

# MEMORANDUM

Agenda Item No. 8(K)(6)

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**TO:** Honorable Chairman Oliver G. Gilbert, III  
and Members, Board of County Commissioners

**DATE:** December 12, 2023

**FROM:** Geri Bonzon-Keenan  
County Attorney

**SUBJECT:** Resolution approving, after a public hearing, Public Housing and Community Development Department's revised Section 8 Administrative Plan (Administrative Plan), Public Housing Admission and Continued Occupancy Policy (Policy), and the Public Housing Tenant Lease Agreement (lease); and authorizing the County Mayor to exercise and enforce the provisions set forth in the Administrative Plan, Policy and lease, and make any necessary revisions to the Administrative Plan, Policy, and lease, subject to the limitations of the plan's "Significant Amendment and Substantial Deviation" definition contained in the County's Fiscal Year 2023-2024 Public Housing Agency Plan, or as may be required by regulation, statute, or court order, or safety and security issues, without further approval of the Board

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The accompanying resolution was prepared by the Public Housing and Community Development Department and placed on the agenda at the request of Prime Sponsor Housing, Recreation, Culture and Community Development Committee.

  
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Geri Bonzon-Keenan  
County Attorney

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# Memorandum



**Date:** December 12, 2023

**To:** Honorable Chairman Oliver G. Gilbert, III  
and Members, Board of County Commissioners

**From:** Daniella Levine Cava *Daniella Levine Cava*  
Mayor

**Subject:** Resolution Approving the Miami-Dade County's Public Housing and Community Development Department's Section 8 Administrative Plan, Admissions and Continued Occupancy Policy, and Public Housing Tenant Lease Agreement

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## **Executive Summary**

The Public Housing and Community Development Department's (PHCD) Section 8 Administrative Plan (Administrative Plan) and the Admission and Continued Occupancy Policy (ACOP) establish written strategies and policies to manage federally-subsidized programs in accordance with United States Department of Housing and Urban Development's (HUD) regulations and other matters not specifically covered under the United States Housing Act of 1937 and HUD regulations. The HUD regulations that govern these programs are documented in Title 24 of the Code of Federal Regulations (CFR).

The Administrative Plan provides strategies for the Section 8 programs such as Housing Choice Voucher, Moderate Rehabilitation, Project Based Voucher (PBV), and PBV-Rental Assistance Demonstration (PBV-RAD) programs. The ACOP provides the policies for the Public Housing program.

The PHCD's Public Housing Tenant lease Agreement (lease) contains the rules and regulations governing every aspect of residency at public housing developments with the purpose of providing decent, safe and sanitary housing. The lease also complies with HUD regulations that govern the Public Housing program.

The approval of the Administrative Plan, ACOP, and lease is required to implement new policies and procedures for programs such as Project Based Vouchers (PBVs) under the Rental Assistance Demonstration (RAD) Program (applicable to the Administrative Plan), and updating policy with HUD's regulations effective January 1, 2024, upon the implementation of the Housing Opportunity Through Modernization Act of 2016 (HOTMA) which are applicable to the Administrative Plan, ACOP, and lease.

## **Recommendation**

It is recommended that the Board of County Commissioners (Board):

1. Approve, after a public hearing, PHCD's revised Administrative Plan, ACOP, and lease;
2. Authorize the County Mayor or County Mayor's designee to exercise and enforce the provisions set forth in the Administrative Plan, ACOP and lease; and

3. Authorize the County Mayor or County Mayor's designee to make any necessary revisions to the Administrative Plan, ACOP, and lease, subject to the limitations of the "Significant Amendment and Substantial Deviation" definition as defined in the Public Housing Agency (PHA) Plan for Fiscal Year 2023-2024 adopted on July 18, 2023, by the Board through Resolution No. R-695-23, or as may be required by regulation, statute, court order, or safety and security issues, without further approval of the Board.

### **Scope**

The Administrative Plan and ACOP include the strategies for managing the federally subsidized Section 8 HCV and Public Housing programs for the County's area of jurisdiction. The lease governs the relationship between the County as landlord and the public housing residents. The Administrative Plan, ACOP and lease have countywide impact.

### **Delegation of Authority**

Upon the approval of the resolution, the County Mayor or County Mayor's designee will be authorized to: (1) exercise and enforce the provisions set forth in the Administrative Plan, ACOP and lease; and (2) make any necessary revisions to the Administrative Plan, ACOP, and lease subject to the limitations of the "Significant Amendment and Substantial Deviation" definition, or as may be required by regulatory, statutory, court order or safety issues without further approval from the Board.

### **Fiscal Impact/Funding Source**

The approval of this item will not result in a fiscal impact to the County.

### **Track Record/Monitor**

Alex R. Ballina, PHCD Director, is responsible for administering and monitoring the federally subsidized housing programs.

### **Background**

On July 10, 2018, the Board adopted Resolution No. R-710-18, which approved the ACOP; on May 4, 2021, the Board adopted Resolution No. R-429-21, which approved the current Administrative Plan; and on July 7, 2022, the Board adopted Resolution No. R-627-22, which approved the current lease.

## **I. Significant Changes to PHCD's Administrative Plan**

### **Administrative Plan: Chapter 25**

Section 25.7 was added to include preferences for PBV site-based waiting lists. Additionally, Section 25.8 was added to include language on site-based waiting lists for admission to projects selected to receive PBV assistance.

Administrative Plan: Chapter 32

A new chapter has been incorporated into the Administrative Plan to include regulatory requirements, policies and procedures for the administration of the RAD-PBV Program.

Administrative Plan Chapter 33

This chapter describes HUD's regulations and PHCD's policies for administering the Emergency Housing Voucher (EHV) Program.

**Housing Opportunity Through Modernization Act of 2016 (HOTMA): Implementation of Sections 102, 103, and 104**

The Housing Opportunity Through Modernization Act of 2016 (HOTMA) was enacted on July 29, 2016. Specifically, Title I of HOTMA contains 14 sections that affect the public housing and Section 8 rental assistance programs. On February 14, 2023, HUD published a final rule to implement Sections 102 (income reviews), 103 (public housing income limitation), and 104 (asset limits) of HOTMA for Section 8 and Public Housing Programs. The goal of this rule is to deliver important and additional benefits to tenants and to reduce administrative burdens for public housing agencies. The new income and asset regulations take effect January 1, 2024. The highlights of these regulations are summarized in Attachment 1.

**II. Significant Changes to PHCD's Administrative Plan, ACOP, and lease**

Administrative Plan: Section 15.2

ACOP: Chapter VI(D)

lease: Article VII(1)(a) through (d) and (f)

Fewer Interim Reexaminations: HOTMA creates a ten percent adjusted income increase or decrease threshold for conducting Interim Reexaminations, and in most cases requires that increases in earned income are not processed until the next annual reexamination, allowing families to keep more of their earnings before receiving a rent increase. The new requirements should lead to fewer interim reexaminations overall, alleviating the burden for both participants and PHCD.

Administrative Plan: Section 7.6.A

ACOP: Chapter VI(N)

lease Article XV(1)(g)

Streamlined Verifications: HOTMA revises the required consent form (HUD Form 9886) that all adult household members sign, allowing them to sign the form only once instead of annually.

### **III. Significant Changes to PHCD's Administrative Plan, and ACOP**

Administrative Plan: Section 7.5.G

ACOP: Chapter VI(N)

Increased Standard Deduction for Elderly and Disabled Households: HOTMA increases standard deductions for families with a head, co-head, or spouse who is elderly or a person with a disability from \$400 to \$525.

Administrative Plan: Section 7.5(c)

ACOP: Chapter VII (D)(1)(d)

Threshold for Claiming Health and Medical Care and Reasonable Attendant Care and Auxiliary Apparatus Expenses Increased: HOTMA increases the allowance for unreimbursed health and medical care expenses from three percent of annual income to ten percent, phased-in over two years.

Administrative Plan: Section 7.5(c)

ACOP: Chapter VII (D)(1)(d)

Hardship Relief: HOTMA provides hardship relief for expense deductions, lessening the impact of the increased threshold for medical expenses. PHCD may grant hardship relief to families unable to pay rent because of unanticipated medical/disability expenses.

Hardship Category 1:

To qualify for the phase-in, the family must already be receiving a medical expense deduction of three percent of gross income prior to January 1, 2024.

Phase-in over two years:

- 2024-Year 1: the family will receive a medical expense deduction of five percent of gross income.
- 2025-Year 2: the family will receive a medical expense deduction of seven and a half percent of gross income.
- 2026-Year 3: the family will receive a medical expense deduction of ten percent of gross income.

Hardship Category 2

Administrative Plan: To qualify for this category, families must demonstrate financial hardship in paying the rent. Families can apply for this category at any time. If eligible, they will receive a medical deduction of five percent of gross income for a 90-day period. They can request additional 90-day periods if they can demonstrate a financial hardship.

Administrative Plan: Section 25.1(D)

Amended to include regulatory language from 24 CFR §983.51(b).

Administrative Plan: Attachment 1 - Definitions

ACOP: Appendix I - Definitions

Revised to include definitions in accordance with the Violence Against Women Act (VAWA) Reauthorization Act of 2022 (VAWA 2022; P.L. 117-103).

The proposed Administrative Plan, ACOP, and lease were made available to the public during a 30-day comment period from September 7, 2023, through October 6, 2023, to provide an opportunity to comment on these documents. These documents were distributed to and posted at the Department's administrative offices, site offices, and to members of the Department's resident advisory board. Additionally, as part of the update and vetting process of these documents, the Department held a meeting with the resident advisory board on September 25, 2023. PHCD received written comments from Legal Services of Greater Miami, Inc., Greater Miami Housing Alliance, and Miami Workers Center and incorporated several of their recommendations such as increasing term of the voucher to 120 days from the date of issuance to the family under the HCV program with an opportunity for a 60-day extension to the initial 120 days for a total voucher term of 180 days (Attachment 2).

Further, the public will be provided with an opportunity to provide additional comments at the scheduled public hearing before the Board's committee of jurisdiction. The Department may revise the plan to incorporate public such comments and present revisions to the Board prior to approval.



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Morris Copeland  
Chief Community Services Officer

Attachments

## Highlights of Final Rule Implementing Sections 102, 103, 104 of HOTMA

The Final Rule implementing Sections 102, 103, and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA) delivers important benefits to tenants and reduces administrative burdens for public housing agencies (PHAs), multifamily housing owners (MFH owners), and participating jurisdictions. The highlights of the Final Rule are outlined below.

### Section 102: Income Reviews

- **Fewer Interim Reexaminations:** HOTMA creates a 10% adjusted income increase/decrease threshold for conducting Interim Reexaminations, and in most cases requires that increases in earned income are not processed until the next Annual Reexamination, allowing families to keep more of their earnings before receiving a rent increase. The new requirements should lead to fewer Interim Reexaminations overall, alleviating burden for both participants and PHAs.
- **Streamlined Verifications:** Several provisions will streamline the verification process for housing providers.
  - **Adults Only Need to Sign Consent Form Once:** HOTMA revises the required consent form that all adult household members sign, allowing them to sign the form only once instead of annually.
  - **Use of Income Determinations from Other Programs:** HOTMA allows PHAs to use income determinations made under other federal benefits programs for reexaminations.
  - **Review of EIV Not Required at Interim Reexamination:** HOTMA eliminates the requirement for PHAs to use EIV to verify tenant employment and income information during an interim reexamination, significantly reducing administrative burden.
- **Increased Standard Deduction for Elderly/Disabled Households:** HOTMA increases standard deductions for families with a head, co-head, or spouse who is elderly or a person with a disability.
- **Additional Income Exclusions:** The rule codifies additional income and asset exclusions, including:
  - Amounts received from Medicaid or other state/local programs meant to keep a family member with a disability living at home
  - Veterans' aide and attendant care
  - Distributions of principal from non-revocable trusts, including Special Needs Trusts.
- **Threshold for Claiming Medical/Disability Expenses Increased:** HOTMA increases the allowance for unreimbursed health and medical care expenses from 3% of annual income to 10%, phased-in over two years.
- **Higher Threshold for Imputing Asset Income:** HOTMA raises the imputed asset threshold from \$5,000 to \$50,000, incentivizing families to build wealth without imputing income on those assets.

- Hardship Relief: HOTMA provides hardship relief for expense deductions, lessening the impact of the increased threshold for medical expenses. HOTMA permits PHAs to grant hardship relief to families unable to pay rent because of unanticipated medical/disability expenses and families who are no longer eligible for the childcare expense deduction.

### **Section 103: Public Housing Income Limit**

- Public Housing Income Limitation: HOTMA imposes continued program participation limits for families exceeding the statutory income limitation in the Public Housing program, also known as the “over-income” provision.

### **Section 104: Asset Limits**

- Asset Limitation: HOTMA imposes a \$100,000 asset limit for eligibility and continued assistance. Families are also ineligible for assistance if they own real property suitable for occupancy. PHAs have the option of delaying enforcement/termination for up to six months if the family is over the asset threshold at the time of annual reexamination.
- Exclusion of Retirement and Educational Savings Accounts: Retirement accounts and educational savings accounts will not be considered a net family asset. This is a major benefit to families, incentivizing savings for important life milestones and opportunities. This will also provide significant administrative relief to PHAs by allowing them to stop verifying and calculating these assets altogether.
- Self-Certification of Assets under \$50,000: HOTMA allows self-certification of net assets if estimated to be at or below \$50,000. This will be a time-savings for families and lower administrative burden for PHAs recertifying income.

### **Cross-Cutting**

- Adjustments for Inflation: Deductions and the asset limitation will be adjusted for inflation annually, ensuring that deductions do not lose value over time and that families are able to build more wealth without losing program assistance. The current deduction amounts have never been adjusted.

## **COMMENTS ON MDPHCD DRAFT DOCUMENTS RELATED TO THE ADMISSIONS AND CONTINUED ACCUPANCY POLICY, THE ADMINISTRATIVE PLAN, AND THE PUBLIC HOUSING LEASE**

Legal Services of Greater Miami Inc., (Legal Serviecs) is pleased to submit comments to Miami Dade Public Housing and Community Development (PHCD) on the above listed documents.

Legal Services notes that with respect to the referenced page numbers of the draft ACOP it is using the 124 page redline draft version provided by PHCD.

### **COMMENTS ON THE ADMISSIONS AND CONTINUED OCCUPANCY POLICY**

**PHCD should make further efforts to reach applicants before they are removed from the waiting list.**

On page 18 and 19 of the draft ACOP it states that families on the waiting list whose mail is returned or who don't respond to notices will be removed from the waiting list. Low-income applicants who are looking for stable housing often have events in their lives which cause them to be displaced or could otherwise impair their ability to receive mail. Legal Services encourages PHCD to change the ACOP to require PHCD to reach out to applicants by email and phone when possible before they are automatically removed from the waiting list. PHCD has a policy of reaching out to section 8 applicants via phone, text, or email in the administrative plan (*See* section 2.F.ii) and PHCD should do the same for public housing residents.

#### **Verification of Request for Reasonable Accommodation Requests**

On page 26 and 27 of the draft ACOP it states that a physician must document the need for a live-in aide based on disability. PHCD should clarify that a physician is not always required for accommodation requests. Rather, PHCD should track the language from page 14 of the May 17, 2004 Joint Statement by HUD and DOJ<sup>1</sup> which states that accommodation requests can be supported by a:

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 also provide verification of a disability.

**PHCD should make clear that people seeking reasonable accommodations do not need to use any specific forms to make a proper request and that PHCD must respond to these requests in a reasonable time frame.**

Legal Services and our clients have been frustrated by the way PHCD processes reasonable accommodations requests (RAR) for applicants and participants. Some of this frustration has stemmed from PHCD's insistence that disabled tenants use PHCD's forms, which are difficult to complete and do not leave enough space to fill in all the needed information for a reasonable

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<sup>1</sup> A link to the Joint Statement can be found here:  
<https://www.hud.gov/sites/documents/huddojstatement.pdf>

accommodation request. Frustration also stems from the failure of PHCD to respond timely to a RAR.

At times Legal Services has submitted detailed RAR's and followed up on them repeatedly, only to be told months later that residents must start the process all over again using their impractical and inadequate request forms.

There is no requirement for residents seeking an RAR to use a specific form. PHCD policies, including the ACOP and Administrative Plan, should make that clear.

To cite directly to page 10 of the Joint Statement from HUD and DOJ on reasonable accommodations:

Under the Act, a resident or an applicant for housing makes a reasonable accommodation request whenever she makes clear to the housing provider that she is requesting an exception, change, or adjustment to a rule, policy, practice, or service because of her disability. She should explain what type of accommodation she is requesting and, if the need for the accommodation is not readily apparent or not known to the provider, explain the relationship between the requested accommodation and her disability.

...[T]he Fair Housing Act does not require that a request be made in a particular manner or at a particular time... , [T]he requester must make the request in a manner that a reasonable person... would understand to be a request for an exception, change, or adjustment to a rule, policy, practice, or service because of a disability.

Although a reasonable accommodation request can be made orally or in writing, it is usually helpful for both the resident and the housing provider if the request is made in writing. This will help prevent misunderstandings regarding what is being requested, or whether the request was made. To facilitate the processing and consideration of the request, residents or prospective residents may wish to check with a housing provider in advance to determine if the provider has a preference regarding the manner in which the request is made.

The Guidance further clarifies that "A provider has an obligation to provide prompt responses to reasonable accommodation requests." (See page 11 of the Statement)

PHCD should amend the ACOP to make clear that RAR's do not have to be completed on PHCD's specific forms and that RARs should be processed in a reasonable and timely manner. Legal Services proposes that PHCD be required to respond to an RAR request in writing within 10 business days of receiving an RAR.

**PHCD should clarify that it has the Burden of Proof in a hearing to take adverse action such as denial or termination of assistance.**

When an applicant for PHCD assistance is denied assistance or has their assistance terminated they are entitled to a informal hearing to contest the determination. The ACOP and

Administrative Plan should clarify that when it seeks to take an adverse action against an applicant or a resident, such as denying or terminating assistance based on an alleged action or failure to act by an applicant or participant, it has the burden to demonstrate by a preponderance of the evidence that the adverse action against the applicant or participant should be upheld.

**PHCD should clarify the ACOP section related to the rights of residents to have family members visit their home.**

Page 56 of the draft ACOP states that “[v]isitors may be permitted in a dwelling unit so long as they have no previous history of unacceptable or negative behavior on PHCD premises that would be a lease violation.” This section is confusing and should be clarified. To the extent that it is saying that no person can have a family member visit them if that family member had at any point done anything that would have violated a lease provision in any way, it should be eliminated. Under the current language, a person who was once a public housing resident who was late on their rent could not visit a family member for a holiday or family event years later. This restriction is overbroad.

**PHCD should cover the costs for Tenants who are temporarily displaced due to conditions of the Public Housing Unit.**

Page 65 of the draft ACOP should be clarified to make clear that PHCD will pay to place residents in temporary housing, including hotels, if relocation of the family is necessary to renovate or repair a property. Additionally, many very low-income public housing tenant families cannot afford to pay for relocation out of pocket. To the extent possible, expenses incurred by a family due to displacement should be paid up front by PHCD rather than reimbursed after the fact upon presentation of receipts.

**PHCD should not automatically consider the failure to report income within 10 days to be fraud.**

Page 70 and 79 of the draft ACOP states that it *will* be considered fraud if the family does not properly report a change of income or family composition within 10 days. A determination that fraud has occurred does not only mean that the a family will be evicted but has civil and criminal implications for the family. There could be a circumstance where a family does not report a change within 10 days due to a family emergency such as a death or hospitalization. Accordingly, Legal Services urges PHCD to change this section to say that a failure to properly report a change *may* constitute fraud based on a facts of the case.

**PHCD should clarify that tenants and their legal representatives will have access to all documents in the tenant’s file.**

Page 77 of the draft ACOP states that certain tenant income information is not subject to Florida Sunshine laws and cannot be released to outside parties or unauthorized staff. PHCD should clarify that this information can still be released to tenants *and* their legal representatives.

**PHCD should advise tenants of their right to request a hardship exemption.**

Page 93 of the draft ACOP states there is a minimum rent of \$50 per month. Tenants can request a hardship exemption. However, many residents may not be aware of their ability to make this request. PHCD should make clear that it will affirmatively advise residents of the right to request a hardship exemption. This will prevent residents with little or no income from being evicted for extremely small amounts of rent.

Recently, PHA's have been sued for the failure to adequately advise public housing residents of their right to seek a hardship exemption. For instance, the Chicago Housing Authority (CHA) settled a case this year after low-income public housing residents successfully sued CHA for failure to properly advise the residents of the hardship exemption. The case is *Oliver et al. v. Chicago Housing Authority* in the US District Court for the Northern District of Illinois.<sup>2</sup>

Legal Services believes clearly advising residents of the ability to request a hardship exemption from the minimum rent is in the best interests of PHA's and residents and the ACOP should require this.

**PHCD should allow for 10 business days to request a grievance hearing after adverse decisions.**

Page 107 of the draft ACOP states that residents have ten business days to request a grievance when there is a "grievable event [which] occurred for any dispute." However, residents have 5 business days to request a grievance hearing for an "adverse action" such as a tenancy termination or to contest the results of an informal settlement conference. (See pages 107 and 109). PHCD should simply make the deadline 10 business days for all grievance hearings for the reasons stated below.

First, tenants may sometimes miss a short deadline due to a family emergency or illness.

Second, the difference in deadlines between a hearing for an "adverse action" versus a "grievable event" is likely to cause confusion.

Third, there is not a valid reason as to why a tenant should have less time to contest the termination of their tenancy as opposed to any other grievable event.

