error, or that the household intentionally misrepresented information. In addition, the Department may discover errors made by the Department. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made.

CHAPTER 11: TERMINATION OF ASSISTANCE AND TENANCY

Introduction

HUD regulations specify the reasons for which a Department can terminate a household's assistance, and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted household. This Chapter presents the policies that govern voluntary and involuntary terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

- **Part 1: Grounds for Termination of Assistance.** This part discusses various reasons that a household's assistance may be terminated, including voluntary termination by the household, termination because the household no longer qualifies to receive subsidy, and termination by the Department based on the household's behavior.
- **Part 2: Approach to Termination of Assistance.** This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that the Department may consider in lieu of termination, the criteria the Department must use when deciding what action to take, and the steps the Department must take when terminating a household's assistance.
- **Part 3: Termination of Tenancy by the Owner.** This part presents the policies that govern the owner's right to terminate an assisted tenancy.

Part 1: Grounds for Termination of Assistance

11.1.A. Overview

HUD requires the Department to terminate assistance for certain offenses and when the household no longer requires assistance. HUD permits the Department to terminate assistance for certain other actions household members take or fail to take. In addition, a household may decide to stop receiving RAP assistance at any time by notifying the Department.

11.1.B. Household No Longer Requires Assistance

As a household's income increases, the amount of Department RAP goes down. If the amount of RAP provided by the Department drops to zero and remains at zero for 180 consecutive calendar days the household's assistance terminates automatically.

Department Policy

If a participating household receiving zero assistance experiences a change in circumstances that would cause the RAP payment to rise above zero, the household must notify the Department of the changed circumstances and request an interim reexamination before the expiration of the 180-day period.

11.1.C. Household Chooses to Terminate Assistance

The household may request that the Department terminate the household's assistance at any time.

Department Policy

The request to terminate assistance must be made in writing and signed by the head of household.

11.1.D. Termination of Assistance

Eviction

[24 CFR 5.2005(c)(1)]

The Department may terminate assistance whenever a household is evicted from a unit assisted under the CoC program for a serious or repeated violation of the lease. Incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

Department Policy

A household will be considered evicted if the household moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a household moves after the owner has given the household an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. In such cases the Department will determine whether the household has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures. In making its decision, the Department will consider the factors described in this Administrative Plan. Upon consideration of such factors, the Department may, on a case-by-case basis, choose not to terminate assistance.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests.

Failure to Provide Consent

The Department must terminate assistance if any household member fails to sign and submit any consent form they are required to sign for a reexamination. See Chapter 7 for a complete discussion of consent requirements.

Failure to Disclose and Document Social Security Numbers

[24 CFR 5.218(c)]

The Department must terminate assistance if a participant household fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the household is otherwise eligible for continued program assistance, and the Department determines that the household's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the household's control, the Department

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may defer the household's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the Department determined the household to be noncompliant.

Department Policy

The Department will defer the household's termination and provide the household with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the household, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

Methamphetamine Manufacture or Production

The Department must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

Death of the Sole Household Member

The Department must immediately terminate program assistance for deceased single member households.

11.1.E. Mandatory Policies and Other Authorized Terminations

Mandatory Policies

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

- Any household member has violated the household's obligation not to engage in violent criminal activity

Medical Marijuana

FUTURE POLICY TO BE DEVELOPED

Drug-Related and Violent Criminal Activity

[24 CFR 5.100]

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

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

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

Department Policy

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The Department may terminate a household's RAP if any household member has violated the household's obligation not to engage in gross drug-related, or violent criminal activity during participation in the CoC RAP program.

The Department will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

In making its decision to terminate assistance, the Department will consider alternatives as described in Section 11.2.C and other factors described in Sections 11.2.D and 11.2.E. Upon consideration of such alternatives and factors, the Department may, on a case-by-case basis, choose not to terminate assistance.

Other Authorized Reasons for Termination of Assistance

[24 CFR 5.2005(c)]

HUD permits the Department to terminate assistance under a number of other circumstances. It is left to the discretion of the Department whether such circumstances in general warrant consideration for the termination of assistance. As discussed further in section 11.2.E, the Violence against Women Act of 2005 explicitly prohibits Departments from considering incidents of, or criminal activity directly related to, domestic violence, dating violence, or stalking as reasons for terminating the assistance of a victim of such abuse.

Department Policy

The Department may terminate a household's assistance if:

- The household has failed to comply with any household obligations under the program.
- Any household member has been evicted from federally-assisted housing in the last five years.
- Any household member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- A household member has engaged in or threatened violent or abusive behavior toward Department personnel. Abusive or violent behavior towards Department personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
 - **Threatening** refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate assistance, the Department will consider alternatives as described in Section 11.2.C and other factors described in Sections 11.2.D and 11.2.E. Upon consideration of such alternatives and factors, the Department may, on a case-by-case basis, choose not to terminate assistance.

Household Absence from the Unit

The household may be absent from the unit for brief periods. The Department must establish a policy on how long the household may be absent from the assisted unit. However, the household may not be absent from the unit for a period of more than 90 consecutive calendar days for any reason. Absence in this context means that no member of the household is residing in the unit.

Department Policy

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If the household is absent from the unit for more than 90 consecutive calendar days, the household's assistance will be terminated. Notice of termination will be sent in accordance with Section 11.2.F.

The Department reserves the right to allow a thirty-day extension when requested by the household in writing, but will not permit absences beyond 120 days in any 12 month period except as a reasonable accommodation for a disabled or elderly household.

Insufficient Funding

The Department may terminate RAP contracts if the Department determines, in accordance with HUD requirements, that funding under the Federal FY CoC Homeless Assistance is insufficient to support continued assistance for households in the program.

Department Policy

The Department will determine whether there is sufficient funding to pay for currently assisted households. If the Department determines there is a shortage of funding, prior to terminating any RAP contracts, the Department will determine if any other actions can be taken to reduce program costs. If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the Department will terminate RAP contracts as a last resort.