The right to request a grievance hearing has taken on increased importance for public housing residents in Florida due to the fact that HUD has already determined that Florida's landlord tenant statute does not meet its due process requirements. (See 2016 HUD Due Process determination letter)

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<sup>2</sup> Further information about the case can be found here:  
<https://nlihc.org/resource/national-housing-law-project-announces-settlement-regarding-chicago-phas-minimum-rent>

## **COMMENTS ON THE PUBLIC HOUSING LEASE AGREEMENT**

**Legal Services believes PHCD should conduct an interim reexamination if the rent decreases in the three months prior to an annual reexamination.**

Legal Services opposes new Section VII(f) of the lease which states that:

The Landlord will not conduct an interim reexamination in the last three months of an effective annual reexamination. Should a credit be owed to the resident, it will be retroactively credited together with the annual reexamination.

Legal Services is concerned that this will cause a financial hardship for families that lose their income. For example, if a family were to lose employment which brought in approximately \$2,500 per month three months before a reexamination their rent could potentially stay \$800 for three months even though their income is \$0. This could cause their tenancy to be terminated because it would not be possible for them to pay the rent due.

Additionally, this lease provision is inconsistent with the ACOP which states that:

PHCD will not conduct an interim reexamination **for an increase** in the last three months of an annual reexamination period.  
*Emphasis Added. (See Draft ACOP section VI(D)(1)(e) on page 69 of the Draft ACOP.)*

While the current ACOP draft addresses the above-listed concern, the draft lease is inconsistent with the ACOP and must be changed.

**PHCD must change its Lease Provision to make it consistent with Federal Law which states that notices must now be 30 days.**

Section XV(2) presently states that PHCD will serve 14 day notices to pay rent or vacate if it proposes to terminate the tenancy for non-payment of rent. This is inconsistent with federal law and must be changed.

Earlier this year, PHCD began serving 14-day notices to pay rent or vacate on public housing tenants and Legal Services reached out at that time to address its concerns. As stated in our previous communications:

*30-day notices to pay rent or vacate are required under HUD Guidance.*

PIH Notice 2021-29 requires that Public Housing Authorities provide 30-day notices for non-payment of rent.

Specifically, language from the PIH notice states “[t]his notice... serves as the required determination by the Secretary of the Department of Housing and Urban Development that the existence of a national emergency necessitates the activation of the required minimum 30-day notification period and other required actions to support families at-risk of eviction for non-payment of rent.”

The Notice goes on to state that:

“If the PHA’s Admissions and Continued Occupancy Policy (ACOP) references a lease termination process for nonpayment of rent of less than 30 days, the PHA must update the ACOP...”

The Interim Final Rule extends the notification of nonpayment of rent for affected programs to at least 30 days during the period for which HUD determines that a national emergency requires additional time for families to be able to secure available funding. Further, this notification must also include information, as determined necessary by HUD, to support families in securing such funding...”

Even though the public health emergency recently ended, PIH Notice 2021-29 makes clear that “[t]his Notice remains in effect until amended, superseded, or rescinded.” As such, the Notice remains in effect and PHCD should be using a 30-day notice for non-payment of rent.

*30-day notices to pay rent or vacate are required under the CARES Act.*

The federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act), took effect on March 27, 2020, and imposed a partial residential eviction moratorium that restricted lessors of “covered properties” from filing new eviction lawsuits for non-payment of rent or other charges. The CARES Act also prohibited “fees, penalties, or other charges to the tenant related to such nonpayment of rent,” and state that the lessor of a covered property could not require a tenant to vacate except on 30 days’ notice—which notice could not be given until the original moratorium period expired.

The initial 120-day moratorium period was never extended and expired on July 24, 2020. (*See* 15 U.S.C. § 9058(b)). However, the 30-day CARES Act notice requirement did not expire and remains in effect. (*See* 15 U.S.C. § 9058(c)). Courts that have ruled on this issue have found that the notice requirement of the CARES act is still in effect. *See Sherwood Auburn LLC v. Pinzon*, 521 P.3d 212 (Wash. Ct. App. 2022).

Under the CARES Act, a “covered property” includes any property that is covered by the Violence Against Women Act. *See* 15 U.S.C. § 9058(a)(2). As such, there is no question that public housing is covered under the CARES Act.

Accordingly, PHCD is still required to serve 30-day notices to pay rent or vacate under the CARES Act.

*Even if a 30-day notice were not required it is in the best interest of PHCD and the community it serves.*

Not only is a 30-day notice required by law, but it also serves the interests of both the landlord and the tenant and may lead to fewer eviction filings. Providing tenants with additional time, allows tenants to apply for rental assistance or gives them more time to come up with the rent due. This will help prevent the number of evictions the County files against public housing tenants and keep families out of the Homeless Trust’s continuum of care.

Based on the foregoing PHCD should make clear in all of its policies that a 30-day notice is required to terminate a tenancy. As a result of our previous communications to PHCD, it stopped serving 14 day notices and began serving 30 day notices instead. PHCD should update its policies to reflect this new practice and the new law on this issue.

### **COMMENTS ON THE ADMINISTRATIVE PLAN**

**Legal Services encourages PHCD to be flexible in granting Voucher Extensions for Section 8 participants who have had difficulty leasing up. Further, PHCD should provide for a hearing to contest the denial of a voucher extension.**

Legal Services has seen section 8 participants who have had their vouchers expire due to the inability to locate a unit within 60-120 days. This happens both to families who receive a voucher after years on the waiting list and to families who are current participants. Families who lose their subsidy are at risk of being homeless. Often, families who lose their voucher through expiration are not given a hearing to contest this loss of their very valuable housing subsidy.

Miami Dade County has seen some of the highest rent increases in the country and there are fewer available units that are affordable to voucher holders. Families cannot find a unit that they can afford. In fact, a 2022 report from realtor.com has found that rents have increased by more than 55% in one year.<sup>3</sup> This has left section 8 voucher holders unable to find suitable housing. Legal Services is encouraged that PHCD has strengthened its language around requesting a voucher extension by making clear that market conditions can be a factor in requesting a voucher extension.

In addition to the very challenging rental market, many section 8 participants are elderly, have limited access to transportation, and have other challenges unique to low-income residents of Miami-Dade County. Because of these barriers, it often takes them longer to locate potential housing.

Additionally, we have seen instances where section 8 participants lost their voucher to expiration even after finding landlords who agreed to rent a unit. In those instances, landlords submitted the RFTA (Request for Tenancy Approval) forms and set up an inspection over the course of several weeks, only to back out of the HAP contract at the last minute. When this happens, participants are sometimes then left with no time to find and submit a unit with a new landlord through no fault of their own. Because of this common circumstance, Legal Services encourages PHCD to eliminate the requirement that all requests for extension be made at least one week prior to expiration. (*See* section 4.4 of the draft Administrative Plan).

Legal Services is encouraged by the recent news that the fair market rent (FMR), as determined by HUD, is increasing. Due to the unique challenges of finding a voucher Legal Services encourages PHCD to maintain its payment standard at 110% of FMR.

Additionally, as mentioned above, families who have been part of the section 8 program for years and lose their subsidy due to expiration are not entitled to an administrative hearing to

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<sup>3</sup> <https://www.realtor.com/research/february-2022-rent/>

contest the loss of this benefit. It is a paradox that tenants accused of committing serious violations of program rules are entitled to termination hearings, while tenants who have not committed a violation have no right to contest the loss of their subsidy through voucher expiration. Families should have the opportunity to contest the denial of an extension if they feel it has been improperly denied. Even though not required by law, PHCD should grant participants who lose their vouchers under these circumstances an administrative hearing so they can present arguments as to why their vouchers should be reinstated.

**PHCD should further clarify that landlords cannot charge more than permitted under section 8 rules.**

The federal regulations governing section 8 state, "The owner may not demand or accept any rent payment from the tenant in excess of [the rent amount established by the Section 8 program] and must immediately return any excess rent payment to the tenant." 24 C.F.R. §982.451(b)(4)(ii).

Some landlords try to get around this rule by hiding additional rent in fees for amenities related to the tenancy that the tenant is required to pay. Some of these fees include pool fees, cable fees, maintenance fees, repair fees, or washer/dryer fees. PHCD should make explicitly clear that leases approved by section 8 cannot include these types of fees unless the lease makes clear that they are explicitly voluntary in the lease.

Further, section 12.1 and 12.2 of the draft administrative plan should clarify that while security deposits and late fees are permitted, they cannot be defined as rent in section 8 leases and those provisions cannot be enforced by the landlord.

**PHCD should not automatically consider the failure to report income within 10 days to be fraud.**

This comment is similar to the comment made with the ACOP. Section 15.2.7 of the draft Administrative Plan states that it *will* be considered fraud if the family does not properly report a change of income or family composition within 10 days. A determination that fraud has occurred does not only mean that the family will lose their voucher and be evicted, but has civil and criminal implications for the family. There could be a circumstance where a family does not report a change within 10 days due to a family emergency such as a death or hospitalization. Accordingly, Legal Services urges PHCD to change this section to say that a failure to properly report a change *may* constitute fraud based on the facts of the case.

**PHCD should require that any increases in rent should require at least 30 days' notice is provided to the tenant.**

Rent changes have a substantial impact on low-income section 8 tenants. Legal Services recommends that the administrative plan require section 8 participants to receive at least 30 days notice of any rent increase, unless the delay is caused by the tenant's actions or failure to act.

**Section 8 tenants should have a clear right to access the Section 8 tenant file.**

Chapter 21 of the Administrative Plan should clarify that tenants using a section 8 voucher have full access to their Section 8 tenant files.

Further, in the past Legal Services had problems obtaining documents for section 8 participants who are not the head of household. For instance, if there is a dispute between a section 8 participant and the head of household over whether or not a family member was properly removed from a voucher, both participants should have the right to obtain documents related to their tenant file. PHCD should make this clear in the administrative plan.

**Section 8 should require landlords to serve a 60 day notice to terminate a tenancy without cause.**

Since there is no good cause requirement to terminate a tenancy, section 8 landlords can choose not to renew a tenancy at any time. If a section 8 tenant has to locate new housing they must request and obtain a COD. After getting a new voucher to move, they must then locate a unit that fits within their payment standard. After the tenant locates a unit they must submit the RFTA paperwork and then an inspection has to occur. There is also a rent reasonableness determination. This process can take a significant period of time.

Because of the extra challenges a section 8 tenant has in finding a new unit, Legal Services encourages PHCD to require landlords to provide 60 days' notice before they can terminate a tenancy. The landlord should sign a certification agreeing to this requirement. This requirement would significantly benefit section 8 tenants and would not be any more burdensome than Miami Dade County Ordinance 17-03- which up until very recently required 60 days' notice to terminate all month-to-month tenancies.

**PHCD should require landlords of units with PBV vouchers to provide 30 day notices to pay rent or vacate.**

Legal Services refers back to the previous comments on the requirement to provide 30-day notices. PHCD must require 30-day notices to terminate a tenancy.

**PHCD should ensure due process in grievance procedures.**

Section 32.6.J outlines grievance procedures for PBV voucher recipients who have converted from public housing through the RAD process.

Legal Services has previously expressed concerns related to grievance hearings in converted properties and continues to have concerns about the due process rights of current public housing tenants whose properties will convert to RAD. It is very important that current public housing tenants not lose their rights to grievance hearings due to RAD.

PHCD's ACOP states that "All residents of public housing are afforded ample opportunity for a fair and impartial hearing on matters involving the Public Housing Dwelling Lease..." (See page 73 of the ACOP). Further, pursuant to 24 CFR 966.53, public housing residents are entitled to a grievance on "any dispute which a tenant may have with respect to PHA action or failure to act

in accordance with the individual tenant's lease or PHA regulations which adversely affect the individuals rights, duties, welfare or status.”

Under the Plan under review, the project owner (which will likely be a private entity) will be responsible for conducting most grievance hearings rather than a PHCD employee. Specifically, the Contract Administrator (PHCD) will only conduct hearings for five specific types of grievances outlined in 24 CFR § 982.555(a)(1)(i)-(vi), and the federal regulations which restrict who can serve as a hearing officer will only apply to those five types of grievances. All other grievances will be conducted by the project owner.

This new practice raises due process concerns. In most circumstances, the project owner/landlord is not impartial since it is recommending the adverse action against tenant. Also, they are unfamiliar with the grievance process or how to conduct a hearing. We have already seen situations where staff at these projects are totally unaware of the grievance process. Legal Services urges PHCD - as the contract administrator- to conduct all grievance hearings as it has done in the past. Legal Services believes this is the best way to ensure a fair and impartial process to any grievance which may arise between a tenant and a project owner.

Alternatively, PHCD must make sure that mechanisms are in place to ensure that grievance hearings conducted by a project owner comply with due process and to conduct annual training for the project owner on conducting grievance hearings. These mechanisms include, but are not limited to:

1. The right to have a decision made by a trained hearing officer who is not the person who made or approved the decision under a review, or a subordinate of this person.
2. A requirement that project owners have written procedures in place outlining the process for a grievance hearing.
3. A requirement that any decision be based on a preponderance of the evidence presented at the hearing.
4. The right to a written hearing decision which explains the reasons for the decision and the evidence relied on when reaching the decision, and
5. The right to an appeal where the written grievance decision can be reviewed by the PHA.

Legal Services welcomes the provision which says that a PHCD Grievance Coordinator will review, and may reverse, a hearing decision conducted by the project owner. However, Legal Services encourages PHCD to make clear that the above elements which ensure due process are present in hearing decisions.

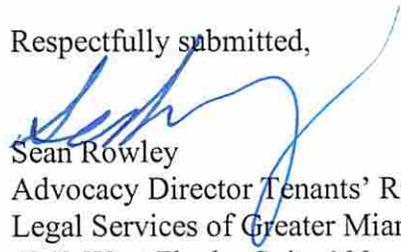
**PHCD must provide a grievance hearing before terminating any tenancy.**

Section 32.6.J.A.6 of the draft Administrative Plan states that PHCD does not have to provide a grievance hearing if it is terminating the tenancy. First it states that it is not required to provide a grievance hearing at all and then states that it does not need to provide a grievance hearing for certain criminal activity.

This provision is confusing because presumably PHCD would not be the party bringing an eviction for a tenant utilizing a PBV voucher. However, if it were the Plaintiff in an eviction action, Legal Services believes that PHCD would be required to provide a grievance hearing on all tenancy terminations pursuant to the principles of due process outlined by HUD in 2016 which states that Florida law does not comport with HUD's due process requirements.

Legal Services thanks PHCD for the opportunity to submit these comments and encourages PHCD to work with us in implementing the aforementioned recommendations. As always, Legal Services is happy to meet with PHCD staff to discuss these recommendations further.

Respectfully submitted,



Sean Rowley  
Advocacy Director Tenants' Rights Division  
Legal Services of Greater Miami, Inc.  
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[srowley@legalservicesmiami.org](mailto:srowley@legalservicesmiami.org)



Greater Miami Housing Alliance  
3150 SW 3rd Ave  
Miami, FL 33129  
[info@miamihomesforall.org](mailto:info@miamihomesforall.org)

Alex Ballina  
Miami-Dade County Public Housing and Community Development  
701 NW 1st Ct, 16th Floor, Miami, FL 33136  
[PHAPublicComment@miamidade.gov](mailto:PHAPublicComment@miamidade.gov)

**RE: Written Comment on ACOP, Section 8 Administrative Plan, and Public Housing Tenant Lease Agreement (Sent via E-Mail)**

Dear Mr. Alex Ballina,

The Greater Miami Housing Alliance (GMHA) represents tenant advocates, community organizations, service providers, and other housing stakeholders concerned about the displacement of residents in Miami-Dade County.<sup>1</sup> Our members have shared that there has been an increase in displacement due to RAD housing transitioning to private property management companies, transitioning residents to vouchers, and the redevelopment of public housing. Preventing displacement in Miami-Dade County is a critical and complex issue that demands immediate attention and thoughtful action. The rising property values in many neighborhoods have put vulnerable communities at risk of being forced out of their homes. We suggest improving the proposed Admission and Continued Occupancy Policy (ACOP), Section 8 Administrative Plan, and Public Housing Tenant Lease Agreement. Here is what our members have shared:

- Lengthen the time of voucher holders to find housing to 120 days. Additionally, PHCD should contact voucher applicants via email and phone before removing them from the waiting list. There are not enough affordable housing units, and tenants are experiencing homelessness because their vouchers expire before they can find a home.
- Tenants must fully understand relocation agreements and ACOP documents, and these policies must be enforced when sites close down. Tenants living in public housing or RAD projects sometimes work multiple jobs, have families to care for, or do not have the time to review these policies thoroughly. The County can invest in more resources to engage with residents authentically. This includes developing and implementing a system for tenants to share their concerns, meaningfully engage with property managers or the County, and investing more resources to empower Resident Councils.
- There must be more County oversight over these developments. Unfortunately, some property management companies have a lot of turnover, are poorly equipped or trained to support tenants, or simply do not implement best practices. Residents are being pushed out of these developments and do not know where to go for help.
- The County must implement stronger standard operating procedures in working with developers and property managers. This means having more oversight to support better RAD tenants, public housing tenants, and residents transitioning from public housing to vouchers.

We hope these suggestions were helpful in your work to improve the lives of tenants in Miami-Dade County. We look forward to partnering with you. Thank you.

Sincerely,

The Greater Miami Housing Alliance.

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<sup>1</sup> Miami Homes For All backbones this alliance. More about the GMHA can be found here:  
<https://www.miamihomesforall.org/gmha>.



October 4, 2023

Juanita Alvarez  
P.O. Box 381351  
Miami, FL

Public Housing and Community Development  
701 NW 1st Court, 16th Floor  
Miami, Florida 33136

Email: PHAPublicComment@miamidade.gov  
Attn: Comments

Dear Director Alex Ballina,

I am a resident of Miami-Dade County and wish to submit a public comment regarding the Section 8 Administrative Plan. Based on my own personal experience, I feel it is important that PHCD make important changes to the current program that will help improve access to housing vouchers and ensure community members do not lose their vouchers through no fault of their own.

In Miami-Dade County, it takes decades to get a voucher and once you get one, many landlords do not want to rent to section 8 voucher holders. This is discrimination and it is not fair because housing is a human right. We need more time for voucher holders so that they can find a decent place to live.

In light of my experience, I would ask that PHCD grant an initial voucher placement period of 120 days, and provide an extension period up to 180 days, if needed. Also, please provide participants with the right to a hearing if their voucher has expired or if their request for an extension was denied.

Thank you for taking the time to consider this recommendation and hope to see these changes implemented in the near future.

MDC021



October 4, 2023

Gloria Mosley and Carri Mosley  
2461 NW 61st Street  
Miami, FL 33142

Public Housing and Community Development  
701 NW 1st Court, 16th Floor  
Miami, Florida 33136

Email: PHAPublicComment@miamidade.gov  
Attn: Comments

Dear Director Alex Ballina,

I am a resident of Miami-Dade County and wish to submit a public comment regarding the Section 8 Administrative Plan. Based on my own personal experience, I feel it is important that PHCD make important changes to the current program that will help improve access to housing vouchers and ensure community members do not lose their vouchers through no fault of their own.

I'm fighting for access to safe and affordable public housing for my mom and for my community. My mom is 80 years old and we are in fear of losing our voucher because of the high rent. I don't think I will be able to find somewhere before the 60 days window. Please extend the time because my mother is elderly and we are doing the best we can. We have looked at 10 places so far, but the deposits are too high and do not cover the voucher. We just want to live in a clean, safe environment.

In light of my experience, I would ask that PHCD grant an initial voucher placement period of 120 days, and provide an extension period up to 180 days, if needed. Also, please provide participants with the right to a hearing if their voucher has expired or if their request for an extension was denied.

Thank you for taking the time to consider this recommendation and hope to see these changes implemented in the near future..

MDC022



**MIAMI WORKERS CENTER COMMENTS ON  
REVISED SECTION 8 ADMINISTRATIVE PLAN  
OCTOBER 4, 2023**

First of all, we would like to thank the Miami-Dade Department of Public Housing and Community Development (“PHCD”) for their work in reviewing and revising the Section 8 Administrative Plan in an effort to grant greater access to stable housing to the hard-working families in Miami-Dade who so desperately need it. By providing fair and equitable access to affordable housing opportunities we know these changes will make a significant impact in improving the safety, stability, and economic health of our communities.

We also would like to thank you for the opportunity to discuss the three key changes we believe will provide fundamental fairness and equity in the administration of the program.

- Granting an initial voucher placement period of 120 days, and providing an extension for a total voucher period of 180 days
- Providing participants with the right to hearing if their voucher has expired before obtaining suitable housing or if their request for an extension was denied
- Creating a Resident Advisory Board for the annual planning phase pursuant to HUD regulations

These changes would address the ongoing struggles of Section 8 participants, while allowing the Section 8 Administrative Plan to remain in line with current county and federal policy. Even after receiving a coveted voucher, placing them in Miami-Dade county has become extremely difficult and the situation has been worsening in recent years. Often community members cannot find suitable housing because landlords discriminate against Section 8 participants. At the start of 2022, almost one in four discrimination complaints filed with the Miami-Dade Commission on Human Rights was related to housing discrimination.<sup>1</sup> Erin New, Division Director for the Commission, acknowledged the affordability crisis as being a precipitating factor and advised that there was an “uptick” in source of income complaints in the county.<sup>2</sup>

Miami’s median monthly rent increased 58% between March 2020 and April 2022.<sup>3</sup> This rise in rents further exacerbates the insufficient supply of housing options for Section 8 participants. According to a recent report, Miami renters need to make at least \$112,183 in order to avoid being “rent-burdened.”<sup>4</sup> With an area median income of approximately \$75,000 for a family of four,<sup>5</sup> more renters are competing for increasingly unaffordable units. Section 8 participants in Miami are finding it especially difficult, if not impossible to find suitable housing within the current 60 day voucher period; requiring them to seek an extension beyond 60 days. If not sought timely, participants are subject to the loss of this vital housing subsidy. This phenomenon is not exclusive to Miami-Dade. “About 48% of Section 8 recipients in L.A. don’t meet [the voucher

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<sup>1</sup> “Reports of Housing Discrimination on the Rise in Miami-Dade.” NBC, WTVJ, Miami, 12 April 2022, <https://www.nbcmiami.com/investigations/reports-of-housing-discrimination-on-the-rise-in-miami-dade/2734810/>, Accessed October 3, 2023.

<sup>2</sup> *Id.*

<sup>3</sup> Dinkova, Lidia. “Miami leads nation with 58% rent spike during the pandemic.” *The Real Deal*, 14 April, 2022, <https://therealdeal.com/miami/2022/04/14/miami-leads-nation-with-58-rent-spike-during-the-pandemic/>, Accessed October 3, 2023.

<sup>4</sup> “Report: Average Renter In Much Of U.S. Needs \$100,000 Salary,” FAU Real Estate Initiative, Florida Gulf Coast University’s Lucas Institute for Real Estate Development & Finance, and the Alabama Center of Real Estate at the University of Alabama, <https://www.fau.edu/newsdesk/articles/april2023-rental-numbers>, see also:

<https://www.cbsnews.com/miami/news/miami-renters-must-make-6-figure-salary-to-avoid-being-rent-burdened-report-finds/>

<sup>5</sup> Chart of HUD Median Income for Counties and MSAs, Family of Four, 2023, Florida Housing Data Clearinghouse, *Shimberg Center for Housing Studies*, University of Florida, <http://flhousingdata.shimberg.ufl.edu/income-and-rent-limits/results?nid=1>, Accessed October 5, 2023.

placement] deadline, meaning that thousands of people who receive vouchers are never able to use them.”<sup>6</sup>

To remedy this, our members are requesting that Housing Choice Vouchers be valid for a period of 120 days from the date of issuance, and that the total term of a voucher may be extended up to 180 days as a reasonable accommodation for applicants or participants having difficulties locating suitable housing to meet their needs. Pursuant to 24 Code of Federal Regulations § 982.54, PHCD has the discretion to set the policy governing the voucher term and any extensions of the voucher term. Additionally, the Housing Choice Voucher Guidebook issued by HUD provides that while 60 days is the minimum voucher period allowable, a “PHA may establish a longer term as necessary based on local housing market conditions.”<sup>7</sup> The Guidebook goes on to specify that a local tight housing market is grounds to provide a longer initial voucher period.

Furthermore, PHCD has the discretion to provide participants the ability to request a hearing when their voucher is lost through expiration; either due to a failure to seek a timely extension or if their extension request is denied. Program participants should not be penalized for failing to find suitable housing in Miami; the “epicenter of the housing crisis.”<sup>8</sup> As our colleagues at Legal Services of Greater Miami note in their public comment, it is inconsistent with the purpose and goals of the Section 8 Administrative Plan to allow participants accused of serious violations the right to a hearing, but not afford participants who cannot find housing through no fault of their own, the same due process right. If PHCD hopes to achieve its goal of providing, “decent, safe, and sanitary housing for eligible program participants” then it must amend the administrative plan to provide the right to hearing for participants whose vouchers have expired before they were able to obtain suitable housing.

Finally, in our continued discussions with community members, they have expressed a desire to communicate their experiences with the administration of PHCD in order to improve the program. We therefore recommend the establishment of a Resident Advisory Board, pursuant to 24 Code of Federal Regulations § 903.13. The advisory board will serve as the vehicle to ensure that PHCD has the most accurate and timely information needed to effectively modify and adjust the annual plan to meet the needs of the community. Federal regulations require that PHCD “*must* establish one or more Resident Advisory Boards” (emphasis added) and further emphasize that they should have “reasonable representation of families receiving tenant-based assistance and that a reasonable process is undertaken to choose this representation.” We hope to work with you to ensure that this board is active and representative of our communities.

In light of the changes we have highlighted, below please find a redlined draft with language suggestions for pertinent portions of the Section 8 Administrative Plan. If we can provide any further comments or assistance, please do not hesitate in reaching out. We look forward to continuing the very important conversation of how to protect the most vulnerable in our community by providing safe and affordable housing.

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<sup>6</sup> Esquivel, Paloma and Rachel Uranga. “Fallen from the middle class: 60, living in an RV and fighting to be housed.” *Los Angeles Times*, 3 Oct. 2023, <https://www.latimes.com/california/story/2023-10-03/woman-living-in-rv-housing-voucher>, Accessed October 3, 2023.

<sup>7</sup> U.S. Department of Housing and Urban Development, “Housing Search and Leasing, Section 6.1 and 6.2.” *The Housing Choice Voucher Program Guidebook* (updated November 2020).

<sup>8</sup> Hanks, Douglas, “Biden’s housing chief calls Miami the ‘epicenter of the housing crisis in this country.’” *Miami Herald*, 29 June 2022, <https://www.miamiherald.com/news/local/community/miami-dade/article262956308.html>, Accessed October 3, 2023.

## DRAFT

### 4.3 Term of Voucher

The Housing Choice Voucher is valid for a period of ~~60 days~~ 120 days from the date of issuance. Prior to the expiration date, the family may contact PHCD to request assistance in locating suitable housing. The family must submit a completed Request For Tenancy Approval (RFTA) package within the ~~60 day~~ 120 day period unless an extension (as described below in Section 4.4) has been granted by PHCD.

### 4.4 Extensions of Term

A family may request a 60-day extension to the initial ~~60-day~~ 120 day term of an issued voucher for a total voucher term of ~~120 days~~ 180 days. All requests for extensions should be received ~~at least one week~~ prior to the expiration date of the voucher and must be made to the Intake Unit. Requests may be made in person or by telephone. If an extension is granted by telephone, a copy of the voucher will be mailed to the voucher holder indicating the extended expiration date.

The term of a voucher may be extended up to ~~120 days~~ 180 days as a reasonable accommodation for applicants or participants having difficulties locating suitable housing to meet their needs. In accordance with PHCD's Reasonable Accommodation Policy and Procedures, if reasonable accommodation is denied (including a voucher extension), the applicant or participant may appeal the denial of the reasonable accommodation by requesting an ADA Grievance.

For New Admissions and Renewals only:

PHCD will provide voucher extension up to ~~120 days~~ 180 days, at the request of the applicant after the applicant has demonstrated or certifies to reasonable search efforts to locate a new unit, the extension will be issued in ~~60-day~~ 30 day (is reducing the extension periods here a good compromise to getting more days upfront?) increments. PHCD will provide voucher extension up to ~~120 days~~ 180 days based on market conditions for the unit size that the family qualifies for. In all circumstances the request for a voucher extension must be submitted prior to the expiration date of the voucher including any extensions provided.

Written notice of extensions and denials of extensions will be given to the family. ~~Hearings or informal reviews are not required and shall not be given for denial of extensions.~~ Should a participant's request for an extension be denied, they will be entitled to a hearing in accordance with this Administrative Plan.

### **Addition to Chapter 1. Program Administration**

Resident Advisory Board [24 CFR § 903.13]

PHCD shall establish a Resident Advisory Board pursuant to federal regulations to assist and make recommendations regarding annual amendment or modification of PHCD's Section 8 Administrative Plan.



October 4, 2023

Kateria Simmons  
1171 NW 103rd Street  
Miami, FL 33150

Public Housing and Community Development  
701 NW 1st Court, 16th Floor  
Miami, Florida 33136

Email: PHAPublicComment@miamidade.gov  
Attn: Comments

Dear Director Alex Ballina,

I am a resident of Miami-Dade County and wish to submit a public comment regarding the Section 8 Administrative Plan. Based on my own personal experience, I feel it is important that PHCD make important changes to the current program that will help improve access to housing vouchers and ensure community members do not lose their vouchers through no fault of their own.

I've been a Section 8 voucher holder since 2008 and have experienced disrespect and discrimination in Miami-Dade County. For one, landlords do not want to rent to us because we are on Section 8. Once we share we have a voucher the property is no longer available. Also the vouchers are not keeping up with market price, my voucher is \$2,300 when the average cost of a three-bedroom in Miami-Dade County is \$3,000/month. If you're lucky enough to find a place the conditions are horrible with mildew, and with infestation.

In light of my experience, I would ask that PHCD grant an initial voucher placement period of 120 days, and provide an extension period up to 180 days, if needed. Also, please provide participants with the right to a hearing if their voucher has expired or if their request for an extension was denied.

Thank you for taking the time to consider this recommendation and hope to see these changes implemented in the near future.

MDC026



October 4, 2023

Sonya Brown Wilson  
2380 NW 75th Street, #101  
Miami, FL 33147

Public Housing and Community Development  
701 NW 1st Court, 16th Floor  
Miami, Florida 33136

Email: PHAPublicComment@miamidade.gov  
Attn: Comments

Dear Director Alex Ballina,

I am a resident of Miami-Dade County and wish to submit a public comment regarding the Section 8 Administrative Plan. Based on my own personal experience, I feel it is important that PHCD make important changes to the current program that will help improve access to housing vouchers and ensure community members do not lose their vouchers through no fault of their own.

I've been an engaged resident of North Park at Scott Carver for 11 years. I was the 2nd Vice-President of the resident council. My neighbors and I have experienced property managers that are not experienced in the rights, policies and procedures of Section 8 tenants and the program. These inconsistencies in upholding the differences in Section 8 and market rate leases have caused stress and are frustrating. We the residents should have a say so and interview the property managers that are a part of the Section 8 program.

In addition, I have been retaliated against for being vocal. I would like PHCD to establish a Resident Advisory Board where we can give direct feedback to PHCD on management of Section 8 properties, as well as, on the companies who manage us to ensure they are qualified and properly trained.

Thank you for taking the time to consider this recommendation and hope to see these changes implemented in the near future...

MDC027



**MEMORANDUM**  
(Revised)

**TO:** Honorable Chairman Oliver G. Gilbert, III  
and Members, Board of County Commissioners

**DATE:** December 12, 2023

**FROM:**   
Gen Bonzon-Keenan  
County Attorney

**SUBJECT:** Agenda Item No. 8(K)(6)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present \_\_\_\_, 2/3 membership \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) \_\_\_\_ ) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 8(K)(6)  
12-12-23

RESOLUTION NO. \_\_\_\_\_

RESOLUTION APPROVING, AFTER A PUBLIC HEARING, PUBLIC HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT'S REVISED SECTION 8 ADMINISTRATIVE PLAN (ADMINISTRATIVE PLAN), PUBLIC HOUSING ADMISSION AND CONTINUED OCCUPANCY POLICY (POLICY), AND THE PUBLIC HOUSING TENANT LEASE AGREEMENT (LEASE); AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE AND ENFORCE THE PROVISIONS SET FORTH IN THE ADMINISTRATIVE PLAN, POLICY AND LEASE, AND MAKE ANY NECESSARY REVISIONS TO THE ADMINISTRATIVE PLAN, POLICY, AND LEASE, SUBJECT TO THE LIMITATIONS OF THE PLAN'S "SIGNIFICANT AMENDMENT AND SUBSTANTIAL DEVIATION" DEFINITION CONTAINED IN THE COUNTY'S FISCAL YEAR 2023-2024 PUBLIC HOUSING AGENCY PLAN, OR AS MAY BE REQUIRED BY REGULATION, STATUTE, OR COURT ORDER, OR SAFETY AND SECURITY ISSUES, WITHOUT FURTHER APPROVAL OF THE BOARD

**WHEREAS**, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that:

**Section 1.** The matters contained in the foregoing recital and accompanying memorandum are incorporated in this resolution by reference.

**Section 2.** This Board approves, after a public hearing, the Public Housing and Community Development's Section 8 Administrative Plan ("Administrative Plan"), Public Housing Admissions and Continued Occupancy Policy ("Policy"), and the Public Housing Tenant Lease Agreement ("lease") in substantially the form attached hereto as Exhibits "A," "B and "C" and incorporated by reference.

**Section 3.** This Board authorizes the County Mayor or County Mayor’s designee to exercise and enforce the provisions set forth in the Administrative Plan, Policy and lease. This Board further authorizes the County Mayor or County Mayor’s designee to make any necessary revisions to the Administrative Plan, Policy and lease, subject to the limitations of the “Significant Amendment and Substantial Deviation” definition contained in the County’s Fiscal Year 2023-2024 Public Housing Agency Plan approved by this Board pursuant to Resolution No. R-695-23, or as may be required by regulation, statute, court order, or safety and security issues, without further approval of the Board.

The foregoing resolution was offered by Commissioner \_\_\_\_\_ , who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

|                                  |                      |
|----------------------------------|----------------------|
| Oliver G. Gilbert, III, Chairman |                      |
| Anthony Rodríguez, Vice Chairman |                      |
| Marleine Bastien                 | Juan Carlos Bermudez |
| Kevin Marino Cabrera             | Sen. René García     |
| Roberto J. Gonzalez              | Keon Hardemon        |
| Danielle Cohen Higgins           | Eileen Higgins       |
| Kionne L. McGhee                 | Raquel A. Regalado   |
| Micky Steinberg                  |                      |

The Chairperson thereupon declared this resolution duly passed and adopted this 12<sup>th</sup> day of December, 2023. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

JUAN FERNANDEZ-BARQUIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.



Terrence A. Smith

**Section 8 Administrative Plan  
for the  
Public Housing and Community  
Development**

**Housing Choice Voucher**

**Effective Date:** \_\_\_\_\_

**BCC Adopted:** \_\_\_\_\_

**Public Housing and Community  
Development  
701 NW 1st Court, 14th Floor  
Miami, Florida 33136-3914**

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|  |           |
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| <b>Chapter 1. Program Administration.....</b>  | <b>8</b>  |
| 1.1. Purpose of the Plan .....   | 8         |
| 1.2 Public Housing and Community Development (PHCD) .....                                  | 9         |
| 1.3 Jurisdiction of the Agency.....  | 9         |
| 1.4 Location of Office.....  | 9         |
| 1.5 Administrative Fee Reserve .....   | 9         |
| 1.6 Ann Marie Adker Consent Decree, et al v Miami-Dade County and HUD (Adker Decree) ..... | 9         |
| 1.7 Assistance for Limited English Proficiency (LEP) Persons .....                         | 10        |
| <b>Chapter 2. Applications, Waiting Lists and Tenant Selection.....</b>                    | <b>13</b> |
| 2.0 Introduction .....   | 13        |
| 2.1 The Application Process.....   | 14        |
| 2.1.A. Overview .....  | 14        |
| 2.1.B. Applying for Assistance.....  | 14        |
| 2.1.C. Accessibility of the Application Process.....                                       | 14        |
| 2.1.D. Notice and Family Outreach .....  | 15        |
| 2.2 Managing the Waiting List .....  | 16        |
| 2.2.A. Overview .....  | 16        |
| 2.2.B. Organization of the Waiting List .....  | 17        |
| 2.2.C. Opening and Closing the Waiting List.....   | 17        |
| 2.2.D. Placement on the Waiting List .....   | 18        |
| 2.2.E. Reporting Changes in Family Circumstances.....                                      | 19        |
| 2.2.F. Updating the Waiting List .....   | 20        |
| 2.3 Selection for HCV Assistance .....   | 21        |
| 2.3.A. Overview .....  | 21        |
| 2.3.B. Selection and HCV Funding Sources .....   | 21        |
| 2.3.C. Selection Method .....  | 22        |
| 2.3.D. Notification of Selection .....   | 25        |
| 2.3.E. The Application Interview .....   | 25        |
| 2.3.F. Completing the Application Process .....  | 27        |
| 2.4 Admission Information .....  | 28        |
| 2.4.A. Third-Party Verifications.....  | 28        |
| 2.4.B. Social Security Numbers.....  | 28        |
| 2.4.C. Identity Verification.....  | 30        |
| 2.4.D. Legal Capacity .....  | 30        |
| 2.4.E. Denial of Assistance.....   | 30        |
| 2.4.F. Violence Against Women Act.....   | 36        |
| 2.4 G Addition to Family Composition .....   | 39        |
| 2.4.H Foster Children and Foster Adults .....  | 40        |
| <b>Chapter 3. Non-Waiting List Issuance and Special Programs .....</b>                     | <b>41</b> |
| 3.1 Displacement Due to Governmental Action .....  | 41        |
| 3.2 Relocation.....  | 41        |
| 3.3 Settlement of Lawsuits .....   | 41        |
| 3.4 Preservation Housing .....   | 41        |
| 3.5 Veterans Assisted Supportive Housing (VASH).....                                       | 41        |
| 3.6 Family Unification Program (FUP).....  | 42        |
| 3.7 Non-Elderly Disabled (NED) Vouchers .....  | 43        |
| 3.8 Special Purpose Vouchers and Other Specialized Allocations .....                       | 43        |
| 3.9 Change of Program Issuance.....  | 44        |
| <b>Chapter 4. Issuing Housing Vouchers.....</b>  | <b>45</b> |
| 4.1 Issuing and Briefing .....   | 45        |
| 4.2 Type of Assistance .....   | 46        |
| 4.3 Term of Voucher.....   | 46        |
| 4.4 Extensions of Term.....  | 46        |
| 4.5 Suspensions .....  | 47        |
| <b>Chapter 5. Occupancy Policies .....</b>   | <b>48</b> |

|   |           |
|---|-----------|
| 5.1 Subsidy Standards .....   | 48        |
| 5.2 Changes in Family Composition.....  | 50        |
| 5.3 Foster Children and Foster Adults.....  | 53        |
| 5.4 Temporary Placement of Family Member .....  | 53        |
| 5.5 Live-In Aide.....   | 53        |
| 5.5.A. Requirements.....  | 54        |
| 5.5.B. Verification .....   | 54        |
| 5.6 Medical Equipment.....  | 55        |
| 5.7 Family Absences from Unit .....   | 55        |
| 5.8 Family Break-up .....   | 56        |
| 5.9 Remaining Family Member.....  | 56        |
| <b>Chapter 6. Citizen and Immigration Status .....</b>  | <b>58</b> |
| 6.1 Submission of Documents and Verification.....   | 58        |
| 6.2 Provision of Notice.....  | 58        |
| <b>Chapter 7. Determination and Verification of Annual Income.....</b>  | <b>59</b> |
| 7.1 Overview.....   | 59        |
| 7.1.A De Minimis Errors in Income Determinations .....  | 59        |
| 7.2 Annual Income Inclusions .....  | 59        |
| 7.3 Exclusions from Annual Income .....   | 60        |
| 7.4 Calculating Annual Income.....  | 66        |
| 7.5 Adjusted Annual Income.....   | 67        |
| 7.6 Enterprise Income Verification (EIV), Third Party Verification, and Factors Affecting Eligibility and Family Rent ..... | 70        |
| 7.6.A HUD Form 9886 (Consent Form to Access EIV) .....  | 73        |
| 7.7 Income Validation Tool (IVT).....   | 74        |
| 7.8 Assets.....   | 74        |
| 7.9 Documents .....   | 76        |
| <b>Chapter 8. Payment Standard and Housing Assistance Payments.....</b>   | <b>78</b> |
| 8.1 Payment Standard.....   | 78        |
| 8.2. Exception Payment Standard.....  | 78        |
| 8.3 Calculating Housing Assistance Payments.....  | 78        |
| 8.4 Reasonable Accommodation .....  | 79        |
| <b>Chapter 9. Rent Comparability and Reasonableness.....</b>  | <b>80</b> |
| 9.1 Comparability.....  | 80        |
| 9.2 Initial Determination of Rent .....   | 80        |
| 9.3 Documentation and Record Keeping .....  | 81        |
| <b>Chapter 10. Housing Quality Standards and Inspections .....</b>  | <b>82</b> |
| 10.1 Initial Inspections .....  | 82        |
| 10.2 Biennial Inspections.....  | 82        |
| 10.3 Complaint Inspections .....  | 84        |
| 10.4 Quality Control Inspections .....  | 84        |
| 10.5 Ongoing Maintenance required for Compliance with 24 CFR part 35, Lead-based Paint .....                                | 84        |
| 10.6 Extensions of Time to Cure Inspection Violations .....   | 85        |
| <b>Chapter 11. Utilities.....</b>   | <b>86</b> |
| 11.1 Utility Allowance Schedule .....   | 86        |
| 11.2 Utility Reimbursements.....  | 86        |
| 11.3 Tenant-Responsible Utilities.....  | 86        |
| <b>Chapter 12. Security Deposits and Late Fees .....</b>  | <b>87</b> |
| 12.1 Security Deposits.....   | 87        |
| 12.2 Late Fees.....   | 87        |
| <b>Chapter 13. Tenancy Approval.....</b>  | <b>89</b> |
| 13.1 Documents to be Submitted .....  | 89        |
| 13.2 Approval of Assisted Tenancy and Approval to Move In.....  | 89        |
| 13.3 Use of Unit for Business .....   | 90        |
| 13.4 Use of Unit Address.....   | 90        |