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

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

Households that include either a disabled or elderly household member are given preference to retain assistance if possible.

A preference will then be given to the households which will assist them with re-entering the program once the insufficient funding issue has been resolved.

Part 2: Approach to Termination of Assistance

11.2.A. Overview

The Department is required by regulation to terminate a household's assistance if certain program rules are violated. For other types of offenses, the regulations give the Department the discretion to either terminate the household's assistance or to take another action. This part discusses the various actions the Department may choose to take when it has discretion, and outlines the criteria the Department will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notice that must be provided before terminating assistance.

11.2.B. Method of Termination

The way in which the Department terminates assistance depends upon individual circumstances. HUD permits the Department to terminate assistance by:

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- Terminating housing assistance payments under a current RAP contract
- Refusing to approve a request for tenancy or to enter into a new RAP contract

11.2.C. Alternatives to Termination of Assistance

Change in Household Composition

As a condition of continued assistance, the Department may require that any household member who participated in or was responsible for an offense no longer resides in the unit.

Department Policy

As a condition of continued assistance, the head of household must certify that the culpable household member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The household must present evidence of the former household member's current address upon Department request.

11.2.D. Criteria for Deciding to Terminate Assistance

Evidence

For criminal activity, HUD permits the Department to terminate assistance if a preponderance of the evidence indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted.

Department Policy

The Department will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence

Consideration of Circumstances

The Department is permitted, but not required, to consider all relevant circumstances when determining whether a household's assistance should be terminated.

Department Policy

The Department will consider the following factors when making its decision to terminate assistance:

- The seriousness of the case, especially with respect to how it would affect other residents
- The effects that termination of assistance may have on other members of the household who were not involved in the action or failure
- The extent of participation or culpability of individual household members, including whether the culpable household member is a minor or a person with disabilities or (as discussed further in section 11.2.E) a victim of domestic violence, dating violence, or stalking
- The length of time since the violation occurred, the household's recent history and the likelihood of favorable conduct in the future

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- The Department will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.
- In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the household

Reasonable Accommodation

If the household includes a person with disabilities, the Department's decision to terminate the household's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

Department Policy

If a household indicates that the behavior of a household member with a disability is the reason for a proposed termination of assistance, the Department will determine whether the behavior is related to the disability. If so, upon the household's request, the Department will determine whether alternative measures are appropriate as a reasonable accommodation. The Department will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. See Chapter 2 for a discussion of reasonable accommodation.

11.2.E. Terminations Related to Domestic Violence, Dating Violence, Or Stalking

This section addresses the protections against termination of assistance that the Violence against Women Act of 2005 (VAWA) provides for victims of domestic violence, dating violence, stalking, or sexual assault.

VAWA Protections against Termination

VAWA provides four specific protections against termination of CoC RAP assistance for victims of domestic violence, dating violence, stalking, or sexual assault. (Note: The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the CoC RAP program. So do the limitations discussed under the next heading.)

First, VAWA provides that a Department may not terminate assistance to a household that moves out of an assisted unit in violation of the lease, with or without prior notification to the Department, if the move occurred to protect the health or safety of a household member who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit.

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [24 CFR 5.2005(c)(1)].

Third, it provides that criminal activity directly related to domestic violence, dating violence, or stalking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or an affiliated individual of the tenant is the actual or threatened victim of the domestic violence, dating violence, or stalking [24 CFR 5.2005(c)(2)].

- An "affiliated individual" is defined by the Violence Against Women Reauthorization Act of 2013 as a spouse, parent, brother, sister, or child of the individual, or an individual to whom that individual stands

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in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual.

Fourth, it gives Departments the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against household members or others without terminating assistance to, or otherwise penalizing, the victim of the violence [24 CFR 5.2009(a)].

Limitations on VAWA Protections

[24 CFR 5.2005(d) and (e)]

VAWA does not limit the authority of a Department to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, or stalking so long as the Department does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(1)].

Likewise, VAWA does not limit the authority of a Department to terminate the assistance of a victim of domestic violence, dating violence, or stalking if the Department can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance [24 CFR 5.2005(d)(2)].

HUD regulations define actual and imminent threat to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a Department to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR 5.2005(d)(3)].

Department Policy

In determining whether a program participant who is a victim of domestic violence, dating violence, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the Department will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, or stalking
- Whether the threat is a physical danger beyond a speculative threat
- Whether the threat is likely to happen within a short period of time
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the participant wishes to contest the Department's determination that he or she is an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

Department Policy

When an individual facing termination of assistance for reasons related to domestic violence, dating violence, or stalking claims protection under VAWA, the Department will request that the individual provide documentation supporting the claim in accordance with the policies.

The Department reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the Department will document the waiver in the individual's file.

Terminating the Assistance of a Domestic Violence Perpetrator

Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives the Department the explicit authority to “terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against household members or others” without terminating assistance to “or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant” [24 CFR 5.2009(a)]. This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual household member. Further, this authority supersedes any local, state, or other federal law to the contrary. However, if the Department chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance. This means that the Department must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire household [3/16/07 Federal Register notice on the applicability of VAWA to HUD programs].

Department Policy

The Department will terminate assistance to a household member if the Department determines that the household member has committed criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking. Until HUD guidance is published, the Department shall provide the remaining tenant ninety (90) days to establish eligibility or find new housing under another covered housing program.

In making its decision, the Department will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066) or other documentation of abuse submitted to the Department by the victim in accordance with this section. The Department will also consider the factors in section 11.2.D. Upon such consideration, the Department may, on a case-by-case basis, choose not to terminate the assistance of the culpable household member.

If the Department does terminate the assistance of the culpable household member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.