|   |            |
|---|------------|
| <b>Chapter 14. Housing Assistance Payments .....</b>                                      | <b>91</b>  |
| 14.1 HAP Contract and Lease Termination.....  | 91         |
| 14.2 Right to Recoup Amounts Paid .....   | 91         |
| 14.3 Reduction or Termination of HAP Contract for Insufficient Funding .....              | 92         |
| <b>Chapter 15. Annual and Interim Re-certification.....</b>                               | <b>93</b>  |
| 15.1 Annual Re-certification .....  | 93         |
| 15.2 Interim Re-certifications.....   | 95         |
| <b>Chapter 16. Family Moves .....</b>   | <b>97</b>  |
| 16.1 Tenant Notice .....  | 97         |
| 16.2 Mutual Lease Termination.....  | 97         |
| 16.3 Owner Responsibility on Tenant Move-out .....  | 97         |
| <b>Chapter 17. Tenant Rents and Housing Assistance Payment (HAP) Increases .....</b>      | <b>98</b>  |
| 17.1 Tenant Rents .....   | 98         |
| 17.2 HAP Increases.....   | 98         |
| 17.3 Change in responsibility for Utilities .....   | 98         |
| <b>Chapter 18. Portability .....</b>  | <b>99</b>  |
| 18.1 Moving out of PHCD’s Jurisdiction .....  | 99         |
| 18.2 Absorption of Incoming Portables .....   | 99         |
| <b>Chapter 19. Family Self-Sufficiency Program .....</b>                                  | <b>100</b> |
| 19.1 Overview.....  | 100        |
| 19.2 Selection and Screening .....  | 100        |
| 19.3 Contract of Participation: Term and Conditions .....                                 | 100        |
| 19.4 Individual Training and Services Plan .....  | 101        |
| 19.5 Services Provided under FSS .....  | 101        |
| 19.6 The Escrow Account.....  | 101        |
| <b>Chapter 20. Expanding Housing Opportunities .....</b>                                  | <b>102</b> |
| 20.1 Overview.....  | 102        |
| 20.2 Outreach to Owners and Owner Referral Lists .....                                    | 102        |
| 20.3 Information Assistance for Voucher Families.....                                     | 103        |
| <b>Chapter 21. Providing Information and Complaints .....</b>                             | <b>104</b> |
| 21.1 Florida Public Records Act .....   | 104        |
| 21.2 Information to Owner .....   | 104        |
| 21.3 Complaints.....  | 105        |
| <b>Chapter 22. Transfer of Ownership.....</b>   | <b>106</b> |
| <b>Chapter 23. Owner’s Foreclosure .....</b>  | <b>107</b> |
| <b>Chapter 24. Disapproval of Owners and County Employee.....</b>                         | <b>108</b> |
| <b>Participation in Tenant-Based Programs .....</b>                                       | <b>108</b> |
| 24.1 Disapproval of Owners: Conditions .....  | 108        |
| 24.2 County Employees and Immediate Family – Participation in Tenant-Based Programs ..... | 108        |
| <b>Chapter 25. Project-based Voucher Program .....</b>                                    | <b>109</b> |
| 25.1 Overview.....  | 109        |
| 25.2 Administration of Project-based Program.....   | 111        |
| 25.3 Agreement to Enter into Housing Assistance Payments Contract.....                    | 113        |
| 25.4 New Construction or Rehabilitation Phase.....  | 114        |
| 25.5 Housing Assistance Payments (HAP) Contract .....                                     | 115        |
| 25.6 Management Phase .....   | 116        |
| 25.7 PBV Preferences .....  | 118        |
| 25.8 PBV Site-Based Waiting Lists .....   | 119        |
| <b>Chapter 26. Homeownership under Housing Choice Voucher .....</b>                       | <b>120</b> |
| 26.1 Overview.....  | 120        |
| 26.2 Eligibility of Family .....  | 120        |
| 26.3 Income Requirements .....  | 121        |
| 26.4 Income and Credit Verification .....   | 123        |
| 26.5 Homebuyer Education and Counseling.....  | 123        |

|   |            |
|---|------------|
| 26.6 Eligible Housing .....   | 124        |
| 26.7 Loan Qualification and Application Process .....   | 124        |
| 26.8 Housing Search .....   | 125        |
| 26.9 Down Payment Requirement .....   | 125        |
| 26.10 Program Requirements .....  | 125        |
| 26.11 Housing Assistance Payments .....   | 126        |
| 26.12 Financing and Payments .....  | 126        |
| 26.13 Inspections Requirements .....  | 127        |
| 26.14 Insurance Requirements .....  | 128        |
| 26.15 Sales Contract .....  | 128        |
| 26.16 Family Obligations .....  | 128        |
| 26.17 Portability .....   | 129        |
| 26.18 Default and Termination of Assistance .....   | 129        |
| 26.19 Continuation of Assistance .....  | 129        |
| 26.20 Down Payment Assistance and Other Program Issues .....                                      | 129        |
| <b>Chapter 27. Termination of Assistance .....</b>  | <b>130</b> |
| 27.1 Grounds for Termination of Assistance .....  | 130        |
| 27.2 Notice .....   | 132        |
| <b>Chapter 28. Policies Concerning Repayment of Amounts Owed to PHCD .....</b>                    | <b>134</b> |
| 28.1 Standards for Repayment .....  | 134        |
| 28.2 Exceptions .....   | 134        |
| <b>Chapter 29. Informal Hearing and Review Procedures .....</b>                                   | <b>135</b> |
| 29.1 Participant Hearings .....   | 135        |
| 29.2 Applicant reviews .....  | 137        |
| 29.3 End of Participation Reviews .....   | 138        |
| <b>Chapter 30. Fair Housing and Equal Opportunity and Grievance Procedures .....</b>              | <b>139</b> |
| 30.1 Non-discrimination Policy .....  | 139        |
| 30.2 Processing Discrimination Complaints and Reasonable Accommodation Requests .....             | 139        |
| <b>Chapter 31. Special Rules for Moderate Rehabilitation .....</b>                                | <b>141</b> |
| 31.1 Transfer and Waiting List Referrals .....  | 141        |
| 31.2 Condition of Units .....   | 143        |
| 31.3 Valid Rejections of Offered Units .....  | 143        |
| 31.4 Changes to Family Composition .....  | 144        |
| 31.5 Transfer Policy .....  | 144        |
| 31.6 HQS .....  | 145        |
| 31.7 Occupancy Standards .....  | 145        |
| 31.8 Single Room Occupancy (SRO) and Shelter Plus Care Programs .....                             | 145        |
| <b>Chapter 32. PBVs Under the Rental Assistance Demonstration (RAD) Program .....</b>             | <b>146</b> |
| 32.1 General Requirements and Standards .....   | 146        |
| 32.1.A. Overview and History of the RAD Program .....   | 146        |
| 32.1.B. Applicable Regulations .....  | 146        |
| 32.1.C. Tenant-Based VS. Project-Based Voucher Assistance [24 CFR § 983.2] .....                  | 147        |
| 32.1.D. Relocation Requirements .....   | 147        |
| 32.1.E. Equal Opportunity Requirements [24 CFR § 983.8; 24 CFR § 5.105; Notice PIH 2016-17] ..... | 149        |
| 32.2 PBV Project Selection .....  | 150        |
| 32.2.A. Overview .....  | 150        |
| 32.2.B. Ownership and Control [Notice PIH 2019-23] .....  | 150        |
| 32.2.C. PHCD Owned Units .....  | 150        |
| 32.2.D. PBV Percentage Limitation and Unit Cap [Notice PIH 2019-23] .....                         | 151        |
| 32.2.E. Site Selection Standards [Notice PIH 2019-23; Notice PIH 2016-17] .....                   | 151        |
| 32.3 Dwelling Units .....   | 151        |
| 32.3.A. Overview .....  | 151        |
| 32.3.B. Housing Quality Standards [24 CFR § 983.101] .....  | 151        |
| 32.3.C. Lead-based Paint [24 CFR § 983.101(c); Notice PIH 2019-23] .....                          | 151        |
| 32.3.D. Housing Accessibility for Persons with Disabilities [Notice PIH 2016-17] .....            | 152        |

|  |            |
|--|------------|
| 32.3.E. Inspecting Units.....  | 152        |
| 32.4 Housing Assistance Payments (HAP) Contract.....   | 153        |
| 32.4.A. Overview [PBV Quick Reference Guide 10/14].....                                      | 153        |
| 32.4.B. HAP Contract Requirements.....   | 153        |
| 32.4.C. Amendments to the HAP Contract.....  | 154        |
| 32.4.D. HAP Contract Year and Anniversary Dates [24 CFR § 983.302(e)].....                   | 155        |
| 32.4.E. Owner Responsibilities under the HAP Contract [24 CFR § 983.210].....                | 155        |
| 32.4.F. Vacancy Payments [24 CFR § 983.352(b)].....  | 155        |
| 32.5 Selection of PBV Program Participants.....  | 156        |
| 32.5.A. Overview.....  | 156        |
| 32.5.B. Prohibited Rescreening of Existing Tenants upon Conversion [Notice PIH 2019-23]..... | 156        |
| 32.5.C. Eligibility for PBV assistance [24 CFR § 983.251(a) and (b)].....                    | 156        |
| 32.5.D. Organization of the Waiting List [24 CFR § 983.251(c); Notice PIH 2019-23].....      | 157        |
| 32.5.E. Selection from the Waiting List [24 CFR § 983.251(c)].....                           | 157        |
| 32.5.F. Income Targeting [24 CFR § 983.251(c)(6); Notice PIH 2019-23].....                   | 157        |
| 32.5.G. Units with Accessibility Features [24 CFR § 983.251(c)(7)].....                      | 157        |
| 32.5.H. Preferences [24 CFR § 983.251(d); FR Notice 11/24/08; Notice PIH 2019-23].....       | 157        |
| 32.5.I. Offer of PBV Assistance.....   | 157        |
| 32.5.J. Owner Selection of Tenants.....  | 158        |
| 32.5.K. Tenant Screening [24 CFR § 983.255].....   | 159        |
| 32.6 Occupancy.....  | 159        |
| 32.6.A. Overview.....  | 159        |
| 32.6.B. Lease [24 CFR § 983.256].....  | 159        |
| 32.6.C. Public Housing FSS and ROSS Participants [Notice PIH 2019-23].....                   | 162        |
| 32.6.D. Resident Participation and Funding [Notice PIH 2019-23].....                         | 163        |
| 32.6.E. Moves.....   | 163        |
| 32.6.F. Reexaminations [PBV Quick Reference Guide 10/14].....                                | 166        |
| 32.6.G. Earned Income Disallowance.....  | 166        |
| 32.6.H. Phase-In of Tenant Rent Increases [Notice PIH 2019-23].....                          | 166        |
| 32.6.I. Residents' Procedural Rights [Notice PIH 2019-23].....                               | 167        |
| 32.6.J. Informal Hearings and Grievance Procedures [Notice PIH 2019-23].....                 | 168        |
| 32.7 Determining Contract Rent.....  | 171        |
| 32.7.A. Initial Contract Rents [Notice PIH 2019-23].....                                     | 171        |
| 32.7.B. Adjusting Contract Rents [Notice PIH 2019-23; PBV Quick Reference Guide 10/14].....  | 172        |
| 32.7.C. Utility Allowances [Notice PIH 2019-23; PBV Quick Reference Guide 10/14].....        | 173        |
| 32.7.D. Reasonable Rent [24 CFR § 983.303].....  | 173        |
| 32.8 Payments to Owner.....  | 174        |
| 32.8.A. Housing Assistance Payments.....   | 174        |
| 32.8.B. Vacancy Payments [24 CFR § 983.352].....   | 174        |
| 32.8.C. Tenant Rent To Owner [24 CFR § 983.353; Notice PIH 2019-23].....                     | 175        |
| 32.8.E. Other Fees and Charges [24 CFR § 983.354].....                                       | 176        |
| <b>Chapter 33. Emergency Housing Vouchers.....</b>   | <b>177</b> |
| 33. Introduction.....  | 177        |
| Part I: Funding.....   | 178        |
| 33.1 TPS-I.A. Funding Overview.....  | 178        |
| 33.1.A Housing Assistance Payments (HAP) Funding.....  | 178        |
| 33.1 B Administrative Fee and Funding.....   | 178        |
| 33.1 C TPS-I.B. Service Fees.....  | 180        |
| Part II: Partnering Agencies.....  | 183        |
| 33.2 TPS-II.A. Continuum of Care (CoC).....  | 183        |
| 33.2 A TPS-II.B. Other Partnering Organizations.....   | 183        |
| 33.2 B TPS-II.C. Referrals.....  | 183        |
| 33.2 C Offers of Assistance with CoC Referral.....   | 184        |
| Part III: Waiting List Management.....   | 185        |
| 33.3 TPS-III. A. HCV Waiting List.....   | 185        |
| 33.3 A TPS-III.B. EHV Waiting List.....  | 185        |

Section 8 Administrative Plan

33.3 B TPS-III.C. Preferences ..... 186  
 Part IV: Family Eligibility..... 187  
 33.4 TPS-IV.A. Overview..... 187  
 Part V: Housing Search and Leasing ..... 192  
 Part VI: Use of Funds, Reporting, And Financial Records ..... 198

|                      |   |
|----------------------|---|
| <b>ATTACHMENT A:</b> | <b>DEFINITIONS</b>  |
| <b>ATTACHMENT B:</b> | <b>EFFECTIVE COMMUNICATION POLICY</b>   |
| <b>ATTACHMENT C:</b> | <b>REASONABLE ACCOMMODATION POLICY AND PROCEDURES</b>   |
| <b>ATTACHMENT D:</b> | <b>MERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING ATTACHMENT E: VIOLENCE, SEXUAL ASSAULT, OR STALKING FOR SECTION 8 PROGRAMS</b> |

## **PUBLIC HOUSING AND COMMUNITY DEVELOPMENT**

### **ADMINISTRATIVE PLAN HOUSING CHOICE VOUCHER PROGRAMS**

#### **Chapter 1. Program Administration**

##### **1.1. Purpose of the Plan**

This Administrative Plan is a supporting document to Public Housing and Community Development's (PHCD) Public Housing Agency (PHA) Plan. It shall be available for public review during regular office hours Monday through Friday at its main administrative offices located at 701 NW 1st Court, 16th Floor, Miami, Florida 33136-3914.

The purpose of this Administrative Plan is to establish written policies in accordance with United States Department of Housing and Urban Development (HUD) regulations and other matters not specifically covered under the United States Housing Act of 1937 and HUD regulations, but left to PHCD's local discretion, for the Housing Choice Voucher and the Moderate Rehabilitation Programs (unless specifically stated as being solely a Moderate Rehabilitation Program requirement, a Project Based Voucher (PBV) and/or Rental Assistance Demonstration (RAD) PBV requirement, all references to these programs are referred to as the "Housing Choice Voucher" Program). The regulations that govern the programs are documented in 24 Code of Federal Regulations (CFR) parts 5, 982, and other applicable regulations promulgated by the HUD.

The goal of this Administrative Plan for the Housing Choice Voucher and Moderate Rehabilitation Programs is to achieve three (3) major objectives:

- A. To provide improved living conditions for low-income families while maintaining their rent payments at an affordable level;
- B. To provide decent, safe, and sanitary housing for eligible program participants; and
- C. To provide an incentive to private property owners to rent to lower income families by offering timely assistance payments.

In addition, this Plan advocates the following:

- A. Protection of the rights of owners and participants in all neighborhoods;
- B. Protection of low-income working families assisted through the Housing Choice Voucher Program from inflated rents;
- C. Provision to any resident of Miami-Dade County who wants access to a copy of this Plan and to explain how to file complaints;
- D. Ensure Housing Choice Voucher Program owners meet all financial obligations to local governments; and

- E. Requires owners and tenants to meet requirements of federal housing regulations and this Administrative Plan.

## **1.2 Public Housing and Community Development (PHCD)**

Miami-Dade County (County), a political subdivision of the State of Florida, is the local government entity responsible for affordable housing programs, administers the Housing Choice Voucher Programs through its housing department, the Public Housing and Community Development, or its successor agency or department, collectively referred to as the “Agency” or “PHCD.” Any policy revisions to this Administrative Plan after its adoption requires approval from the Miami-Dade Board of County Commissioners or other authorized PHCD officials.

Administration of the Housing Choice Voucher programs shall comply with all applicable Federal, State and local law, the Housing Choice Voucher regulations, handbooks, and policies promulgated by HUD, and other federal laws including but not limited to the Fair Housing Act, as amended, The Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, and Section 3 of the Housing and Urban Development Act of 1968, as amended.

For more information visit PHCD’s website at [www.miamidade.gov/housing](http://www.miamidade.gov/housing).

## **1.3 Jurisdiction of the Agency**

PHCD has jurisdiction throughout all of incorporated and unincorporated Miami-Dade County for the Housing Choice Voucher Program. Although several housing agencies have been established within the various municipalities of Miami-Dade County, federal regulations allow the Voucher holder (also known as Housing Choice Voucher participant) to use the assistance anywhere there is a housing agency or authority implementing the Housing Choice Voucher program (see Chapter 18 on “Portability”).

## **1.4 Location of Office**

The main office for the Housing Choice Voucher Program (HCV) is located at 20 SE 3<sup>rd</sup> Ave 3<sup>rd</sup> floor, Miami, FL 33131, where HCV applicants and program participants are served. If the office serving HCV clients changes, PHCD will so notify the affected tenants. PHCD offices shall be accessible to persons with disabilities.

## **1.5 Administrative Fee Reserve**

Federal regulations require the Miami-Dade Board of County Commissioners to establish the maximum amount of Annual Contributions Contract (ACC) funds that may be charged against the administrative fee reserve *without specific* Board approval. However, PHCD will request Board approval to access the administrative fee reserve in the ACC for awards and contracts exceeding \$100,000.

## **1.6 Ann Marie Adker Consent Decree, et al v Miami-Dade County and HUD (Adker Decree)**

Although the Adker Decree expired August 1, 2009, PHCD will ensure that the eligibility process is completed for mobility pool members that commenced the process prior to the

expiration of the Adker Decree. Notwithstanding the expiration of the Adker Decree, PHCD shall comply with Miami-Dade Board of County Commissioners' Resolution No. R-1075-09 adopted on September 1, 2009. Pursuant to that resolution, PHCD and all County departments that administer affordable housing programs shall:

Ensure that the mandates of the Adker Decree of providing desegregative opportunities to all residents, participants and applicants of public housing, Section 8 Housing Choice Voucher, Section 8 Moderate Rehabilitation and other federally subsidized project-based and tenant-based housing programs administered by the County are continued;

Maintain the current Adker-related provisions in the Public Housing and Community Development's Admissions and Continued Occupancy Policy (ACOP) and Section 8 Administrative Plan;

Designate a person(s) or division within the Agency to be responsible for ensuring compliance with the terms of Board's resolution; and

Provide any reports required by the Board, the Mayor or the Mayor's designee.

## **1.7 Assistance for Limited English Proficiency (LEP) Persons**

### **Assistance to Limited English Proficient Persons**

In accordance with HUD's Final Guidance to Federal Assistant Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (Final Guidance), PHCD is committed to ensure direct access to its program and activities to all applicants and program participants, regardless of the primary language they speak.

A Limited English Proficient (LEP) person does not speak English as the primary language and has limited ability to read, write, or understand English at a level that permits the person to communicate effectively in the course of applying or receiving services or benefits from recipients of federal funds.

#### **A. Four (4) Factor Analysis**

The Final Guidance defines a self-assessment method to assist agencies receiving HUD funds in determining the extent of their obligations to LEP persons. PHCD has conducted the following four (4) factor self-assessment and concluded that Spanish and Creole are the non-English languages most commonly spoken by the LEP population it serves.

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee (persons speaking a language other than English exceeds 5% or 1,000 persons, whichever is less);
2. The frequency with which LEP persons come in 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 PHCD and its costs.

## **B. Language Assistance Plan (LAP) and Safe Harbor**

PHCD posts Spanish and Creole signs at its administrative and site management offices (public places) and on its website to inform LEP persons that free oral interpretation services and translation of vital PHCD's documents are available upon request. Additionally, applicants and program participants are informed of their ability to request an interpreter in all written PHCD's advertisements and notifications related to hearings, interviews, scheduled appointments, and adverse action notices.

### **1. Staff Training**

PHCD employees are provided with training on the LEP policy requirements, their role in assisting LEP persons, and with information on the resources available for LEP persons and how to access these resources.

### **2. Oral Language Interpretation**

PHCD utilizes bilingual staff members fluent in Spanish or Creole who provide oral language interpretation to LEP persons at face-to-face or telephone contacts, as needed. Also, oral language interpretation services may be provided for scheduled appointments, meetings, informal reviews, hearings and interviews, upon request five (5) business days in advance, from the Section 504/ADA Coordinator. The Section 504/ADA Coordinator secures oral translation services from approved vendors, according to the County's procurement procedures.

Language interpretation services are offered to LEP persons for activities including but not limited to the following:

- Eligibility Interview
- Voucher Briefing
- Rental Interview and Lease Signing
- Initial, Annual, and Interim Reexaminations
- Transfer and Resident Tenancy Application
- Reasonable Accommodation Requests
- Conferences, Informal Reviews and Hearings

PHCD staff is prohibited from requiring or asking LEP persons to bring their own interpreter. If a LEP person requests that an adult family member or friend (18 years of age or older) provide interpretation, this practice is acceptable only if it is his/her choice. The LEP person will be advised by PHCD staff about the availability of free language services.

### **3. Written Language Translation of Vital Documents**

HUD's Final Guidance defines vital documents as "those that are critical for ensuring meaningful access by beneficiaries or potential beneficiaries generally and LEP persons specifically." PHCD uses the County's translation services provided by the Community Information and Outreach (CIO) Department to translate its vital documents and advertisements into Spanish and Creole.

PHCD has translated into Spanish and Creole the following vital documents. They are available in the shared drive, at H:\Compliance Reference Library\Forms - Agency Master Folders and must be provided to LEP persons upon request.

- Consent and complaint forms
- Intake forms with the potential for important consequences
- Written notices of rights, denial, loss, or decreases in benefits or services, and other hearings
- Notices of termination of assistance and eviction
- Notices and forms related to the Violence Against Women Act (VAWA)
- Notices of advising LEP persons of free language assistance
- Notices of public hearings, especially those that meet Community Planning and Development's citizen participation requirements
- Public Housing Lease and tenant rules, and/or
- Applications to participate in a recipient's program or activity or to receive recipient benefits or services.

**C. Monitoring and Updating**

PHCD will periodically review and assess its LEP policy, based on Miami-Dade County's demographics and changes in HUD regulations.

## Chapter 2. Applications, Waiting Lists and Tenant Selection

### 2.0 Introduction

Families must submit a housing application in order to receive assistance under the HCV program. The HCV program is a federally-funded program under HUD. PHCD is required to follow federal guidelines to obtain the information needed from applicants to determine the family's eligibility. HUD requires PHCD to place all families that apply for assistance on a waiting list.

In order to give all families an equal opportunity to apply for and receive housing assistance, PHCD places families that apply for assistance on a waiting list via an electronic drawing and random selection process. When HCV assistance becomes available, PHCD selects families from the waiting list in accordance with HUD requirements and PHCD policies.

This Chapter describes HUD and PHCD policies for receiving applications, managing the waiting lists and selecting families for housing assistance. The policies outlined in this Chapter are organized into three (3) parts and various subsections, as follows:

**Part 2.1: The Application Process:** This part provides an overview of the application process and discusses how applicants can obtain and submit applications. It also specifies how PHCD will handle the applications it receives.

**Part 2.2: Managing the Waiting List:** This part presents the policies that govern how PHCD's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for assistance. It also discusses the process PHCD will use to keep the waiting list current.

**Part 2.3: Selection for HCV Assistance:** This part describes the policies that guide PHCD in selecting families for HCV assistance as such assistance becomes available. It also specifies how in-person interviews will be used to ensure that PHCD has the information needed to make a final eligibility determination.

**Part 2.4: Admission Information:** This part presents the admission information required for applications and provides details on other admission-based criteria and provisions.

## **2.1 The Application Process**

### **2.1.A. Overview**

This part describes PHCD's policies for making applications available, accepting applications making preliminary determinations of eligibility, and the placement of applicants on the waiting list. This part also describes PHCD's obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with limited English proficiency (LEP).

### **2.1.B. Applying for Assistance**

Any family that wishes to receive HCV assistance must apply for admission to the program. Applications will be accepted in accordance with this chapter, including online applications via advertised web portals and physical copies that may be received and delivered at advertised regional locations in Miami Dade County.

HUD permits PHCD to determine the format and content of HCV applications, as well how such applications will be made available to interested families and how applications will be accepted by PHCD. PHCD must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of PHCD's application.

#### **PHCD's Policy**

Families interested in applying for assistance must do so during the open registration period. The waiting list open registration period shall remain open for at least ten (10) business days.

PHCD initially will require families to provide only the information needed to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list.

Online applications will be available on advertised web portals during the open registration period. Subsequently, physical applications will be available at advertised regional locations in Miami Dade County. Completed physical applications shall be delivered at advertised locations. In the event that PHCD decides to accept applications in person at designated locations, PHCD will make reasonable accommodations for applicants with disabilities. The method for accepting applications may change depending on the technology and resources available to PHCD at the time the waiting list is expected to be open.

The digital application process and corresponding web portal registration shall be administered by a software development company that provides enterprise software application solutions to Public Housing Authorities in the United States.

### **2.1.C. Accessibility of the Application Process**

#### **Elderly and Disabled Populations**

PHCD must take steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard PHCD application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). PHCD must provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully

accessible, or PHCD must provide an alternate approach that provides full access to the application process.

### **Limited English Proficiency**

PHCD is required to take reasonable steps to ensure equal access to their programs and activities by persons with limited English proficiency [24 CFR part 1].

### **2.1.D. Notice and Family Outreach**

The opening and closing of application and registration periods will be advertised on social media platforms, newspaper publications and the radio for the purpose of reaching all segments of the community and providing advance notice. PHCD will announce the opening of the waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

PHCD will give public notice in suitable media outlets including, but not limited to:

1. **The Miami Herald**, the largest paper of daily general circulation
2. **The Miami Times**, largest circulation among African-Americans
3. **Diario Las Americas**, a Spanish language publication
4. The Haiti en March or Kiskeya Herald, Haitian publications
5. Social media platforms and digital marketing (i.e., Facebook)
6. Radio broadcasts and other relevant media

The public notice will include, but will not be limited to, the following information:

1. The application process
2. Opening date
3. Closing date to receive applications, if any
4. Method for placement on the waiting list
5. Available preferences

PHCD must conduct outreach as necessary to ensure that PHCD has a sufficient number of applicants on the waiting list to use the HCV resources it has been allotted. Because HUD requires PHCD to admit a specified percentage of extremely low-income families to the program, PHCD may need to conduct special outreach to ensure that an adequate number of such families apply for assistance [HCV Guidebook (GB), p. 4-20 to 4-21].

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

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

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

- Submitting press releases to local newspapers, including minority newspapers
- Developing informational materials and flyers to distribute to other agencies
- Providing application forms to other public and private agencies that serve the low-income population
- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

### **PHCD Policy**

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

PHCD will ensure inclusion on its waiting list of all people without regard to race, national or ethnic origin, color, sex, religion, age, disability, familial status, marital status, ancestry, status as a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking, actual or perceived sexual orientation, gender identity or gender expression, pregnancy or source of income.

Efforts will be taken to ensure outreach to Miami-Dade County's eligible population providing information of all opportunities to apply for program assistance upon opening of the general waiting list. In order to reach the widest eligible population, the agency may use special outreach in any of the following methods:

1. Notice to churches, synagogues, and other places of worship;
2. Notice to government offices including but not limited to Miami-Dade County regional libraries, Miami-Dade County Community Action and Human Services Department, Social Security Administration, State of Florida Department of Children and Families, Legal Services of Greater Miami, Inc., or other agencies designed to assist the low income community;
3. Notice to agencies that assist the elderly or disabled;
4. Announcement at public meetings; and
5. Any other methods deemed appropriate to increase the scope of outreach for eligible applicants.

### **Marketing Material**

1. PHCD will use clear and easy to understand terms and distribute the notice in accordance with LEP requirements.
2. PHCD will contact agencies that serve potentially qualified applicants least likely to apply (e.g. the disabled) to ensure that accessible/504/ADA-adaptable units are offered to applicants who need these features.
3. PHCD will include a statement regarding its responsibility to provide a reasonable accommodation to persons with a disability.

## **2.2 Managing the Waiting List**

### **2.2.A. Overview**

PHCD must have policies regarding various aspects of organizing and managing the waiting list of applicant families. This includes opening the list to new applicants, closing the list to new

applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for assistance, as well as conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how PHCD may structure its waiting list and how families must be treated if such families apply for assistance from PHCD that administers more than one assisted housing program. Except for HUD special admissions, targeted funding, and certain preference categories, PHCD will only accept applications when the waiting list is open.

### **2.2.B. Organization of the Waiting List**

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

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

- Applicant name;
- Family unit size;
- Date and time of application;
- Qualification for any admission preference (see 2.3(C));
- Racial or ethnic designation of the head of household (optional).

HUD requires PHCD to maintain a single waiting list for the tenant-based program unless it serves more than one county or municipality.

A family's decision to apply for, receive, or refuse other housing assistance must not affect the family's placement on the HCV waiting list, or any preferences for which the family may qualify.

#### **PHCD Policy**

PHCD will not merge the HCV waiting list with the waiting list for any other program PHCD operates.

### **2.2.C. Opening and Closing the Waiting List**

#### **i. Timing**

1. PHCD, subject to the Board of County Commissioners' approval, may elect to open and dissolve the waiting list as needed.
2. Once the waiting list is dissolved, applicants who are on the waiting list at the time the waiting list dissolved shall keep their position and shall not be required to submit new applications during the open registration period. Notwithstanding the dissolution of the waiting list, applicants who are being processed prior to dissolution of the waiting list will continue to be processed by PHCD.
3. PHCD, subject to the Board of County Commissioners' approval, may elect to open the waiting list if there are insufficient applicants for a particular bedroom size, type (e.g., general occupancy, elderly designated buildings, and accessible or non-accessible, or for one or more of the admission preferences).

4. The opening and closing of registration periods will be advertised in the media, as described in this chapter, for the purpose of reaching all segments of the community and providing advance notice.

### **PHCD Policy**

PHCD must seek the approval of the Board of County Commissioners prior to opening the waiting list.

Upon approval of opening the waiting list and revising the Administrative Plan, dissolution of the waiting list may occur consequently once the waiting list is exhausted. The waiting list is deemed exhausted once all of the names of the qualified families have been selected or the underlying funding has been absorbed for the given period. Once the waiting list has been exhausted and the qualified families have received a voucher, the waiting list will be considered dissolved.

Pursuant to 24 CFR § 983.251, and the PBV waiting list process in PHCD's PHA Plan as approved by HUD and the Board, PHCD proposes to establish site-based waiting lists for its Section 8 Project Based Voucher Program.

### **2.2.D. Placement on the Waiting List**

#### **i. Process for Placement on the Waiting List**

PHCD will determine the number of applications to be selected on the waiting list based on historical and empirical data. The waiting list number represents the number of applications that need to be reviewed in order to result in the issuing of enough vouchers to absorb all underlying funding within a 12 to 18-month period. After that, subject to the Board of County Commissioners' approval, the list will be reopened.

PHCD will select applicants to be placed on the waiting list via an electronic drawing and random selection process. The applicants will be placed on the waiting list in order of the assigned numbers and according to PHCD admission preference(s) described in this chapter.

Those families not selected from the pool of applications for placement on the waiting list will be notified that they were not selected, informing that they may apply the next time PHCD's waiting list is open.

Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility, in accordance with this chapter, will be made when the family is selected from the waiting list.

The electronic drawing and random selection process shall be implemented by a recognized software development company that has designed an application software solution for the random selection of applicants to the waiting list. The selected applicants will be assigned a randomly selected number. The applicants will be placed on the waiting list in order of the assigned numbers and according to PHCD preference(s) described in this chapter.

PHCD must accept applications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in federal regulations [24 CFR § 982.206(b)(2)]. Where the family is determined to be ineligible, PHCD must notify the family in writing [24 CFR § 982.201(f)].

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

## **2.2.E. Reporting Changes in Family Circumstances**

### **PHCD Policy**

1. While the family is on the waiting list, the family must inform PHCD of changes in family composition, income, contact information, including current residence, mailing address, e-mail, and phone number within 10 days of the change.
2. While on the waiting list, the family may request changes to their preference selections.
3. Applications are nontransferable, except under the following circumstances:
  - a) In case of dissolution of marriage or family disputes, PHCD will abide the court's determination on whom shall assume the head of household on the application.
  - b) If the head of household is deceased prior to or during the application process, one of the remaining adult family members on the application will automatically become the head of household, provided such person meets all eligibility requirements. In circumstances where there is more than one (1) surviving adult family member, the family shall determine which surviving family member should be head of household as long as they are part of the original application. PHCD shall not make the determination nor create more than one (1) application.
  - c) If the head of household is deceased and the remaining family members are minors, the person granted legal custody of such children will become the head of household and is entitled to the original application and ranking number, provided such person meets all eligibility requirements.
  - d) By mutual agreement between existing members of the household. Specifically, a HOH who wishes to relinquish their rights to the application may remove themselves and assign a new HOH. However, the new HOH must demonstrate that they were part of the existing family for at least 12 months prior to being selected. This may be verified by providing documents issued by a separate government agency that provides reasonable proof that the new HOH has been part of the family composition for at least 12 months. Documents include but are not limited to: a driver's license, tax and school records, benefit award letters. PHCD, at its sole discretion and upon receiving a request to change the HOH, may perform an unannounced visit to the applicant's existing residents to confirm that the new HOH is part of the existing family.
  - e) Prior to making a change, PHCD will consider the interest of disabled or elderly family members, minors, and any instance of actual threatened physical violence or domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking.

4. The changes must be submitted in writing or in the form required by PHCD.

### **2.2.F. Updating the Waiting List**

HUD requires PHCD to establish policies to use when removing applicant names from the tenant-based waiting list. PHCD requires families to keep information up to date every year.

#### **i. Updating the Waiting List**

Upon establishment of the waiting list, it is necessary to have current and updated applicant information. PHCD periodically reviews the waiting list to determine if an update is necessary. If an update is needed, PHCD will ask families for current information and confirmation of continued interest. Families that do not respond may be withdrawn from the Waiting List.

The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to PHCD's request for information or updates, and PHCD determines that the family did not respond because of the family member's disability, PHCD must reinstate the applicant family to their former position on the waiting list [24 CFR § 982.204(c)(2)].

#### **PHCD Policy**

The waiting list and its associated preferences will be updated as necessary to ensure that applicant information is current.

If a new preference is adopted, families on the waiting list will be given the opportunity to select and update their application with such preference.

To update the waiting list, PHCD will send notification to the families on the waiting list through postal mail or electronic mail to determine whether the family continues to be interested in the program. The request may be sent to all families on the list or those who may be reasonably expected to be selected within the next 12 months. The update request will provide the method in which the family must respond in, a deadline by which the family must respond, and will state that failure to respond may result in the application being removed from the waiting list.

Families will be provided at least 15 calendar days to respond to PHCD in accordance with the requirements outlined in the notice. If the family fails to respond within the provided deadline, the family will be removed from the waiting list and will be provided a final notice of withdraw.

PHCD will not perform a new random selection process during a waiting list update process.

#### **ii. Removal from the Waiting List**

If after placement on the waiting list, PHCD identifies that the family has submitted more than one (1) application, PHCD will verify the family's information and retain the application with the correct information. All other applications will be withdrawn.

If a waiting list update notice is returned by the post office or email host domain, reasonable efforts should be made to reach the applicant by other means such as phone

or text. PHCD will, where possible, attempt to reach an applicant by phone, text message, and email.

Families withdrawn due to returned mail may request an informal review at any time for the purposes of reviewing and verifying the accuracy of the mail or email address to where PHCD sent the notice as compared to existing program records on family reported information.

If a family is removed from the waiting list for failure to respond, PHCD may reinstate the family if it is determined that (1) the lack of response was due to PHCD's error, or (2) for documented circumstances beyond the family's control.

If an applicant is selected from the waiting list and does not respond to notices of scheduled appointments or to PHCD correspondence, the family will be removed from the waiting list and will be provided with a final notice of withdrawal.

If a family is removed from the waiting list because PHCD has determined the family is not eligible for assistance, a notice will be sent to the family's address of record. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding PHCD's decision [24 CFR § 982.201(f)].

## **2.3 Selection for HCV Assistance**

### **2.3.A. Overview**

As funding becomes available from HUD, families on the waiting list must be selected for assistance in accordance with the policies described in this part. The final selection of families for HCV assistance will be taken from the families listed on the waiting list that was created by the electronic drawing and random selection process. Families will be selected from the waiting list based on the targeted funding or selection preference(s) based on historical projections and the availability of funding from HUD. A final determination of eligibility, in accordance with HUD and PHCD policies, will be made when the family is selected from the waiting list and interviewed.

### **2.3.B. Selection and HCV Funding Sources**

i. Special Admissions [24 CFR § 982.203]  
HUD may award funding for specifically-named families living in specified types of units (e.g., a family that is displaced by demolition of public housing). In these cases, PHCD may admit such families whether or not they are on the waiting list, and, if they are on the waiting list, without considering the family's position on the waiting list. These families are considered non-waiting list selections. PHCD must maintain records showing that such families were admitted with special program funding.

ii. Targeted Funding [24 CFR § 982.204(e)]  
HUD may award a PHCD funding for a specified category of families on the waiting list. PHCD must use this funding only to assist the families within the specified category. In order to assist families within a targeted funding category, PHCD may skip families that do not qualify within the targeted funding category. Within this category of families, the order in which such families are assisted is determined according to the policies provided in Section 4-III.C.

**PHCD Policy**

PHCD may administer, but is not limited to, the following types of targeted funding:

- Family Unification Program (FUP)
- Veterans Affairs and Supportive Housing (VASH)
- Mainstream (MS5)
- Near Elderly Disabled (NED)
- Emergency Housing Vouchers (EHV)
- Foster Youth to Independence Initiative (FYI)

iii. Regular HCV Funding

Regular HCV funding may be used to assist any eligible family on the waiting list. Families are selected from the waiting list according to the policies provided in Section 2.3 (C).

**2.3.C. Selection Method**

PHCD must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that PHCD will use [24 CFR § 982.202(d)].

i. Admission Preferences [24 CFR § 982.207; HCV p. 4-16]

PHCD is permitted to establish admission preferences, and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits PHCD to establish other admission preferences, at its discretion. Any local preferences established must be consistent with PHC's plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources.

**PHCD Policy**

Families will be selected based on the category of preferences outlined in this subsection. These preferences are not weighted and are not listed in any specific priority order. A family may have one or more preferences but having multiple preferences does not create a higher priority preference for the family. PHCD reserves the right to select or suspend selection from any preference category at any time based on funding availability or to meet local housing needs.

PHCD reserves the right to add an admission preference for humanitarian and extraordinary reasons.

**Terminated due to Insufficient Funding by PHCD.** PHCD will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding.

**Displacement due to Natural Disaster.** Families who are Public Housing residents or Housing Choice Voucher holders from another jurisdiction and who are displaced by federally declared disasters will be housed over other waiting list placeholders, subject to HUD's approval. PHCD may use existing available Public Housing units to assist either displaced Public Housing or voucher participants affected by the disaster. If the family arrives without any documentation, PHCD will obtain the name and social security number of the Head of Household and verify current eligibility by calling the Real Estate Assessment Center (REAC) at 888-245-4860.

**Displacement Due to Government Action.** Families living in Miami-Dade County displaced or at risk of being displaced due to a governmental action, including Public Housing Development Plans, must be referred and verified. The referral for Housing Choice Voucher assistance must be made within six (6) months of the displacement in order for such families to qualify for Housing Choice Voucher assistance. Written referrals may also be accepted from HUD, appropriate federal, state and local law enforcement agencies, the State Attorney's Office, or by the courts, including requests for assistance for eligible clients under witness protection.

**Homeless** – In an effort to address the risk of homelessness, PHCD may collaborate with the Homeless Trust on referrals of persons transitioning out of a shelter, transitional housing program, rapid re-housing program or permanent supportive housing.

**Veterans** – PHCD, at its sole discretion, may provide an admission preference over new admissions to applicants who's head or co-head are eligible veterans. A veteran is a person who:

1. had at least 180 days of regular active duties and was honorably discharged or released; or
2. had at least 90 days of active duty service, of which at least one (1) day of service was in a war conflict and was honorably discharged or released; or
3. served in a war conflict and was awarded a Purple Heart or became disabled, regardless of completion of days of active duty.

The veteran status extends to spouses, widows, widowers and parents of the military killed during a time of war. Applicants claiming a veteran's preference must provide a copy military service record, proof of service, or the discharge documents (Form DD214) of the veteran for whom the preference is claimed.

**Mainstream Preference** – This preference is specific for non-elderly persons with disabilities who are homeless per 24 CFR § 576.2 or transitioning out of institutional and other segregated settings or are at serious risk of institutionalization.

**Miami-Dade County Residency Preference** – PHCD will administer a residency preference for applicants that reside anywhere in Miami-Dade County, including families who work or have been hired to work in Miami-Dade County.

## ii. Income Targeting Requirement

### Income Limits

HUD establishes income limits for all areas of the country and publishes them annually in the *Federal Register*. They are based upon estimates of median family income with adjustments for family size. The income limits are used to determine eligibility for the program and for income targeting purposes as discussed in this section.

### Definitions of the Income Limits [24 CFR § 5.603(b)]

*Low-income family.* A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.

*Very low-income family.* A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.

*Extremely low-income family.* A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher.

Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

### **Using Income Limits for Eligibility [24 CFR § 982.201]**

Income limits are used for eligibility only at admission. Income eligibility is determined by comparing the annual income of an applicant to the applicable income limit for their family size. In order to be income eligible, an applicant family must be one of the following:

- A very low-income family
- A *low-income* family that has been "continuously assisted" under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program [24 CFR § 982.4]
  - A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR § 248.173
  - A low-income or moderate-income family that is displaced because of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR § 248.101
  - HUD permits PHCD to establish additional categories of low-income families that may be determined eligible. The additional categories must be consistent with PHCD's plan and the consolidated plans for local governments within PHCD's jurisdiction.

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

At least 75 percent of the families admitted to PHCD's program during PHCD's fiscal year must be extremely low-income families while 25 percent may include low-income families at 50 and/or 80 percent of the median income for an area. HUD may approve exceptions to this requirement if PHCD demonstrates that it has made all required efforts but has been unable to attract an adequate number of qualified extremely low-income families.

Families continuously assisted under the 1937 Housing Act and families living in eligible low-income housing that are displaced as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not counted for income targeting purposes.

PHCD Policy

PHCD will monitor progress in meeting the income targeting requirement throughout the fiscal year. Extremely low-income families will be selected ahead of other eligible families on an as-needed basis to ensure the income targeting requirement is met.

In addition to the income eligibility categories provided by 24 CFR § 982.201(b)(1), PHCD may establish a category of eligible low-income families whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.

PHCD will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time, they were selected from PHCD's waiting list. Pursuant to 24 CFR § 982.201(b)(2)(iv), these families are no subject to income targeting.

### **2.3.D. Notification of Selection**

When a family has been selected from the waiting list, PHCD must notify the family [24 CFR § 982.554(a)].

#### **PHCD Policy**

PHCD will notify the family by first class mail or other method as designated by the family when it is selected from the waiting list. PHCD may conduct the interview remotely through mail, online portals, or in person. The notice will inform the family of the following:

1. Instructions on how to complete the interview.
2. All documents that must be provided at the interview, including information about what constitutes acceptable documentation.

If a notification letter is returned to PHCD with no forwarding address, the family will be removed from the waiting list.

### **2.3.E. The Application Interview**

HUD recommends that PHCD obtain the information and documentation needed to make an eligibility determination through an interview with a PHCD representative [HCV GB, pg. 4-16]. Being invited to attend an interview does not constitute admission to the program.

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if PHCD determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by PHCD [Notice PIH 2012-10].

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

#### **PHCD Policy**

Families selected from the waiting list are required to participate in an eligibility interview.

The head of household, the spouse/cohead, and any other adult family members will be requested to attend the interview together. However, either the head of household or the spouse/cohead must attend the interview on behalf of the family. Verification of information

pertaining to adult members of the household who is not present at the interview will not begin until signed release forms are returned to PHCD.

The head of household, spouse/cohead, and any other adult family members must provide acceptable documentation of legal identity. If the family representative does not provide the required documentation at the time of the interview, they will be required to provide it within 10 calendar days of the date of the notice.