If such bifurcation occurs, and the removed tenant or lawful occupant was the sole tenant eligible to receive assistance under the Rent Assistance Program, the Department shall provide any remaining tenant the opportunity to establish eligibility for the covered housing program. If the remaining tenant cannot establish eligibility, the Department is required to provide the tenant a reasonable time to find new housing or to establish eligibility under another covered housing program. HUD will provide through rulemaking or guidance, as may be applicable, what constitutes a reasonable time for remaining tenants to find new housing or establish eligibility under another HUD covered housing program. Departments will not be able to implement this provision until HUD provides such rulemaking or guidance. [VAWA 2013, Letter to Executive Directors September 30, 2013].

11.2.F. Termination Notice

HUD regulations require Departments to provide written notice of termination of assistance to a household only when the household is entitled to an informal hearing. However, since the household's RAP contract and lease will also terminate when the household's assistance terminates. It is a good business practice to provide written notification to both owner and household anytime assistance will be terminated, whether voluntarily or involuntarily.

Department Policy

Whenever a household's assistance will be terminated, the Department will send a written notice of termination to the household and to the owner of the household's unit. The notice will state the date on which the termination will become effective. This date generally will be at least 30 calendar days following the date of the termination notice, but exceptions will be made whenever HUD rules, other Department policies, or the circumstances surrounding the termination require.

When the Department notifies an owner that a household's assistance will be terminated, the Department will, if appropriate, advise the owner of his/her right to offer the household a separate, unassisted lease.

If a household whose assistance is being terminated is entitled to an informal hearing, the notice of termination that the Department sends to the household must meet the additional HUD and Department notice requirements. Although HUD does not require Departments to include information about the protections against termination of assistance provided by the Violence against Women Act of 2005 (VAWA) to victims of domestic violence, dating violence, stalking, or sexual assault, Departments have the discretion to include such information.

Department Policy

Whenever the Department decides to terminate a household's assistance because of the household's action or failure to act, the Department will include in its termination notice the VAWA information described in this plan and will request that a household member wishing to claim protection under VAWA notify the Department within 10 business days.

Part 3: Termination of Tenancy by the Owner

11.3.A. Overview

Termination of an assisted tenancy is a matter between the owner and the household; the Department is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy; the reasons for which a tenancy is terminated dictate whether assistance also will be terminated.

11.3.B. Grounds for Owner Termination of Tenancy

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

Serious or Repeated Lease Violations

The owner is permitted to terminate the household's tenancy for serious or repeated violations of the terms and conditions of the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, or stalking and the victim is protected from eviction by the Violence against Women Act of 2005 (see section 11.2.E). A serious lease violation includes failure to pay rent or other amounts due

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under the lease. However, the Department's failure to make a RAP payment to the owner is not a violation of the lease between the household and the owner.

Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a household member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

Criminal Activity

The owner may terminate tenancy during the term of the lease if any covered person—meaning any member of the household, a guest, or another person under the tenant's control—commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises)
- Any criminal activity that 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

However, in the case of criminal activity directly related to domestic violence, dating violence, or stalking, if the tenant or an immediate member of the tenant's household is the victim, the criminal activity may not be construed as cause for terminating the victim's tenancy (see section 11.2.E).

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a household for criminal activity by a covered person if the owner determines the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction.

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the household did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

- Failure by the household to accept the offer of a new lease or revision

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- The owner's desire to use the unit for personal or household use, or for a purpose other than as a residential rental unit
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent)

After the initial lease term, the owner may give the household notice at any time, in accordance with the terms of the lease.

11.3.C. Eviction

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

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. The owner may only evict the tenant from the unit by instituting a court action. The owner must give the Department a copy of any eviction notice at the same time the owner notifies the household. The household is also required to give the Department a copy of any eviction notice (see Chapter 5).

Department Policy

If the eviction action is finalized in court, the owner must provide the Department with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

11.3.D. Deciding Whether to Terminate Tenancy

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action
- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by households who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's action on the integrity of the program.

The owner may require a household to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is

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participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, or stalking is limited by the Violence against Women Act of 2005 (VAWA) and the conforming regulations in 24 CFR Part 5, Subpart L. (See section 11.2.E.)

11.3.E. Effect of Tenancy Termination On The Household's Assistance

If a termination is not due to a serious or repeated violation of the lease, and if the Department has no other grounds for termination of assistance, the Department may issue a new Family Tenancy Agreement so that the household can move with continued assistance (see Chapter 10).

CHAPTER 12: PROGRAM ADMINISTRATION

Introduction

This Chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

- **Part 1: Setting Program Standards and Schedules.** This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.
- **Part 2: Informal Reviews and Hearings.** This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.
- **Part 3: Matching Requirements.** This section covers cash and in-kind match requirements. In general, the recipient or sub recipient must match all grant funds, except for leasing funds, with no less than 25 percent of funds or in-kind contributions from other sources.
- **Part 4: Record-Keeping.** All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the Department will follow.
- **Part 5: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level.** This part describes the Department's responsibilities for reporting, data collection, and record keeping relative to children with environmental intervention blood lead levels that are less than six years of age, and are receiving CoC Assistance.
- **Part 6: Determination of Insufficient Funding.** This part describes the Department's policies for determining if there is sufficient funding to issue subsidy, to approve moves to higher cost units or areas, and to continue assistance for all participant households.
- **Part 7: Violence against Women Act (VAWA): Notification, Documentation, and Confidentiality.** This part contains key terms used in VAWA and describes requirements related to notifying households and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, stalking, or sexual assault; and maintaining the confidentiality of information obtained from victims.
- **Part 8: Continuum of Care, Responsibilities and Operation.** This part contains Codes of Federal Regulations regarding requirement of each CoC that pertain to responsibilities, operation and responsibilities including representative involvement of the homeless population.