Pending disclosure and documentation of social security numbers, PHCD will allow the family to retain its place on the waiting list for 90 days. If not all household members have disclosed their SSNs at the next time PHCD is issuing vouchers, PHCD will issue a voucher to the next eligible applicant family on the waiting list.

The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, as well as completing required forms, providing required signatures, and submitting required documentation. If any materials are missing, PHCD will provide the family with a written list of items that must be submitted.

PHCD will compare current information received with past information stated on the waiting list application and query the applicant regarding any discrepancies that may affect eligibility and/or require additional documentation. Effective January 1, 2024, upon implementation of HOTMA, and subject to applicable HUD guidance, PHCD will compare current information received with past information stated on the waiting list application and query the applicant regarding any discrepancies that may affect eligibility and/or require additional documentation. PHCD will estimate annual income for the upcoming 12-month period [24 CFR §5.609 (c)(1)].

Any required documents or information that the family is unable to provide at the interview must be provided within 10 calendar days of the notice. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial.

An advocate, interpreter, or other assistant may assist the family with the application and the interview process.

Interviews will be conducted in English. For limited English proficient (LEP) applicants, PHCD will provide translation services in accordance with PHCD's LEP plan.

Any costs incurred to complete the application process and screening will be the responsibility of PHCD.

If the family is unable to attend a scheduled interview, the family should contact PHCD in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, PHCD may send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without PHCD's approval will be denied assistance based on the family's failure to supply information needed to determine eligibility.

### **2.3.F. Completing the Application Process**

PHCD must verify all information provided by the family. Based on verified information, PHCD must make a final determination of eligibility and must confirm that the family qualified for any special admission, targeted funding admission, or selection preference that affected the order in which the family was selected from the waiting list.

#### **PHCD Policy**

The following items will be verified to determine qualification for admission to PHCD:

- Identify of each adult or emancipated minor household member
- Family composition and type of family;
- Annual income;
- Assets and asset income
- Deductions from income;
- Local preferences;
- Social security numbers of all family members;
- Applicant screening information; and
- Citizenship or eligible immigration status.
- Debts owed to a public housing authority
- Previous involuntary termination from any federal housing assistance program
- Current federal housing assistance

#### **Enterprise Income Verification (EIV) At Time of Admission**

If the EIV information shows that a family or household member was a former PHCD tenant, moved from another housing authority or program leaving a debt, or was terminated for adverse reason(s), the family will be responsible for clearing the debt or at least entering into a repayment agreement, or termination information, within up to 45 calendar days. Assistance will be denied if the family cannot or does not provide proof of debt cancellation or signed repayment agreement, or reversal of the termination prior to the expiration of the 45 calendar days.

PHCD may verify in EIV whether the applicant is receiving or has the potential of receiving double subsidy, has a debt owed to another housing authority or program, or whether a prior termination has been cleared. The family has the right to dispute information obtained from EIV.

#### **Zero Income**

Applicants reporting zero (0) income will be asked to complete the Monthly Family Expense and Income Contribution forms to document how much they spend on: food, transportation, healthcare, childcare, debts, household items, etc. and what the source of income is for these expenses.

#### **Other Eligibly Factors**

After all other eligibility factors have been evaluated and the family is determined to be preliminarily eligible, PHCD will complete the criminal background screening criteria to determine final eligibility. PHCD will perform criminal background (excluding juvenile records) and sex offender registration checks for applicants and additions to households 18 years of age and older at local and national levels. PHCD may conduct such checks on household members who are younger than 18 years if they are being tried as adults for certain criminal offenses.

In order to determine family's eligibility for full assistance or prorated assistance, PHCD is required to verify the citizenship and/or immigration status of each individual family member, unless they do not contend that they have eligible immigration status.

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

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

If PHCD determines that the family is eligible to receive assistance, PHCD will invite the family to attend a briefing in accordance with the policies in this Administrative Plan.

## **2.4 Admission Information**

### **2.4.A. Third-Party Verifications**

- Refer to Chapter 7.6

Effective January 1, 2024, upon implementation of HOTMA and subject to applicable HUD regulations and guidelines, PHCD is required to use HUD's Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information for annual reexamination, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR § 5.233(a)(2)(i)].

### **2.4.B. Social Security Numbers [24 CFR §§ 5.216 and 5.218, Notice PIH 2012-10]**

#### **i. Mandatory Social Security Numbers**

Effective January 31, 2010, all members of the applicant's household, except those that do not contend eligible immigration status, must provide appropriate documentation of their Social Security Number (SSN).

#### **ii. Disclosure requirement for applicants**

At the time applicant's eligibility is determined, each applicant must submit: a) the complete and accurate SSN assigned of the applicant and each member of the applicant's household, including the live-in aide and children under the age of six (6), unless the member of the household does not contend that they have eligible immigration status, and b) required documentation to verify each SSN as referred in item (3) below.

#### **iii. Disclosure requirement for program participants**

Initial Disclosure: Each participant whose initial determination of eligibility began before January 31, 2010, except for those age 62 or older as of January 31, 2010, must submit a complete and accurate SSN and documentation to verify the SSN at the next interim or regularly scheduled reexamination if the participant has:

- Not previously disclosed a SSN to PHCD; or

- Previously disclosed a SSN that HUD or Social Security Administration (SSA) determined was invalid; or
- Been issued a new SSN.

Subsequent Disclosure: When an additional household member is added to the household, including a new born or live-in aide, a complete and accurate SSN for each new member must be provided and verification provided at the time of the request or at the time of processing the interim reexamination or recertification of family composition that includes the new member, unless the member of the household does not contend that they have eligible immigration status. If the additional household member is under the age of six (6) and they have no SSN, a SSN must be applied for and documentation submitted at the time of the request to add the child to the household.

iv. Verification of SSNs

Applicants and participants must submit one of the following documents to confirm their SSN:

- A valid SSN issued by SSA, or
- An original document from a federal or state government agency that contains the individual's name and SSN, along with identifying information of the individual (i.e. address, date of birth, etc.)

Referral sources for applicants and participants who need to request SSN or obtain information are available at [www.socialsecurity.gov](http://www.socialsecurity.gov) or 800- 772-1213.

v. Time Frame

Applicants: If at the time of eligibility, the documents to verify the SSN for each family member cannot be submitted and the applicant is otherwise eligible, the applicant may retain their place on the waiting list for the program but cannot become a program participant until the required documents to confirm the SSN is provided. Applicants may be given up to 90 days, or 120 days for applicants 62 years or older, to submit documents confirming each household member's SSN.

Program Participants: Next annual or interim reexamination or within 90 days of request date, or 120 days for participants 62 years or older.

PHCD may grant additional time up to 90 days, only if there are unforeseen circumstances beyond the family's control that prevent the family from complying with the SSN requirements.

vi. Penalties

Applicants: PHCD must deny the eligibility of an applicant if the applicant does not meet the applicable SSN disclosure, documentation and verification requirements by the time eligibility is determined or within the period of time established by PHCD to provide documentation in item (4).

Program participants: PHCD must terminate the assistance or the tenancy, or both, of a participant if the participant does not meet the applicable SSN disclosure, documentation and verification requirements.

### **2.4.C. Identity Verification**

#### **i. Ineligible Immigration Status**

An adult or emancipated minor applicant that do not contend eligible immigration status will be required to confirm their identity providing any of the following documents:

- Foreign passport
- Foreign driver's license
- Foreign birth Certificate
- Identification card issued in US
- Foreign military identification card
- Other documents as may be required by HUD

#### **ii. Citizens or Eligible Noncitizen Immigration Status**

Required documentation validating identity of each adult or emancipated minor having citizenship or eligible immigration status:

- State issued driver's license (current and unexpired), or
- State issued identification card (issued within the last ten years)
- U.S. passport (current and unexpired)
- US issued immigration verification documents that contain a picture of individual (issued within the last ten (10) years)
- Military identification card
- Other documents as may be required by HUD

### **2.4.D. Legal Capacity**

The head of household of the family must be 18 years of age or older at the time of application or have been emancipated by a court of competent jurisdiction, otherwise, the family will be removed from the waiting list. The head of household must have the capacity under state and local law to enter into a legally binding lease agreement, where the tenant is bound by the terms of the lease.

### **2.4.E. Denial of Assistance**

#### **i. Overview**

PHCD acknowledges that a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking can have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under PHCD's policies. Therefore, if an applicant is denied assistance, PHCD will provide them with its notice of denial of Notice of Occupancy Rights under the Violence Against Women Act form (HUD form 5380) and the Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation form (HUD form 5382). See Chapter XIV—Violence Against Women Act of this ACOP for additional details.

PHCD will use local and national databases to perform criminal background checks (not including juvenile records) and sex offender registration checks for applicants and additions to households who are 18 years of age and older. PHCD will conduct such checks on household members who are younger than 18 years only if they are being tried as adults for certain criminal offenses.

- A nationwide criminal background check and sex offender registration check will be performed. The nationwide sex offender registration check will be conducted online using a database available at [www.nsopw.gov](http://www.nsopw.gov) (PIH Notice 2012-28).

- Prior to conducting any criminal and sex offender registration background checks, household members 18 years of age and older (including the live-in aide) must sign the consent form named Authorization to Obtain Criminal Background Records. The custodial parent may sign the required form on behalf of a minor. PHCD will conduct criminal and sex offender checks on household members who are younger than 18 years only if they are being tried as adults for certain criminal offenses.

ii. Grounds for Denial:

Eviction or Termination from Federally Assisted Housing:

PHCD shall deny assistance if any household member has been evicted from subsidized housing or experienced involuntary termination from residential assistance programs (taking into account date and circumstances) for a period of five (5) years from end of participation.

iii. Failure to Meet Financial Obligations

Assistance may be denied for a period of five (5) years for failing financial obligations in subsidized housing (e.g., monies owed, paying rent and utilities) or in the following circumstances unless the family can provide proof of debt cancellation or reversal of the adverse termination within up to 45 calendar days of notice.

If an applicant or any member of the applicant family currently owes rent or other amounts to PHCD or any other housing agency in connection with Section 8 or public housing assistance under the United States Housing Act and applicable federal regulations, or if any applicant who previously lived in public housing or an assisted unit vacated leaving an unpaid balance, then the applicant will not be offered assistance until the outstanding balance is paid in full.

If the applicant or any member of the applicant family has not reimbursed any housing authority for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the Lease.

If the applicant or any member of the applicant family breaches an agreement with any housing agency to pay amounts owed to the housing agency, or amounts paid to an owner by the housing agency.

iv. Abusive Behavior

If within five (5) years of eligibility determination an applicant or any member of the applicant family has engaged in physical or verbal abuse, or threatened abusive or violent behavior that may include the use, attempted use, or threatened use of physical force, toward PHCD personnel or any County personnel or official, then the application may be denied. Applicants denied housing due to abusive behavior must be reviewed and approved by PHCD Director or designee.

v. Criminal Activity

PHCD's goal is to assist ex-offenders in gaining access to one of the most fundamental building blocks of a stable life, a place to live. However, criminal background checks are performed at admission and annual re-examinations. PHCD is committed to seek a balance between allowing ex-offenders to reunite with their families that live in public housing, and at the same time, ensuring the safety of all residents of its programs.

PHCD may deny admission or terminate assistance when the screening process shows a conviction for engaging in criminal activity and history of inability to comply with the terms of

previous leases, as verified by previous landlords or other entities. However, PHCD may consider mitigating circumstances.

In its decision to deny or terminate assistance, and prior to sending the denial notice, PHCD shall conduct an individualized assessment considering the following:

- the seriousness of the case, especially as it affects the health and safety of other residents;
- the effect of denial or termination of assistance on other family members who were not involved in the action or failure to act;
- the level of violence, if any, of the criminal activity for which the applicant or resident was convicted;
- the length of time since the conviction;
- the number of convictions that appears on the applicant or resident's criminal history;
- the possibility of the applicant or resident being rendered homeless; and
- the rehabilitation efforts taken by applicant or resident after conviction or released from prison.

PHCD, if it admits such a family to the program, may impose as a condition of assistance, the requirement that family members (other than the head of household) who participated in or were culpable for the action or failure to act will not be part of the applicant family or reside in the assisted unit, upon approval of PHCD or hearing officer.

Pursuant to PIH Notice 2015-19, an arrest is not evidence of criminal activity that can support an adverse admission, termination or eviction decision. As such, an arrest where the disposition of the criminal charges are voided, invalidated, rendered inoperative, dropped, nolle prossed, dismissed pursuant to successfully completion of a diversion or a deferral of judgment program, no action, or other resolution that does not involve an admission of guilt or where the applicant is found not guilty or acquitted, may not result in denied or terminated assistance.

However, PHCD may deny or terminate assistance based on the conduct underlying arrests, only if the conduct indicates the individual is not suitable for tenancy, in which case PHCD may gather sufficient evidence to support an adverse admission, termination, or eviction decision.

Such evidence may consist of the police report associated with the arrest and consider the reported circumstances of the arrest. PHCD may also consider any statements made by witnesses, not included in the police report and any other evidence relevant to determining whether or not the applicant or tenant engaged in disqualifying activity.

vi. Permanently Deny or Terminate Assistance

PHCD may permanently deny or terminate assistance for convictions related to the following:

1. Methamphetamine manufacturers on premises of federally assisted housing.
2. Sex offenders subject to a lifetime registration under a state sex offender registration program. In searching for sex offenders, PHCD will perform background checks nationwide. The nationwide sex offender registration check will be conducted online using a database available at [www.nsopw.gov](http://www.nsopw.gov) (PIH Notice 2012-28).
3. Felonious violent criminal activities, including but not limited to murder, arson, aggravated felony battery and sex-related crimes not subject to lifetime registration under a state sex offender registration program.

Except for methamphetamine manufacturing, sex-related crimes, felonious violent criminal activities (e.g., murder, arson, aggravated felony battery) and those convictions for criminal activities described in Miami-Dade County Ordinance 15-47, PHCD shall consider:

- Criminal felony convictions that have occurred within the last five (5) years from the date of conviction; and
- Criminal misdemeanor convictions that have occurred within the last three (3) years from the date of conviction.

vii. Lookback Period

The lookback period starts from the date the application is accepted by PHCD, when formal eligibility screening commences.

viii. Misdemeanors

PHCD may not deny or terminate housing due to misdemeanors considered civil violations according to County Ordinance 15-47, listed below:

- Litter
- Illegal Use of Dairy Cases, Egg Baskets, Poultry Boxes, or Bakery Containers
- Trespass on Property Other than Structure or Conveyance Retail Theft by Removal of a Shopping Cart
- Loitering or Prowling
- Possession of Cannabis in an amount of 20 grams or less
- Possession of Drug Paraphernalia

ix. Individualized Assessment

After conducting an individualized assessment, PHCD may deny or terminate assistance, if the applicant or resident has been convicted within 5 years for the following criminal activities:

1. Drug-related activities, including, but not limited to, eviction or termination from federally assisted housing due to drug activity. Drug-related activities mean 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.
2. Violent criminal activities which shall include any criminal activity that has as one (1) of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, non-trivial bodily injury or property damage.
3. Non-violent criminal activities that may threaten the health, safety or right to peaceful enjoyment of the premises by other residents. Examples are crimes that involve disturbing the peace, crimes against property such as burglary, larceny and robbery, and crimes that impose a financial cost such as vandalism, bribery and fraud, including fraud in connection with federally assisted housing.
4. Alcohol abuse or pattern of abuse, if PHCD has reasonable cause to believe that the person's abuse or pattern of abuse of alcohol may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

In determining denial or termination of assistance related to drug or alcohol abuse, PHCD must take into consideration: Evidence of drug or alcohol rehabilitation, as indicated under Mitigating Circumstances below, and if the drug or alcohol abuse is related to a disability, as determined by PHCD's ADA Coordinator.

PHCD shall not consider any additional restrictions for eligibility of housing assistance due to criminal activities not required by federal law, regulations, and this policy.

x. Other Non-Criminal Activities

Assistance will be denied or terminated for a period of five (5) years for inability to comply with the lease terms (e.g., record of disturbance of neighbors, destruction of property, living and housekeeping habits) that may adversely affect the health, safety or welfare of other tenants or cause damage to the unit or development.

xi. Notification of Proposed Rejection

PHCD must notify the household of the proposed rejection, the reason for the denial of admission or termination, and provide an opportunity to dispute the accuracy and relevance of the record. If the denial is because of criminal background, PHCD must provide the household member with copy of the criminal records.

Criminal records (not including juvenile records) for minors convicted as adults available to PHCD by operation of law will be released to the head of household, parent or legal guardian of the minor, upon request. Refer to Chapter IX of this ACOP.

The HUD form 5380, Notice of Occupancy Rights under the Violence Against Women Act form, and the HUD form 5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation form, will be provided at the time the household is denied assistance.

xii. Mitigating Circumstances for Applicants and Residents

Mitigating circumstances are facts relating to negative rental history or behavior, that, when verified, indicate that the reason for the unsuitable rental history or behavior is no longer in effect or is under control, justifying admission or continued occupancy. Mitigating circumstances would overcome or outweigh information gathered in the screening process.

The factors below will be taken into consideration when reviewing the conviction(s) for engaging in criminal activities. These factors are not the only allowable mitigating circumstances. PHCD may consider other mitigating circumstances as appropriate. Providing documentation of mitigating circumstances as described below is the responsibility of the family. It is incumbent upon the family to provide documentation, evidence and any and all other third-party proof at any time, including but not limited, to the investigation interviews, appointments with PHCD staff, at the time of the informal review or within the time limit set by the hearing officer to provide substantiating information challenging the recommendation to deny assistance.

1. Removal of Family Member

The applicant or resident may request removal of the offending family member from the family composition and the family member may not remain on the application nor reside in the Public Housing unit in order for the family to be assisted in the program.

If the offending family member(s) is not removed, then the entire family shall be recommended for denial of assistance from the Program. In circumstances where the offending family member is the head of household, the entire family shall be recommended for denial of assistance from the Program.

Depending on the seriousness of the offense, PHCD may consider to reinstate the removed offender family member, if they are able to establish that they have been rehabilitated (i.e., drug or alcohol rehabilitation program).

2. Violation of Peaceful Enjoyment

PHCD may consider all circumstances relevant to a particular case, such as the seriousness of the offending action, the extent of participation by the head of household or household member(s) in the offending activity and the extent to which the head of household or household member(s) has shown personal responsibility to prevent or mitigate the offending action. Upon determination by the hearing officer or PHCD may require a family to exclude a household member in order to receive housing assistance, where that household member has participated in or been culpable for the action or failure to act that warrants denial or termination of assistance.

3. Substance Abuse Rehabilitation

Upon determination by PHCD, hearing officer, hearing panel whether to recommend denial or termination of assistance for illegal drug use or a pattern of illegal drug use by a household member who is no longer engaging in such use, or for abuse or a pattern of abuse of alcohol by a household member who is no longer engaging in such abuse, may consider whether such household member was remanded by the court and is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully. For this purpose, PHCD shall require the applicant or resident 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.

4. Domestic Violence

Upon request, other documents may be submitted in lieu of the HUD form 5382, Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking and Alternate Documentation form. See Chapter XIV– Violence Against Women Act and Appendix I - Definitions of this ACOP for additional details.

**xiii. Examples of mitigating circumstances may include:**

1. Evidence of successful rehabilitation. The household member who engaged in criminal activity successfully completed a diversion or deferral of judgment program; or has successfully completed a supervised drug or alcohol rehabilitation program verified by PHCD;
2. Circumstances leading to the eviction or criminal activity no longer exist (for example, the criminal household member has died or is imprisoned);
3. Evidence of the family's participation in social service or other appropriate counseling service; or
4. Evidence of successful and sustained modification of previous disqualifying behavior.
5. Consideration of mitigating circumstances does not guarantee that the family will qualify for admission or continued occupancy. PHCD will consider such circumstances in light of:
  - a) the ability to provide documentation/evidence to verify the mitigating circumstances and prospects for improved future behavior;
  - b) the overall performance with respect to all the screening requirements; and
  - c) the nature and seriousness of the criminal activity, especially drug related and criminal activity that appears in the applicant's or resident's record.
6. If negative information is received about an applicant or resident, PHCD shall consider the time, nature, and extent of the conduct and factors that may indicate a reasonable

probability of favorable future conduct. To be considered, mitigating circumstances must be verifiable.

7. If the applicant or resident asserts that mitigating circumstances relate to a change in disability, medical condition or treatment, PHCD shall evaluate the evidence and verify the mitigating circumstance. PHCD shall also have the right to request further information to verify the mitigating circumstance. Such inquiries will be limited to the information necessary to verify the mitigating circumstances or, in the case of a person with disabilities, to verify a reasonable accommodation (see PHCD's Reasonable Accommodation Policy and Procedures document under Appendix IV of this ACOP), which will be used by PHCD as the source document to process reasonable accommodation requests for people with disabilities.

## **2.4.F. Violence Against Women Act**

### **i. Overview**

Under the Violence Against Women Act (VAWA) and Miami-Dade County Resolution No. R-644-12, PHCD is required to implement internal policies to include provisions for protection of victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, and stalking (hereinafter known as "domestic violence"). For definitions of terms under this section, refer to Attachment A of this Administrative Plan.

PHCD provides applicants and residents with the HUD form 5380, Notice of Occupancy Rights under the Violence Against Women Act form, that explains the VAWA protections, including the right to confidentiality, and any limitations on those protections.

PHCD also provides applicants and residents with HUD form 5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, Stalking or Alternate Documentation form to be completed by the victim to document that the applicant or resident is a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking.

PHCD provides the Notification of Your Rights and Obligations under the Violence Against Women Act form to owners and management agents of assisted housing detailing the following:

- VAWA protections and any limitations on those protections
- Documentation required
- Remedies available to tenants
- Definitions
- Confidentiality requirements

The lease, lease addendum, or tenancy addendum, as applicable, shall include a description of specific protections afforded to the victims of domestic violence, economic abuse, technological abuse, dating violence, or stalking.

PHCD's Emergency Transfer Plan for victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Emergency Transfer Plan) is attached hereto as Attachment D and is incorporated herein by reference. When in conflict with any policy under this Administrative Plan, the Emergency Transfer Plan for victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking shall prevail.

ii. Admission and Continued Occupancy Criteria

An applicant cannot be denied admission or assistance on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.

Residents or tenants who are victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking must be handled as an exception to the federal One Strike Rule under documented incident of actual or threatened domestic violence.

If the tenant or affiliated individual is a victim of criminal activity directly related to domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking engaged in by a household member or guest or other person under the tenant's control, such criminal activity shall not be cause for eviction or termination.

Being a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking does not qualify as a serious or repeated violation of the lease for terminating assistance, tenancy, or the occupancy rights of the victim. PHCD may allow for the perpetrator of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking to be removed from the lease, while the remaining family members stay in the assisted unit, upon approval of the division director. Victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking will be considered for emergency transfers. See Attachment D of this Administrative Plan. Subject to funding availability, the issuance of a Section 8 voucher may be offered to the victimized family member(s).

iii. Evidence Required as Proof of Domestic Violence, Sexual Assault, Dating Violence or Stalking

When confronted with cases of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking PHCD must provide the alleged victim with HUD form 5382, Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking and Alternate Documentation, and request that it be returned within 14 business days. PHCD may, but is not required, to extend the time period to submit the documentation with the approval of the division director or designee. In response to this request, the resident may complete HUD form 5382 or provide one of the following types of third-party documentation:

1. Court records (e.g., restraining and civil protection orders) or statements from a judge or other court officials;
2. Medical records or statements from mental health professionals or medical professionals from whom the victim sought assistance in addressing domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking;
3. Police reports or statements (e.g., records of police visits to the victim's address or telephone calls, which may include telephone calls to the police registering a complaint, a log of police runs made to the residence, and copies of all tapes and reports written by officers responding to a call);
4. Reports or statements signed by workers (collectively, "professionals") from a domestic violence shelter or domestic violence program attesting to the time the victim spent in the shelter and the correlation to the incidents of abuse;
5. Statements signed by a clergy or social worker, other employee, agent, or volunteer of an administrative agency, social service agency, victim service provider, domestic violence program, clergy, counselor, or attorney (collectively, "professional") from

- whom the victim sought assistance in addressing domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking.
6. Other credible evidence as corroborated by law enforcement or domestic providers.
  7. Statements signed by above-mentioned professionals must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence occurred and meet the definition of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking. Same statements must also be signed by the victim.

iv. Conflicting Evidence

If PHCD receives conflicting evidence that an incident of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking has been committed (such as certification forms 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 abuser or perpetrator), PHCD may request third-party documentation from victims in order to resolve the conflict. The victim must provide the third-party documentation within 30 days. If the victim fails or refuses to provide third-party documentation where there is conflicting evidence, PHCD does not have to provide the victim with the protections contained in this policy.

v. Considerations for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

PHCD must consider:

1. The nature and severity of each case while exercising discretion on whether or not family members or their guests pose an actual and imminent threat to the health, safety, or right to peaceful enjoyment of the premises by others. Any eviction or termination of assistance taken on this basis should only be used when there are no other actions that can be taken to reduce or eliminate the threat, including but not limited to:
  - Transferring the victim
  - Removing or barring the perpetrator from the property
  - Contacting law enforcement
2. The effects of denial or termination of assistance on other family members who were not involved in the offense.
3. The conditions barring the culpable household member from residing in or visiting the unit.
4. The circumstances relevant to an eviction or termination of tenancy based on the extent to which the person has shown personal responsibility to prevent the offending action, and the time that has elapsed since their arraignment for that crime.
5. The range of evidence as proof of domestic violence, economic abuse, technological abuse, which may include, but is not limited to victim's statement, testimony or affidavit outlining the facts of the violence or cruelty in each incident, utilizing form HUD-5382.

vi. Protection of Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking

PHCD shall refer victims of domestic violence, economic abuse, technological abuse, sexual assault or stalking to the State of Florida Office of the Attorney General, State Attorney's Office or the Department of Law Enforcement to apply for participation in the Address Confidentiality Program for Victims of Domestic Violence.

PHCD may collaborate with appropriate counseling and law enforcement entities to assist victims of domestic violence, economic abuse, technological abuse, including but not limited to the following services and programs for domestic violence victims:

- 1) Certified Domestic Violence Centers:
  - a) Safespace Shelter: 305-758-2804
  - b) The Lodge: 305-693-1170
  
- 2) Domestic Violence One Stop Center:
  - a) Coordinated Victims Assistance Center (CVAC): 305-285-5900

In determining if termination, removal or in some cases eviction is appropriate, PHCD must consider the safety and well-being of victims, as well as the health, safety and peaceful enjoyment of other residents who may be affected by incidents or domestic violence. Per VAWA 2013, if the evicted individual is the sole tenant eligible to receive assistance under a covered housing program, the public housing agency, owner, or manager of housing assisted under the covered housing program shall provide any remaining tenant an opportunity to establish eligibility for the covered housing program. If a tenant described in the preceding sentence cannot establish eligibility, the public housing, owner, or manager of housing assisted under the covered housing program shall provide the tenant a reasonable time, as determined by the appropriate agency, to find new housing or to establish eligibility for housing under another covered housing program.

PHCD must develop linkages and referrals to appropriate counseling and law enforcement entities.

vii. Confidentiality

The information under the Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking and Alternate Documentation form will remain confidential and will be used by PHCD only to provide the victims with the exceptions and protections under VAWA.

PHCD must ensure that private information of victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking is protected in accordance with Records Management provisions.

viii. Non-discrimination

Pursuant to VAWA, no applicant or participant shall, on the basis of actual or perceived race, color, religion, national origin, sex, gender identity, sexual orientation, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under VAWA. Additionally, PHCD does not discriminate against applicants or participants based on ethnic origin, familial status, marital status, ancestry, age, pregnancy, or source of income.

## **2.4 G Addition to Family Composition**

Changes to the family composition shall be considered and documented at the time the changes below occur. Requests for additions to the family composition are to be made in writing by the head of household and are restricted to:

- Spouses, co-heads, or domestic partners (see definition of Family in Attachment A of this Administrative Plan), children born to, adopted, or otherwise granted custody by operation of law, including foster children.
- PHCD will require documentation that the head of household has authorization to include a minor as part of the household. Court approved custody or guardianship is not the only mechanism to establish that a head of household has authorization to include a minor in the family composition. Addition of minors may also be permitted for families in which one (1) or more children live with the designee of

the parent or legal custodian, with the parent or custodian's written consent. Documentation can include but is not limited to court documents, pre-need guardian, school records, other state and federal public assistance documentation, or power of attorney.

**2.4.H Foster Children and Foster Adults**

**(This section 2.4.H shall become effective January 1, 2024, upon the implementation of Housing Opportunity through Modernization Act of 2016 (HOTMA) and applicable regulations and guidelines promulgated by HUD)**

The applicant family must obtain approval for the addition of a foster child and foster adult to the family before the new member occupies the unit. Effective January 1, 2024, foster children and foster adults will be considered part of the household (and therefore will be considered when determining appropriate unit size count and utility allowance). If applicable, PHCD will process a change in the voucher size to avoid an overcrowded situation.

### **Chapter 3. Non-Waiting List Issuance and Special Programs**

When HUD awards program funding to the Agency that is targeted for families that live in specified units or for a special or targeted Housing Choice Voucher program. PHCD may admit a family that is not on the waiting list, or without considering the family's waiting list position upon approval of PHCD Director or designee. PHCD shall maintain records showing that the family was admitted with HUD-targeted assistance. PHCD may issue vouchers to persons not on the waiting list in the following instances:

#### **3.1 Displacement Due to Governmental Action**

Families displaced (as defined in Attachment A of this plan) because of governmental action must be referred and verified. The referral for Housing Choice Voucher assistance must be made within six (6) months of the displacement for such families to qualify for Housing Choice Voucher assistance. PHCD shall, at its discretion, determine the availability of vouchers for displaced persons. Written referrals may also be accepted from HUD, appropriate federal, state, and local law enforcement agencies, the State Attorney's Office, or by the courts, including requests for assistance for eligible clients under witness protection.

#### **3.2 Relocation**

Provision of Housing Choice Voucher assistance may be provided to a family being relocated if allowed under the Uniform Relocation Assistance and Real Property Acquisition Regulations for federal and federally assisted programs.

#### **3.3 Settlement of Lawsuits**

PHCD shall comply with any mandated settlements, or directives by a court of the United States or HUD in relation to the issuing of vouchers to persons not on the waiting list.

#### **3.4 Preservation Housing**

Families that reside in a property covered by project-based voucher assistance in which the owner opts out or pre-pays the HUD insured mortgage or is at or near the end of the housing assistance payment contract may be eligible for Preservation Voucher assistance. PHCD shall certify families eligible for Preservation Voucher housing pursuant to executed Annual Contribution Contracts (ACC's) by HUD for mandated or targeted projects.

#### **3.5 Veterans Assisted Supportive Housing (VASH)**

To be eligible for the Veterans' Assisted Supportive Housing program (VASH), applicants must be referred by the Veterans Affairs Medical Center (VAMC) and fulfill all the following criteria:

- A. Be an income-eligible United States Veteran
- B. Be homeless as determined by the VAMC, and
- C. Must not be subject to a lifetime registration requirement under a state sex offender registration program (including family members). The nationwide sex offender registration

check will be conducted online using a database available at [www.nsopw.gov](http://www.nsopw.gov) (PIH Notice 2012-28).

The U.S. Department of Veterans Affairs (VA) conducts all interviews, initial applications, and monitoring of the VASH program. The VA notifies PHCD in writing of eligible applicants. These eligible applicants are scheduled for an appointment for possible certification under the Housing Choice Voucher Program. All Housing Choice Voucher Program regulations apply to these eligible applicants. It is the responsibility of the VA office to notify all ineligible applicants. The number of VASH Program participants shall be restricted to the number of VASH vouchers under contract to the Agency by HUD.

Additions to households must meet regular eligibility criteria prior to being added as household members.

### **3.6 Family Unification Program (FUP)**

The Family Unification Program (FUP) offers tenant-based housing assistance in coordination with the State of Florida Department of Children and Family Services or another authorized child protective agency. Referrals will be families for whom the lack of adequate housing is a primary factor that would result in:

- A. The imminent placement of the family's child(ren) in out-of-home care; or,
- B. The delay of the child(ren)'s return to the family from out-of-home care.

"Lack of adequate housing" is defined by the federal regulation as:

- Substandard or dilapidated housing;
- Homelessness;
- Displacement by domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking or
- Living in an overcrowded unit.

The program will allow families to avoid foster care placement and be unified in stable housing. Applicants for the Family Unification Program shall be referred and certified in coordination with the State of Florida Department of Children and Family Services.

PHCD's responsibilities under the FUP include the acceptance of families whose eligibility is certified in writing by the State of Florida Department of Children and Families. PHCD, upon receipt of the original caseload list, not copies or faxes, of families from the Department of Children and Families accompanied by original FUP applications, shall compare the names with those of families already on PHCD's Housing Choice Voucher waiting list. Any families on PHCD's Housing Choice Voucher waiting list that are also included in the Department of Children and Families' list shall be assisted in order of their position on the waiting list in accordance with PHCD admission policies. Any family certified by the Department of Children and Families as eligible, but not on the Housing Choice Voucher waiting list shall be placed on PHCD waiting list. If PHCD has a closed waiting list, the waiting list shall be opened to accept FUP applicants. If the referred family is already housed in Public Housing, the Residents in Transition Policy must be followed to deter duplicate housing.

PHCD shall initially advertise the opening of the waiting list for the sole purpose of accepting FUP eligible families only. The advertisement will not be repeated when additional funding is received.

Pursuant to the National Affordable Housing Act, children in temporary foster care shall be counted as part of a family unit for the purposes of determining a family's eligibility for housing assistance. The temporary placement period for children shall be defined as at least six (6) months; however, this time frame shall be determined and changed at PHCD's discretion based on local needs and conditions.

Once a family is housed using a Housing Choice Voucher under the Family Unification Program, PHCD shall not cancel the voucher if the family splits so long as the family is otherwise in compliance with Housing Choice Voucher Program rules and regulations.

### **3.7 Non-Elderly Disabled (NED) Vouchers**

PHCD will comply with HUD's requirement in PIH Notice 2013-19, to make assistance available for non-elderly disabled applicants when a designated NED or Mainstream voucher becomes available due to turnover. Eligible non-elderly disabled applicants will be selected in chronological order from the Tenant-based waiting list. PHCD must maintain a NED voucher leasing rate of 95 to 100 percent of the NED and Mainstream allocation. A NED eligible family will not be skipped over if PHCD has reached its required NED or Mainstream allocation.

PHCD will affirmatively market to a diverse population of NED-eligible families to attract protected classes least likely to apply.

### **3.8 Special Purpose Vouchers and Other Specialized Allocations**

Special purpose vouchers are specifically funded by Congress in separate appropriations from the regular HCV program funding in order to target specific populations. On May 5, 2021, HUD issued Notice PIH 2021-15 establishing the allocation of Emergency Housing Vouchers (EHVs). PHCD will administer EHVs with its Continuum of Care (CoC) partner, the Miami-Dade County Homeless Trust, as the Special Vouchers are made available by HUD under Notice PIH 2021-15. On September 3, 2021, HUD issued Notice PIH 2021-26 establishing the process by which PHCD may apply for new incremental vouchers made available by the Consolidated Appropriations Act, 2021 for the Foster Youth Independence Initiative (FYI). The FYI initiative allows PHCD, if it partners with a Public Child Welfare Agency (PCWA), to request targeted HCVs to serve eligible youth with a history of child welfare involvement that are homeless or at risk of being homeless. PHCD partners with the Florida Department of Children and Families and their designated contractor, Citrus Family Care Network, to identify FYI-eligible youth and develop a system of prioritization based on the level of need of the youth and the appropriateness of intervention. Funding is available either competitively through an FYI NOFA or noncompetitively on a rolling basis in accordance with the application requirements outlined in Notice PIH 2021-26.

Other tenant-based voucher allocations that are for special programs in addition to FUP, Veterans Affairs Supportive Housing (VASH), Mainstream Vouchers for Non-Elderly Persons with Disabilities (NED) and Project-Based Voucher Program shall be administered in accordance with criteria stipulated in the Notification for Funding Availability (NOFA) and voucher application.

### **3.9 Change of Program Issuance**

PHCD may, at its sole discretion, for humanitarian reasons, including reasonable accommodation for a family member with disabilities, issue a voucher to a family participating in another program (such as the Moderate Rehabilitation program). PHCD will confirm that the tenant is in compliance with all assisted housing tenant and lease obligations prior to voucher issuance. Such issuance requires the approval of PHCD's Director or designee.

## Chapter 4. Issuing Housing Vouchers

### 4.1 Issuing and Briefing

Upon selection to participate in the Housing Choice Voucher Program, the family will be scheduled for an appointment with PHCD. No applicant from the waiting list shall be certified without a file containing a hard (paper) copy of the original application. At the appointment, the family must verify the information on their application, receive a briefing (verbal and written) about the program, their rights, and obligations, and provide documentation as required by federal regulation. Should the family comply with the above-referenced steps, they shall be issued a voucher. The briefing shall include the following topics:

- A. How the program works;
- B. Family and Owner responsibilities;
- C. Where the family may lease a unit, including outside the Agency's jurisdiction;
- D. Portability procedures, if applicable; and
- E. Advantages of moving to a neighborhood that does not have a high concentration of low-income participants.
- F. The family will receive a packet of information at their briefing or initial certification appointment that will include at least the following:
  - 1. The term of the voucher and the policy on extensions or suspensions of the term;
  - 2. How the Housing Assistance Payment (HAP) is determined including the payment standard for a unit and total tenant payment;
  - 3. How the Agency determines the maximum rent for an assisted unit; and
  - 4. The maximum amount the family may pay when moving to a new unit (40% rule of adjusted monthly income, if applicable).
- G. What the family should consider in leasing a unit including the condition of the unit, the reasonableness of the rent, the cost of tenant paid utilities, whether the unit is energy efficient, and the location of the unit;
- H. Where a family may lease a unit, including portability to another jurisdiction, HUD-required lease addendum;
- I. The *Request for Tenancy Approval* form (HUD-52517) and an explanation of how to request the Agency's approval to lease a unit;
- J. A statement of PHCD's policy on providing information about a family to prospective owners;
- K. PHCD subsidy standards, including when exceptions may be granted;

- L. HUD brochure on how to select a unit;
- M. Information on federal, state and local equal opportunity laws, and a copy of the *housing discrimination complaint* form;
- N. A list of landlords or others known to PHCD, who may be willing to lease a unit to the family or assist the family in locating a unit;
- O. If the family includes a person with disabilities, or if the family informs PHCD that one of its members is a person with disabilities, PHCD will provide a current listing of available accessible units known to PHCD, and if necessary, otherwise assist the family in locating an available accessible dwelling unit.
- P. Family obligations under the program, including the requirement that family members be U.S. citizens or eligible non-citizens;
- Q. The grounds on which PHCD may terminate assistance because of family action or failure to act; and
- R. PHCD's informal hearing procedures, including when PHCD is required to give the opportunity for a hearing and how to request a hearing.
- S. PHCD may include other items as determined necessary and will use available forms or HUD forms.

#### **4.2 Type of Assistance**

PHCD shall determine whether the family shall be issued a Housing Choice Voucher based on availability of the tenant-based assistance.

#### **4.3 Term of Voucher**

The Housing Choice Voucher is valid for a period of 120 days from the date of issuance. Prior to the expiration date, the family may contact PHCD to request assistance in locating suitable housing. The family must submit a completed Request For Tenancy Approval (RFTA) package within the 120-day period unless an extension (as described below in Section 4.4) has been granted by PHCD.

#### **4.4 Extensions of Term**

A family may request a 60-day extension to the initial 120-day term of an issued voucher for a total voucher term of 180 days. All requests for extensions should be received at least one week prior to the expiration date of the voucher and must be made to the Intake Unit. Requests may be made in person or by telephone. If an extension is granted by telephone, a copy of the voucher will be mailed to the voucher holder indicating the extended expiration date.

The term of a voucher may be extended over 180 days as a reasonable accommodation for applicants or participants having difficulties locating suitable housing to meet their needs. In accordance with PHCD's Reasonable Accommodation Policy and Procedures, if reasonable

accommodation is denied (including a voucher extension), the applicant or participant may appeal the denial of the reasonable accommodation by requesting an ADA Grievance.

For New Admissions and Renewals only:

PHCD will provide voucher extensions beyond 120 days, at the request of the applicant after the applicant has demonstrated or certified reasonable search efforts to locate a new unit, the extension will be issued in 60-day increments. PHCD will provide voucher extension beyond 120 days based on market conditions for the unit size that the family qualifies for. In all circumstances the request for a voucher extension must be submitted prior to the expiration date of the voucher including any extensions provided.

Written notice of extensions will be given to the family. Hearings or informal reviews are not required and shall not be given for denial of extensions.

#### **4.5 Suspensions**

Suspensions of the term of the voucher can only be granted when family submits a RFTA. PHCD can only stop the clock on the term of the voucher from the time family submits a RFTA for approval of tenancy until the time when PHCD approves or denies the request. Additional extension beyond suspension time can only be given by the Director or his/her designee, and will only be considered under the following conditions:

- A. If the delay is due to PHCD's administrative reasons and not due to the applicant's delay;
- B. The applicant has shown due diligence in locating an appropriate unit during the voucher term; and
- C. Denial of the suspension of term would constitute an undue hardship on the family.

## Chapter 5. Occupancy Policies

### 5.1 Subsidy Standards

#### Determination of Voucher Size

The subsidy standard, (refer to Chapter 8 for more details regarding the “payment standard”), which is used to determine the voucher bedroom size assigned to a family, is based on the following criteria:

#### Minimum and Maximum-Number-of-Persons-Per Unit Standard

| Voucher<br>BR Size | Number of Persons in Household |         |     |
|--------------------|--------------------------------|---------|-----|
|                    | Minimum                        | Maximum | HQS |
| 0 BR               | 1                              | 1       | 1   |
| 1 BR               | 1                              | 2       | 4   |
| 2 BR               | 2                              | 4       | 6   |
| 3 BR               | 3                              | 6       | 8   |
| 4 BR               | 6                              | 8       | 10  |
| 5 BR               | 8                              | 10      | 12  |
| 6 BR               | 10                             | 12      | 14  |

Subsidy standards are applied at the initial certification, annual recertification or during authorization for change of dwelling. For subsidy standards, an adult is a person 18 years or older.