Part 1: Setting Program Standards and Schedules

12.1.A. Overview

Although many of the program's requirements are established centrally by HUD, the CoC program's regulations recognize that some flexibility is required to allow the Department to adapt the program to local conditions. This part discusses how the Department establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual households are provided in other Chapters. The schedules and standards discussed here include:

- Utility Allowances, which specify how a household's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

Department Policy

Copies of the utility allowance schedules are available for review in the Department's offices during normal business hours.

Households, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

The Department will maintain documentation to support its annual review of the utility allowance schedules. This documentation will be retained for at least 3 years.

12.1.B. Utility Allowances

[24 CFR 982.517]

A Department-established utility allowance schedule is used in determining household share and Department subsidy. The Department must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection. The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the Department must use normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, the Department must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type. Chapter 18 of the HCV Guidebook provides detailed guidance to the Department about establishing utility allowance schedules.

Air Conditioning

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An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

Department Policy

The Department does not include an allowance for air-conditioning in its schedule.

Reasonable Accommodation

Program regulations require a Department to approve a utility allowance amount higher than shown on the Department's schedule if a higher allowance is needed as a reasonable accommodation for a household member with a disability. For example, if a household member with a disability requires such an accommodation, the Department will approve an allowance for air-conditioning, even if the Department has determined that an allowance for air-conditioning generally is not needed (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

Utility Allowance Revisions

The Department must review its schedule of utility allowances each year, and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised.

The Department must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

Part 2: Informal Reviews and Hearings

12.2.A. Overview

When the Department makes a decision that has a negative impact on a household, the household is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal review; for participants, or for applicants denied admission because of citizenship issues, the appeal takes the form of an informal hearing.

Departments are required to include in their administrative plans, informal review procedures for applicants, and informal hearing procedures for participants.

12.2.B. Informal Reviews

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a "minimum hearing requirement", and need not be as elaborate as the informal hearing requirements [Federal Register 60, no. 127 (3 July 1995): 34690].

Decisions Subject to Informal Review

The Department must give an applicant the opportunity for an informal review of a decision denying assistance. Denial of assistance may include any or all of the following:

- Denying listing on the Department waiting list
- Denying or withdrawing subsidy
- Refusing to enter into a RAP contract or approve a lease

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Informal reviews are not required for the following reasons:

- Discretionary administrative determinations by the Department
- General policy issues or class grievances
- A determination of the household unit size under the Department subsidy standards
- A Department determination not to grant approval of the tenancy
- A Department determination that the unit is not in compliance with the HQS
- A Department determination that the unit is not in accordance with the HQS due to household size or composition

Department Policy

The Department will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the Department waiting list; denying or withdrawing subsidy; refusing to enter into a RAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

Notice to the Applicant

The Department must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the Department decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

Scheduling an Informal Review

A request for an informal review must be made in writing and delivered to the Department either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the Department's notice of denial of assistance.

The Department will offer the household the opportunity to select a review by mail or a review in person.

- If the household elects to have an Informal Review by mail:
 - The household will be informed that they may submit any evidence or documentation they feel supports their case with their request for an informal review.
 - If the review can be conducted and completed within 15 calendar days of the household's request for a review, a notice will be sent to the household detailing the outcome of the review.
 - If the review cannot be conducted within 15 calendar days of the household's request, a letter confirming receipt of their request will be sent within 15 calendar days. The review will then be conducted, and a notice mailed to the household detailing the outcome of the review, within 30 days of the household's request.
- If the household elects to have an Informal Review in person:
 - The Department will notify the applicant within 15 calendar days from the date it receives the applicant's written request for an informal review that a review has been scheduled. The review will be scheduled within 10 business days from the date the notification is sent to the applicant.
 - If the household does not appear at the stated date and time, and there is no known reason for the absence, the denial of admission will stand and the household will be so notified.
 - The Department will reschedule Informal Reviews only for verifiable, bona fide emergencies or as a reasonable accommodation to a person with a disability.

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After the informal review has been completed, the Department will notify the applicant of its decision no more than 15 calendar days from the date of the informal review. If more time is needed in order to reach a decision, the applicant will be informed with 10 business days from the date of the informal review.

In all cases, the Department will make its best effort to complete the Informal Review process and notify the household of its decision within 30 calendar days of receipt of a request for an Informal Review.

Informal Review Procedures

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of the Department.

Informal Review Decision

The Department must notify the applicant of the Department's final decision, including a brief statement of the reasons for the final decision.

Department Policy

In rendering a decision, the Department will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the Notice.
- The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.
- The validity of the evidence. The Department will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the Department will uphold the decision to deny assistance.

If the facts prove the grounds for denial, and the denial is discretionary, the Department will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The Department will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review the applicant may be returned to the waiting list with the same date and time of application or the review officer may determine that processing for admission should resume.

If the household fails to appear for their informal review, the denial of admission will stand and the household will be so notified.

After the Informal Review decision is made, the household has the right to seek judicial review by Writ of Review under ORS 34.010-34.100 if a petition is filed within 60 days from the date of the decision.

12.2.C. Informal Hearings for Participants

Departments must offer an informal hearing for certain Department determinations relating to the individual circumstances of a participant household. A participant is defined as a household that has been admitted to the Department's RAP program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the Department's decisions related to the household's circumstances are in accordance with the law, HUD regulations and Department policies.

The Department is not permitted to terminate a household's assistance until the time allowed for the household to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a RAP contract or approve a lease
- Terminating housing assistance payments under an outstanding RAP contract

Decisions Subject to Informal Hearing

Circumstances for which the Department must give a participant household an opportunity for an informal hearing are as follows:

- A determination of the household's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the Department utility allowance schedule
- A determination of the household unit size under the Department's subsidy standards
- A determination to terminate assistance for a participant household because of the household's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under Department policy and HUD rules

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by the Department
- General policy issues or class grievances
- Establishment of the Department schedule of utility allowances for households in the program
- A Department determination not to approve an extension or suspension of subsidy term
- A Department determination not to approve a unit or tenancy
- A Department determination that a unit selected by the applicant is not in compliance with the HQS
- A Department determination that the unit is not in accordance with HQS because of household size
- A determination by the Department to exercise or not to exercise any right or remedy against an owner under a RAP contract

Department Policy

The Department will only offer participants the opportunity for an informal hearing when required to by the regulations.

Informal Hearing Procedures

Notice to the Household

When the Department makes a decision that is subject to informal hearing procedures, the Department must inform the household of its right to an informal hearing at the same time that it informs the household of the decision.

For decisions related to the household's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the household unit size, the Department must notify the household that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the household's assistance, or the denial of a household's request for an exception to the Department's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the household does not agree with the decision, the household may request an informal hearing on the decision, and a statement of the deadline for the household to request an informal hearing.

Department Policy

In cases where the Department makes a decision for which an informal hearing must be offered, the notice to the household will include all of the following:

- The proposed action or decision of the Department.
- A brief statement of the reasons for the decision including the regulatory reference.
- The date the proposed action will take place.
- A statement of the household's right to an explanation of the basis for the Department's decision.
- A statement that if the household does not agree with the decision the household may request an informal hearing of the decision.
- A deadline for the household to request the informal hearing.
- To whom the hearing request should be addressed.

Scheduling an Informal Hearing

When an informal hearing is required, the Department must proceed with the hearing in a reasonably expeditious manner upon the request of the household.

Department Policy

A request for an informal hearing must be made in writing and delivered to the Department either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the Department's decision or notice to terminate assistance.

The Department must schedule and send written notice of the informal hearing to the household within 10 business days of the household's request.

The household may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the household. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the Department may request documentation of the "good cause" prior to rescheduling the hearing.

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If the household does not appear at the scheduled time, the Department will consider the household to have defaulted the hearing unless the absence was for an unavoidable emergency that threatened the health, safety, or welfare of the household.

If the household contacts the Department within 24 hours of the scheduled hearing date, excluding weekends and holidays, the Department, at its discretion, may reschedule the hearing.. The Department will reschedule the hearing only if the household can provide verification of the emergency that caused the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Pre-Hearing Right to Discovery

Participants and the Department are permitted pre-hearing discovery rights. The household must be given the opportunity to examine before the hearing any Department documents that are directly relevant to the hearing. The household must be allowed to copy any such documents at their own expense. If the Department does not make the document available for examination on request of the household, the Department may not rely on the document at the hearing.

The Department hearing procedures may provide that the Department must be given the opportunity to examine at the Department offices before the hearing, any household documents that are directly relevant to the hearing. The Department must be allowed to copy any such document at the Department's expense. If the household does not make the document available for examination on request of the Department, the household may not rely on the document at the hearing.

For the purpose of informal hearings, documents include records and regulations.

Department Policy

The household will be allowed to copy any documents related to the hearing at a cost in accordance with the Washington County, Oregon Fee Schedule. The household must request discovery of Department documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date

The Department must be given an opportunity to examine at the Department offices before the hearing any household documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, the Department will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date.

Participant's Right to Bring Counsel

Informal Hearing Officer

Informal hearings will be conducted by a person or persons approved by the Department, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

Household may be represented by Service Provider Agency staff, a lawyer, or other representative during hearing at the household's expense.

Department Policy

The Department has designated the following to serve as hearing officers: Gloria Bryen, MSW

Attendance at the Informal Hearing

Hearings may be attended by a hearing officer and the following applicable persons:

- A Department representative(s) and any witnesses for the Department
- The participant and any witnesses for the participant
- The participant's counsel or other representative
- Any other person approved by the Department as a reasonable accommodation for a person with a disability

Conduct at Hearings

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the Department's hearing procedures.

Department Policy

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

Evidence

The Department and the household must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

Department Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are five categories of evidence:

- **Oral evidence:** the testimony of witnesses
- **Documentary evidence:** a writing which is relevant to the case, for example, a letter written to the Department. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.
- **Demonstrative evidence:** Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.
- **Real evidence:** A tangible item relating directly to the case.
- **Hearsay Evidence:** is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either the Department or the household fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

Hearing Officer's Decision

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The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the household must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the household.

Department Policy

In rendering a decision, the hearing officer will consider the following matters:

- **Department Notice to the Household:** The hearing officer will determine if the reasons for the Department's decision are factually stated in the Notice.
- **Discovery:** The hearing officer will determine if the Department and the household were given the opportunity to examine any relevant documents in accordance with Department policy.
- **Department Evidence to Support the Department Decision:** The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the Department's conclusion.
- **Validity of Grounds for Termination of Assistance (when applicable):** The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and Department policies. If the grounds for termination are not specified in the regulations or in compliance with Department policies, then the decision of the Department will be overturned.
- The hearing officer will issue a written decision to the household and the Department no later than 20 business days after the hearing. The report will contain the following information:
 - Hearing information:
 - Name of the participant;
 - Date, time and place of the hearing;
 - Name of the hearing officer;
 - Name of the Department representative; and
 - Name of household representative (if any).
- **Background:** A brief, impartial statement of the reason for the hearing.
- **Summary of the Evidence:** The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.
- **Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.
- **Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the Department's decision.
- **Order:** The hearing report will include a statement of whether the Department's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the Department to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct the Department to restore the participant's program status.

Procedures for Rehearing or Further Hearing

The hearing officer may ask the household for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the household misses an appointment or deadline

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ordered by the hearing officer, the action of the Department will take effect and another hearing will not be granted.

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

Department Notice of Final Decision

The Department is not bound by the decision of the hearing officer for matters in which the Department is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State or local laws.

If the Department determines it is not bound by the hearing officer's decision in accordance with HUD regulations, the Department must promptly notify the household of the determination and the reason for the determination.

The Department will mail a "Notice of Final Decision" including the hearing officer's report, to the participant and their representative. This Notice will be sent by first-class mail and certified mail. A copy of the "Notice of Final Decision" along with the original proof mailing will be maintained in the Department's file.

Part 3: Matching Requirements

Matching Requirements

- In general. The recipient or sub recipient must match all grant funds, except for leasing funds, with no less than 25 percent of funds or in-kind contributions from other sources.
- Cash sources. Funds from any source, including any other federal sources (excluding Continuum of Care program funds), as well as State, local, and private sources, provided that funds from the source are not statutorily prohibited to be used as a match. The recipient must ensure that any funds used to satisfy the matching requirements of this section are eligible under the laws governing the funds in order to be used as matching funds for a grant awarded under this program.
- In-kind contributions.
 - The value of any real property, equipment, goods, or services contributed to the project as match, provided that if the recipient or sub recipient had to pay for them with grant funds, the costs would have been eligible under Subpart D.
 - The requirements for 24 CFR 84.23 and 85.24 apply.
 - Services to be provided by a third party must be documented by a memorandum of understanding (MOU) between the sub recipient and the third party that will provide the services. Services provided by individuals must be valued at rates consistent with those ordinarily paid for similar work in the organization.
 - a. The MOU must establish the unconditional commitment, by the third party to provide the services, the specific service to be provided, the profession of the persons providing the service, and the hourly cost of the service to be provided.
 - b. Records documenting the service hours provided must be retained and made available for inspection, if requested.

Understanding Match

Match is defined as the agency's contribution to the project. Match in the CoC Program is restricted to the costs identified in Subpart D of the CoC Program interim rule and the applicable OMB Circulars.

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Match in the CoC Program may be in the form of cash or in-kind contributions and must be used by the recipient or subrecipient on costs for the project.

What is NOT Match?

- Program income
- Cash or any in-kind contribution used as match for another grant
- Cash or in-kind contributions statutorily prohibited as match
- Program Participant Savings
 - Savings belong to the program participant, not the recipient or subrecipient

Summary of Match Requirements

- All CoC Program costs and match must be in your approved budget
- Must be able to document all costs
- Match requirement – 25% cash or in-kind for all line items except leasing
- Match is provide to the CoC Program grant, not to a specific budget line item
- Matching funds can only be used on eligible CoC Program costs

Part 4: Record Keeping

12.4.A. Overview

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

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

12.4.B. Record Retention

[24 CFR 578]

During the term of each assisted lease, and for at least 5 years thereafter, the Department must keep:

- A copy of the executed lease;
- The RAP contract; and
- The application from the household.

In addition, the Department must keep the following records for at least five years:

Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants:

- An application from each ineligible household and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.

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- Accounts and other records supporting Department budget and financial statements for the program;
- Records to document the basis for Department determination that rent to owner is a reasonable rent (initially and during the term of a RAP contract); and
- Other records specified by HUD.

If an informal hearing to establish a household's citizenship status is held, longer retention requirements apply for some types of documents.

12.4.C. Records Management

Departments must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

Department Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized Department staff. Any records that are maintained electronically will be kept in a secure network environment.

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

Privacy Act Requirements

[24 CFR 5.212 and Form-9886]

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

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the Department may release the information collected.

Criminal Records

The Department may only disclose the criminal conviction records which the Department receives from a law enforcement agency to officers or employees of the Department, or to authorized representatives of the Department who have a job-related need to have access to the information [24 CFR 5.903(e)].

The Department must establish and implement a system of records management that ensures that any criminal record received by the Department from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the Department action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The Department must establish and implement a system of records management that ensures that any sex offender registration information received by the Department from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record

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was requested has been accomplished, including expiration of the period for filing a challenge to the Department action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a Department other than under 24 CFR 5.905.

Department Policy

Department files are kept in a secured area, in locked file cabinets, or are maintained electronically in a secure network environment.

Criminal record data is kept only while it is in use (i.e. during a denial or termination procedure) and then it is securely destroyed (shredded) immediately afterwards.

Medical/Disability Records

Departments are not permitted to inquire about the nature or extent of a person’s disability. The Department may not inquire about a person’s diagnosis or details of treatment for a disability or medical condition. If the Department receives a verification document that provides such information, the Department should not place this information in the tenant file. The Department should destroy the document.

Documentation of Domestic Violence, Dating Violence, or Stalking

For requirements and Department policies related to management of documentation obtained from victims of domestic violence, dating violence, stalking, or sexual assault.

Part 5: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level

12.5.A. Overview

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

12.5.B. Reporting Requirement

[24 CFR 35.1225(e)]

The Department must report the name and address of a child identified as having an environmental intervention blood lead level to the public health Department within 5 business days of being so notified by any other medical health care professional.

Department Policy

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

12.5.C. Data Collection and Record Keeping

[24 CFR 35.1225(f)]

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

If the Department obtains names and addresses of environmental intervention blood lead level children from the public health Department(s), the Department must match this information with the names and addresses of households receiving RAP, unless the public health Department performs such a procedure. If a match occurs, the Department must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the Department must also report an updated list of the addresses of units receiving assistance under the RAP program to the same public health Department(s), unless the public health Department(s) states that it does not wish to receive such a report.

Department Policy

The public health Department has stated they do not wish to receive a report of an updated list of the addresses of units receiving assistance under the RAP program, on a quarterly basis. Therefore, the Department is not providing such a report.

Part 6: Determination of Insufficient Funding

12.6.A. Overview

HUD regulations allow Departments to deny households permission to move and to terminate Rental Assistance Payments (RAP) contracts if funding under the consolidated CoC Homeless Program is insufficient to support continued assistance. Insufficient funding may also impact the Department's ability to issue RAP to households on a waiting list. This part discusses the methodology the Department will use to determine whether or not the Department has sufficient funding to issue subsidy, approve moves, and to continue subsidizing all households currently under a RAP contract.

12.6.B. Methodology

Department Policy

The Department will determine whether there is adequate funding to issue subsidy, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the Department's annual budget authority to the annual total RAP needs on a monthly basis. The total RAP needs for the calendar year will be projected by establishing the actual RAP costs year to date. To that figure, the Department will add anticipated RAP expenditures for the remainder of the calendar year. Projected RAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average RAP. The projected number of units leased per month will take into account the average monthly turnover of participant households. If the total annual RAP needs equal or exceed the annual budget authority, or if the Department cannot support the cost of the proposed subsidy commitment (subsidy issuance or move) based on the funding analysis, the Department will be considered to have insufficient funding.

Part 7: Violence Against Women Act (VAWA): Notification, Documentation, Confidentiality

12.7.A. Overview

The Violence against Women Act of 2005 and the Violence Against Women Reauthorization Act of 2013 (herein referred to collectively as "VAWA") provide special protections for victims of domestic violence, dating violence, stalking, or sexual assault who are applying for or receiving assistance under the Rental

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Assistance Program. If your state or local laws provide greater protection for such victims, those laws take precedence over VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and Department policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and Department policies are located primarily in the following sections: 3.1.C, “Household Breakup and Remaining Member of Tenant Household”; 3.3.G, “Prohibition against Denial of Assistance to Victims of domestic violence, dating violence, stalking, or sexual assault”; 10.1.A, “Allowable Moves”; 10.1.B, “Restrictions on Moves”; 12.2.E, “Terminations Related to Domestic Violence, Dating Violence, or Stalking”; and 12.2.F, “Termination Notice.”

12.7.B. Definitions

[24 CFR 5.2003]

As used in VAWA:

- The term *bifurcate* means (with respect to a CoC RAP lease): to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining household members’ lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means: violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship
 - The type of relationship
 - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes: felony or misdemeanor crimes of violence committed by a current or former spouse of the victim or:
 - By a person with whom the victim shares a child in common
 - By a person who is cohabitating with or has cohabitated with the victim as a spouse
 - By a person similarly situated to a spouse of the victim under the domestic or household violence laws of the jurisdiction receiving grant monies
 - By any other person against an adult or youth victim who is protected from that person’s acts under the domestic or household violence laws of the jurisdiction.
- The term *affiliated individual* means, with respect to a person:
 - A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in loco parentis (in the position or place of a parent); or
 - Any other individual, tenant, or lawful occupant living in the household of that individual.
- The term *stalking* means:
 - To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or
 - To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and
 - In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate household of that person, or (3) the spouse or intimate partner of that person.

12.7.C. Notification

[24 CFR 5.2005(a)]

Notification to Public

The Department adopts the following policy to help ensure that all actual and potential beneficiaries of its CoC RAP program are aware of their rights under VAWA.

Department Policy

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

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

The Department will also provide notice of VAWA protection, and a copy of the applicable certification form (currently HUD-50066), when an individual or household is admitted to the program, denied assistance, or notified of termination of housing benefits.

- Notification of VAWA protection at admission will be provided as part of the RAP Briefing. A written notice, and the applicable certification form, will be included as part of the briefing packet.

Notification to Program Applicants and Participants

[24 CFR 5.2005(a)(1)]

Departments are required to inform program participants of their rights under VAWA, including their right to confidentiality and the limits thereof. Since VAWA provides protections for applicants as well as participants, Departments may elect to provide the same information to applicants.

Department Policy

The Department will include information about VAWA in all notices of denial of assistance.

The Department will provide all participants with information about VAWA at the time of admission (see section 5.1.B) and at annual reexamination. The Department will also include information about VAWA in notices of termination of assistance, as provided in section 12.2.F.

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

Notification to Owners and Managers

Departments are required to notify owners and managers participating in the CoC RAP program of their rights and obligations under VAWA.

Department Policy

The Department will provide owners and managers with information about their rights and obligations under VAWA when they begin their participation in the CoC RAP program and at least annually thereafter.

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

12.7.D. Documentation

[24 CFR 5.2007]

A Department presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The Department may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the Department’s request by providing any one of the following forms of documentation [24 CFR 5.2007(b) and VAWA 2013]:

- A completed and signed HUD-approved certification form (HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking), which must include the name of the perpetrator.
- A federal, state, tribal, territorial, or local police report or court record.
- Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person’s belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.
- Record of an administrative agency.
- Documentation from a mental health professional.

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

Department Policy

Any request for documentation of domestic violence, dating violence, or stalking will specify a deadline of 10 business days following receipt of the request, will describe the forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

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

Conflicting Documentation

[24 CFR 5.2007(e)]

In cases where the Department receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the Department may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The Department must honor any court orders issued to protect the victim or to address the distribution of property.

Department Policy

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

Discretion to Require No Formal Documentation

[24 CFR 5.2007(d)]

The Department has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b).

Department Policy

If the Department accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, or stalking, the Department will document acceptance of the statement or evidence in the individual's file.

Failure to Provide Documentation

[24 CFR 5.2007(c)]

In order to deny relief for protection under VAWA, a Department must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 10 business days from the date of receipt, or such longer time as the Department may allow, the Department may deny relief for protection under VAWA.

12.7.E. Confidentiality

[24 CFR 5.2007(b)(4)]

All information provided to the Department regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence. This means that the Department (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

Department Policy

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If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the Department will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

Part 8: Continuum of Care, Responsibilities and General Operations

[24 CFR 578.5 and 578.75]

Establishing to Continuum of Care

Representatives from relevant organizations within a geographic area shall establish a Continuum of Care for the geographic area to carry out the duties of this part. Relevant organizations include nonprofit homeless assistance providers, victim service providers, faith-based organizations, governments, business, advocates, public housing agencies, school districts, social service providers, mental health agencies, hospitals, universities, affordable housing developers, law enforcement and organizations that service veterans and homeless and formerly homeless individuals.

The CoC must establish a board to act on behalf of the Continuum using the process established as a requirement and must comply with the conflict-of-interest requirements. The board must be representative of the relevant organization and of projects service homeless subpopulations and include at least one homeless or formerly homeless individual.

Responsibilities of the CoC

[24 CFR 578.7]

Operating a CoC includes the following:

- Hold meetings of the full membership, with published agendas, at least semi-annually;
- Make an invitation for new members to join publicly available within the geographic at least annually;
- Adopt and follow a written process to select a board to act on behalf of the Continuum of Care. The process must be reviewed, updated, and approved by the Continuum at least once every 5 years;
- Appoint additional committees, subcommittees, or workgroups;
In consultation with the collaborative applicant and the HMIS Lead, develop, follow, and update annually a governance charter, which will include all procedures and policies needed to comply with subpart B of this part and with HMIS requirements as prescribed by HUD; and a code of conduct and recusal process for the board, its chair(s), and any person acting on behalf of the board;
- Consult with recipients and sub recipients to establish performance targets appropriate for population and program type, monitor recipient and subrecipient performance, evaluate outcomes, and take action against poor performers;
- Evaluate outcomes of projects funded under the Emergency Solutions Grants program and the Continuum of Care program, and report to HUD;
- In consultation with recipients of Emergency Solutions Grants program funds within the geographic area, establish and operate either a centralized or coordinated assessment system that provides an initial, comprehensive assessment of the needs of individuals and families for housing and services. The Continuum must develop a specific policy to guide the operation of the centralized or coordinated assessment system on how its system will address the needs of individuals and families who are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, or stalking, but who are seeking shelter or services from non-victim service providers. This system must comply with any requirements established by HUD by Notice.

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- In consultation with recipients of Emergency Solutions Grants program funds within the geographic area, establish and consistently follow written standards for providing Continuum of Care assistance. At a minimum, these written standards must include:
 - Policies and procedures for evaluating individuals' and families' eligibility for assistance under this part;
 - Policies and procedures for determining and prioritizing which eligible individuals and families will receive transitional housing assistance;
 - Policies and procedures for determining and prioritizing which eligible individuals and families will receive rapid rehousing assistance;
 - Standards for determining what percentage or amount of rent each program participant must pay while receiving rapid rehousing assistance;
 - Policies and procedures for determining and prioritizing which eligible individuals and families will receive permanent supportive housing assistance; and
 - Where the Continuum is designated a high-performing community, as described in subpart G of this part, policies and procedures set forth in 24 CFR 576.400(e)(3)(vi), (e)(3)(vii), (e)(3)(viii), and (e)(3)(ix).

Designate and Operate an HMIS

A Continuum of Care must

- Designate a single Homeless Management Information System (HMIS) for the geographic area;
- Designate an eligible applicant to manage the Continuum's HMIS, which will be known as the HMIS Lead;
- Review, revise, and approve a privacy plan, security plan, and data quality plan for the HMIS.
- Ensure consistent participation of recipients and subrecipients in the HMIS; and
- Ensure the HMIS is administered in compliance with requirements prescribed by HUD.

Planning

The Continuum must:

Coordinate the implementation of a housing and service system within its geographic area that meets the needs of the homeless individuals (including unaccompanied youth) and families. At a minimum, such system encompasses the following:

- Outreach, engagement, and assessment;
- Shelter, housing, and supportive services;
- Prevention strategies.
- Planning for and conducting, at least biennially, a point-in-time count of homeless persons within the geographic area that meets the following requirements:
 - Homeless persons who are living in a place not designed or ordinarily used as a regular sleeping accommodation for humans must be counted as unsheltered homeless persons.
 - Persons living in emergency shelters and transitional housing projects must be counted as sheltered homeless persons.
 - Other requirements established by HUD by Notice.
- Conducting an annual gaps analysis of the homeless needs and services available within the geographic area;
- Providing information required to complete the Consolidated Plan(s) within the Continuum's geographic area;
- Consulting with State and local government Emergency Solutions Grants program recipients within the Continuum's geographic area on the plan for allocating Emergency Solutions Grants program funds and reporting on and evaluating the performance of Emergency Solutions Grants program recipients and sub recipients.

Participation of Homeless Individuals

Each recipient and sub recipient must provide for the participation of not less than one homeless individual or formerly homeless individual on the board of directors of other equivalent policy making entity of the recipient or sub recipient, to the extent that such entity considers and makes policies and decision regarding any project, supportive services, or assistance provided under this part. This requirement is waived if a recipient or sub recipient is unable to meet such requirement and obtains HUD approval for a plan to otherwise consult with homeless or formerly homeless persons when considering and making policies and decisions

Each recipient and sub recipient of assistance under this part must, to the maximum extent practicable, involve homeless individuals and families through employment; volunteer services; or otherwise in constructing, rehabilitation, maintaining, and operating the project, and in providing supportive services for the project.

DRAFT

DRAFT COPY ONLY
CERTIFICATION OF
DOMESTIC VIOLENCE,
DATING VIOLENCE,
SEXUAL ASSAULT, OR STALKING,
AND ALTERNATE DOCUMENTATION

U.S. Department of Housing
and Urban Development

OMB Approval No. 2577-0286
Exp. 06/30/2017

Appendix A

Purpose of Form: The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

Use of This Optional Form: If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

Submission of Documentation: The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

1. **Date the written request is received by victim:** _____
2. **Name of victim:** _____
3. **Your name (if different from victim’s):** _____
4. **Name(s) of other family member(s) listed on the lease:** _____

5. Residence of victim: _____

6. Name of the accused perpetrator (if known and can be safely disclosed): _____

7. Relationship of the accused perpetrator to the victim: _____

8. Date(s) and times(s) of incident(s) (if known): _____

10. Location of incident(s): _____

In your own words, briefly describe the incident(s):

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____ Signed on (Date) _____

Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.