- A. Two (2) persons per bedroom will be the standard for the smallest unit a family may consider.
- B. A single person family shall be allocated a zero (0) or one (1) bedroom unit, and spousal/domestic partners a one (1) bedroom sized unit.
- C. The subsidy standard must be applied consistently for all families of like size and composition.
- D. The following principles govern the size of the unit for which a family will qualify. Generally, two (2) people are expected to share one (1) bedroom, except that the subsidy standards will be applied so that:
  - 7. Exceptions to the largest subsidy standards may be made in case of reasonable accommodations for a person with disabilities;
  - 8. In determining family unit size for a particular family, PHCD may grant an exception to its established subsidy standards if PHCD determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances;
  - 9. The dwelling unit must have at least one (1) bedroom or living/sleeping room for each two (2) persons. Children of opposite sex, over the age of six (6), may not be required to occupy the same bedroom or living/sleeping room;

10. A family that consists solely of a pregnant woman (with no other members) shall be allocated a maximum of one (1) bedroom voucher;
11. PHCD will count a child in the subsidy standard if the parent has primary custody of the child.
12. A one (1) person household member with joint custody of a child/children but does not have primary custody will be granted a one (1) bedroom subsidy;
13. PHCD will count a child in the subsidy standard who is temporarily away from the home because the child has been placed in foster care, kinship care, or is away at school.
14. A single head of household parent shall not be required to share a bedroom with his/her child, although they may do so at the request of the family;
15. A live-in aide may be assigned up to one (1) bedroom if approved as a reasonable accommodation. The live-in aide may have PHCD-approved family member(s) live with them in the unit, as long as Housing Quality Standards (HQS) are not violated and there are no more than two people per bedroom or living/sleeping space (PIH Notice 2010-51). If additional family members result in violation of HQS, or do not meet eligibility requirements set forth for live-in aides, this specific live-in aide may not be approved. No additional bedrooms will be provided to accommodate the live-in aide's family members;
16. Due to current market conditions, PHCD will issue a zero or (1) one-bedroom voucher to a single person;
17. As a reasonable accommodation, an applicant or program participant family may be allowed a larger bedroom unit to accommodate a family member who requires a hospital bed or other large medical equipment. The equipment must be substantial in size and must be verifiable by a medical doctor as medically necessary in order to justify approval of a larger unit. In addition, the applicant or participant will be required to submit evidence of equipment specifications including but not limited to detailed description of equipment to include dimensions, photographs of equipment, etc. See Section 5.5 – Medical Equipment.
18. Effective January 1, 2024, upon the implementation of Housing Opportunity through Modernization Act of 2016 (HOTMA), PHCD will count foster children and foster adults in the subsidy standard. (Foster children and foster adults will be considered part of the household and therefore will be considered when determining appropriate unit size and utility allowance).

#### E. Actual Unit Size Selected

The family may select their choice in unit size other than that listed on the assigned voucher so long as the family is not under-housed. Four (4) factors to consider are:

1. PHCD shall apply the payment standard for the smaller of:
  - a) the bedroom size shown on the voucher, or
  - b) the size of the actual unit selected by the family;
2. The utility allowance used to calculate the gross rent shall be based on the actual size unit selected by the family regardless of the size authorized on the voucher; and
3. Under Housing Quality Standards (HQS) two (2) persons per living/sleeping room are allowed thus the above levels may be exceeded if a room is used as a living/sleeping area as indicated under the HQS column on the above chart.
4. Selection of a unit larger than for which the family is certified may result in an affordability issue.

## **5.2 Changes in Family Composition**

The voucher size issued to a family is determined by comparing the family composition to PHCD subsidy standard before the briefing with the family. The family may request a change in the voucher size due to the addition to family composition by birth, adoption, or otherwise granted custody to the family by operation of law, which may include foster children. Except for natural births to, or adoptions by, family members, or court awarded custody or other operation of law, any family seeking to add a new member must request approval in writing and receive approval in writing before the new member is added to the family composition as described below. For purposes of this Section, the use of the term “by operation of law” shall include but not be limited to pre-need guardianships and durable powers of attorney.

All other additions to applicant families after an application is submitted shall be considered only on a case-by case basis by the director or designee overseeing the eligibility process for the tenant-based waiting list or his/her designee and must be documented at the times such changes occur. Additions may be made for humanitarian reasons, including reasonable accommodation for family member.

### **A. Addition of Adult Family Member**

Upon approval of PHCD, a participant family may add an additional adult family member to the family composition, other than by operation of law, under all the following circumstances:

1. The adult can be an immediate family member (sons, daughters, brothers, sisters, parents, grandparents, and grandchildren) of an existing household member;
2. Such member must be eligible for participation in the Housing Choice Voucher program;
3. Such member’s income must be considered in calculation towards rent; and
4. Addition of the family member shall be in consideration of a reasonable accommodation or for humanitarian reasons; or
5. Unrelated/unmarried partners who show proof of intention to live as a family.

Participant families must inform PHCD in writing of the requested additional adult family member prior to the adult family member being added to the family composition. Requested additions to the family requiring advance approval in writing also include spouses or a request to add a live-in aide.

Participant families must inform PHCD within 30 days of additions to the family due to birth, adoption, or otherwise granted custody to the family by operation of law or if a family member moves out. Only those persons listed on the most recent certification form and lease shall be permitted to be included in the family composition.

All other additions to participant families shall be considered only on a case-by-case basis and must be documented at the times such changes occur. Additions may be made for a reasonable accommodation or for humanitarian reasons. The addition of a family member shall not change the size of the voucher, unless approved by PHCD under extenuating circumstances. Addition of family members shall be the sole discretion of PHCD or PHCD Contractor.

#### B. Screening of New Family Members

When an applicant or tenant requests approval to add a new family member, PHCD will conduct a pre-certification screening of any proposed new adult member 18 years of age and older (excluding juvenile records) to determine whether PHCD will allow the family member to be added to the family composition prior to PHCD's approval of the new family member. PHCD will conduct such checks on household members who are younger than 18 years if they are being tried as adults for certain criminal offenses.

Minor children for whom juvenile justice records are not available or added through a formal custody award or kinship care arrangement are exempt from the pre-certification screening process, although the tenant needs prior approval from PHCD to add children other than those born to, adopted by, or awarded by the court to the family.

PHCD will consider the request for approval and require documentation that the head of household has authorization to include a minor as part of the household. Court approved custody or guardianship is not the only mechanism for establishing that a head of household has authorization to include a minor. Changes to the family composition may also be allowed for families in which one or more children less than 18 years of age live with the designee of the parent or legal custodian, with parent or custodian's written consent. Documentation can include, but is not limited to, court documents, pre-need guardian, school records, other state and federal public assistance documentation, power of attorney, etc.

All persons listed on the most recent certification form and residential lease must use the dwelling unit as their sole residence. Examples of situations where the addition of a family or household member is subject to screening are:

1. Participant plans to be married and requests to add the new spouse to the lease;
2. Participant desires to add a new member to the lease, employ a live-in aide or take in foster child(ren) over the age for which juvenile justice records are available;
3. One of the family members under age 18 who is not an emancipated minor, or an adult, not part of the original household, requests permission to take over as the head of the household.

Applicants or tenants who fail to notify PHCD of additions to the household or who permit persons to be added to the family composition without undergoing screening are in violation of program requirements. Persons added without PHCD approval will be considered unauthorized occupants and the entire household will be recommended for termination from the Housing Choice Voucher or Moderate Rehabilitation Programs.

### C. Removals from the Family Composition

#### 1. Residents (continuous assistance):

- a) Any adult family member, including the head of household, requesting to be removed from the family composition must provide a notarized statement agreeing to the removal, signed by the adult family member and the head of household.
- b) The notarized statement must be accompanied by two (2) pieces of supporting documentation from different sources showing that the family member is no longer residing in the subsidized unit. Supporting documentation to prove another residency may include, but is not limited to, a copy of the dwelling lease agreement, utility bills, or official mail (from a Federal, State, County or City government agency) properly dated (no more than two (2) months old), showing the new address. PHCD may request additional documentation to verify the permanent relocation of the family member requesting removal.
- c) If the adult family member is unable to provide the notarized statement agreeing to removal from the family composition, the head of household must provide a written statement explaining the reason why the family member is unable to provide the statement and supporting documentation, (e.g., death certificate, jail order).

For removal of minors, the head of household must provide a signed notarized statement accompanied by supporting documentation showing that the minor is no longer residing in the subsidized unit. Supporting documentation to prove another residency may include, but is not limited to, school records, custody records, etc. properly dated (no more than two (2) months old), showing the new address.

#### 2. Unauthorized persons:

If PHCD obtains sufficient evidence of unauthorized occupants or unauthorized users of the subsidized unit's address (e.g., in their driver's license, identification card or as mailing address), and the finding is denied by the head of household, the head of household will be required to provide a written statement accompanied by two (2) pieces of supporting documentation from different sources showing the residential address of the unauthorized occupant or user. Supporting documentation to prove another residency may include, but is not limited to, a copy of the dwelling lease agreement, utility bills, or official mail (from a Federal, State, County or City government agency) properly dated (no more than two (2) months old), showing another address. The unauthorized person's driver's license or identification card may not be used as valid proof of residential address.

### **5.3 Foster Children and Foster Adults**

**(This section 5.3 shall become effective January 1, 2024, upon the implementation of Housing Opportunity through Modernization Act of 2016 (HOTMA) and applicable regulations and guidelines promulgated by HUD)**

The participant family must obtain approval for the addition of a foster child and foster adult to the family before the new member occupies the unit. Effective January 1, 2024, foster children and foster adults will be considered part of the household (and therefore will be considered when determining appropriate unit size count and utility allowance). If applicable, process a change in voucher size to avoid an overcrowded situation.

### **5.4 Temporary Placement of Family Member**

A child who normally resides with the family but is temporarily away from the home because of placement in foster care, rehabilitation, treatment, or incarceration for a non-felonious crime, is considered a member of the family.

### **5.5 Live-In Aide**

A live-in aide is a person 18 years of age or older who resides with one or more elderly (at least 62 years of age), near-elderly (at least 50 years of age but below 62 years of age), or disabled person(s) and who is determined to be essential to the care and well-being of the person; is not obligated for the support of the person; and would not be living in the unit except to provide the necessary supportive services. A relative may be considered a live-in aide but must meet all the criteria listed herein.

PHCD will consider approval of a written request for a live-in aide (see definition in Attachment A) as a reasonable accommodation, upon written verification that the elderly, near elderly or disabled family member requires the services of a live-in aide. For the live-in aide request and verification forms, refer to Attachment C, Reasonable Accommodation Policies and Procedures.

The live-in aide is a household member not a family member. The income of the live-in aide is not considered towards the calculation of the family's annual income.

The live-in aide may live in the unit solely to care for the disabled family member and qualifies for occupancy as long as the individual requires the supportive services. PHCD shall deny occupancy of the unit to the live-in aide after the disabled family member, for whatever reason, no longer resides in the unit.

A relative may be considered as a live-in aide but must meet all the above criteria and be qualified to provide the care for the disabled family member. The head of household and the live-in aide shall acknowledge that the live-in aide does not have any right to the voucher. The live-in aide does not qualify for continued occupancy as a remaining family member and shall be required to sign a *Live-In Aide Agreement* which shall become an addendum to the resident's lease (for the *Live-In Agreement* form, refer to Attachment C, Reasonable Accommodation Policies and Procedures).

Under extraordinary circumstances, upon approval of PHCD, relatives satisfying the definition of a live-in aide wanting to have remaining family status may be added to the family composition as a family member and not as a live-in aide. In such case, the relative's income will be considered in the family's annual income.

An eligible live-in aide may, on case-by-case basis, be granted up to one (1) additional bedroom if approved as a reasonable accommodation. The live-in aide may have PHCD-approved family member(s) live with them in the unit, as long as the Housing Quality Standards (HQS) are not violated and there are no more than (2) two persons per bedroom or living/sleeping space (PIH Notice 2010-51). If additional family members result in violation of HQS, or do not meet the eligibility requirements set forth below, this specific live-in aide may not be approved. No additional bedrooms will be provided to accommodate the live-in aide's family members.

### **5.5.A. Requirements**

The live-in aide (and family, if any) must provide the following documents as part of the admission criteria described in this chapter:

- Proof of identity
- Verification of birth date
- Social security number
- Other documents as may be required by HUD

The live-in aide (and family, if any) will be asked to sign forms which include but is not limited to the following:

- Live-in Aide Agreement
- Authorization to Check Information
- Authorization to Obtain Criminal Background
- Authorization for the Release of Information/ Privacy Act Notice (Form HUD-9886)
- Debts Owed to Public Housing Agencies and Terminations (Form HUD-5267)
- What You Should Know About EIV (Form by HUD)

Upon request, the live-in aide shall be granted an appropriate translator available to explain the form(s) in English, Spanish and/or Creole.

During the annual recertification, PHCD may request the participant to sign additional forms to verify the following:

- The participant still requires the need for a live-in aide.
- The participant understands that the approved live-in aide does not have additional rights to the unit if the participant is no longer eligible for the voucher or evicted.
- The participant understands and has informed the live-in aide that if the participant is deceased, the live-in aide will not have rights to the voucher and will have 14 days to vacate the unit.
- The participant understands that the addition of a family member may result in the new family member's income count towards the family's annual income.

### **5.5.B. Verification**

PHCD will verify information of the live-in aide (and any family members) through EIV for debt owed to another housing authority or program, or whether a prior termination has been cleared.

The live-in aide individual (and any family members) may be denied for the following reasons:

- Commits/committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

- Unauthorized household members.
- The screening process shows a pattern of arrests within the last 10 years of engaging in drug or violent criminal activities excluding murder, arson, aggravated felony battery and sex-related crimes not subject to lifetime registration under a state sex offender registration program.
- Violent criminal activities shall include any criminal activity that has as one (1) of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, non-trivial bodily injury or property damage.
- A sex offender according to State Laws. PHCD will perform nationwide background checks. The nationwide background check will be conducted online using a database available at [www.nsopw.gov](http://www.nsopw.gov) (PIH Notice 2012-28).
- Owes rent or other amounts to PHCD or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

### **5.6 Medical Equipment**

As a reasonable accommodation, an applicant or program participant family may be allowed a larger voucher size to accommodate a family member who requires a hospital bed or other large medical equipment. The equipment must be substantial in size and must be verifiable by a medical doctor as medically necessary in order to justify approval of a larger voucher size. In addition, the applicant or participant will be required to submit evidence of equipment specifications including but not limited to detailed description of equipment to include dimensions, photographs of equipment, etc.

### **5.7 Family Absences from Unit**

A family may not be absent from the unit for more than 60 consecutive days without prior written approval by PHCD as described below. It shall also be the responsibility of the family to advise the owner of any absence from the unit. Absence means that no member of the family as listed on the lease is residing in the unit. During all absences, the family must meet all program and lease obligations including the payment of rent, utilities, and complying with inspection and recertification obligations.

Absences from the unit for a period of 61 to 120 consecutive days must receive prior written approval from a supervisor or higher authority. Absences for more than 120 consecutive days will not be approved. Assistance to a family will be terminated if the family is absent from its unit for more than 60 days without prior written approval. If assistance to a family is terminated for such reason, the family may request a hearing within 30 days of the termination notice. If the family is reinstated as a result of the hearing, the prior lease and contract will not be resumed but a new voucher will be issued and a new lease and contract executed.

The owner or management agent is obligated to reimburse PHCD for any housing assistance payment made for the period after the effective date of termination of assistance to the family. Such reimbursement shall be billed by PHCD Accounting office and remittance must be made by check or money order and submitted to PHCD Accounting Office. Absence from a unit may be verified by any of the following methods: Housing Quality Standards inspection, proof of utility payments, service verifications, through owner/management company verifications, through an investigation or other documentation or means.

### **5.8 Family Break-up**

If an assisted family separates due to a divorce, separation, or by any other operation of law, PHCD will determine who continues to be assisted under the program. No additional housing voucher will be issued.

PHCD will take into consideration the following criteria in making its decision as to which family member continues to receive assistance in the program:

- A. The desires of the family;
- B. The interest of minor children, or of ill, disabled or elderly family members;
- C. Whether any family members are going to remain in the assisted unit;
- D. Whether there has been any instance(s) of actual or threatened physical violence against a family member by another member of the household;
- E. Which family members was part of the original application for assistance;
- F. If a court determines property disposition between the family members, PHCD will adhere to the court's determination as to who shall hold the Housing Choice Voucher assistance; and
- G. Whether there is drug-related or violent criminal activity. PHCD, in its sole discretion, may recommend terminating the entire family.

### **5.9 Remaining Family Member**

- A. To be considered the remaining member of the family, the person(s) must meet all eligibility requirements.
- B. Remaining family members who are age 18 years or older will be held responsible for arrearages incurred by the former head, co-head, or spouse. PHCD will not hold remaining family members (other than the head, co-head, or spouse) responsible for any portion of the arrearage incurred before the remaining member attained age 18.
- C. Remaining family members under age 18 shall not be held responsible for the rent arrearages incurred by the former head of household.
- D. A live-in aide or foster child/adult, by definition, is not a member of the family and will not be qualified for continued occupancy as a remaining family member.

In order for a minor child(ren) to continue to receive assistance as a remaining member(s), one of the following must occur:

- The court has awarded emancipated minor status to the minor;
- PHCD has verified that social services and/or the juvenile court has arranged for another adult to be brought into the assisted unit to care for the child(ren); or
- PHCD may allow for another adult to be a temporary head of household until such time as legal guardianship is granted or a minor, at least 17 years of age, is emancipated or reaches age 18.

## Section 8 Administrative Plan

- A certification will be conducted and appropriate changes to the voucher size may be made at that time.

## **Chapter 6. Citizen and Immigration Status**

### **6.1 Submission of Documents and Verification**

Refer to Section 2.6 for documents to be submitted and related immigration topics.

### **6.2 Provision of Notice**

- i. In circumstances where Immigration and Naturalization Service (INS) has not verified eligibility, the family will be provided with a written notice that shall include:
  - A. That the family has a right to request an appeal to INS of the results of the verification of immigration status;
  - B. That the family has the right to request an informal hearing with PHCD upon completion of the INS appeal. Such hearing shall be in accordance with hearing procedures in Chapter 29 of this plan;
  - C. That Housing Choice Voucher assistance may not be denied or terminated until the conclusion of the INS or PHCD appeal process; and
  - D. Notification of the type of assistance for which the family may be eligible (continued assistance, temporary deferral of assistance or pro-ration of assistance).

## Chapter 7. Determination and Verification of Annual Income

### 7.1 Overview

The determination of eligibility and Total Tenant Payment (TTP) for the Housing Choice Voucher Program requires that the applicant's or participant's family adjusted annual income be calculated at the time of admission into the Program and on an annual basis. HUD regulations specify: the types and amounts of income from all family members that must be included in this calculation; the allowable deductions to be subtracted from the gross annual income to determine the adjusted income and the amount of utilities the tenant is responsible for paying.

#### 7.1.A De Minimis Errors in Income Determinations

**(This section 7.1.A shall become effective January 1, 2024, upon the implementation of Housing Opportunity through Modernization Act of 2016 (HOTMA) and applicable regulations and guidelines promulgated by HUD)**

PHCD or owner will not be considered out of compliance with the requirements in this paragraph solely due to de minimis errors in calculating family income. A de minimis error is an error where PHCD or owner determination of family income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income) per family.

PHCD or owner will take any corrective action necessary to credit or repay a family if the family has been overcharged for their rent or family share because of the de minimis error in the income determination retroactive to the effective date of the action the error was made, regardless of the dollar amount associated with the error. However, families will not be required to repay the PHCD or owner in instances where PHCD or owner has miscalculated income resulting in a family being undercharged for rent or family share.

### 7.2 Annual Income Inclusions

**(This section 7.2 shall become effective January 1, 2024, upon the implementation of Housing Opportunity through Modernization Act of 2016 (HOTMA) and applicable regulations and guidelines promulgated by HUD)**

(a) Annual income includes, with respect to the family [24 CFR §609(a)]:

- (1) All amounts, not specifically excluded in section 7.3(b), received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and
- (2) When the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

### **7.3 Exclusions from Annual Income**

**(This section 7.3 shall become effective January 1, 2024, upon the implementation of HOTMA and applicable regulations and guidelines promulgated by HUD)**

(b) Annual income does not include the following:

- (1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.
- (2) The following types of trust distributions:
  - (i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under 24 CFR § 5.603(b):
    - (A) Distributions of the principal or corpus of the trust; and
    - (B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.
  - (ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.
- (3) Earned income from the employment of children (including foster children) under the age of 18 years.
- (4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.
- (5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.
- (6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member.
- (7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family

member arising out of law, that resulted in a member of the family becoming disabled.

(8) Income of a live-in aide, foster child, or foster adult as defined in 24 CFR §§ 5.403 and 5.603, respectively.

(9) i. Any assistance that section 479B of the Higher Education Act of 1965, as amended, requires to be excluded from a family's income including Bureau of Indian Affairs/ Education student assistance programs;

ii. Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from

- (1) The federal government;
- (2) A state, tribal, or local government;
- (3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- (4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- (5) An institution of higher education.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

- (1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;
- (2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section);
- (3) Gifts, including gifts from family or friends; or
- (4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who

is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii)(E) of this section.

(C) Student financial assistance for purposes of this paragraph (b)(9)(ii) must be:

- (1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;
- (2) Expressly to assist a student with the costs of higher education; or
- (3) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

- (1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).
- (2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:
  - (i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or
  - (ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

- (10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, *baby bond* accounts created, authorized, or funded by Federal, State, or local government.
- (11) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- (12)(i) 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);
  - (ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
  - (iii) Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development.
  - (iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.
- (13) Reparation payments paid by foreign governments pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.
- (14) Earned income of dependent fulltime students in excess of the amount of the deduction for a dependent in 24 CFR § 5.611.

- (15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in 24 CFR § 5.611.
- (16) Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.
- (17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.
- (18) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.
- (19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.
- (20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).
- (21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.
- (22) Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.
- (23) Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to

another Federally subsidized housing unit. Such replacement housing “gap” payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing “gap” payments.

- (24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:
- i. Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.
  - ii. Direct Federal or State payments intended for economic stimulus or recovery.
  - iii. Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.
  - iv. Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.
  - v. Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).
  - vi. Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.
  - vii. Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.
- (25) Civil rights settlements or judgments, including settlements or judgments for back pay.
- (26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement

plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

- (27) Income earned on amounts placed in a family's Family Self Sufficiency Account.
- (28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:
  - i. 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; and
  - ii. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

#### **7.4 Calculating Annual Income**

**[24 CFR §5.609 (c)] (This section 7.4 shall become effective January 1, 2024, upon the implementation of HOTMA and applicable regulations and guidelines promulgated by HUD)**

**PHCD may determine the family's income** prior to the application of any deductions based on income determinations made within the previous 12-month period from Low-Income Housing Tax Credit (LIHTC), Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and other means-tested forms of public assistance.

**For new admissions and interim reexaminations**, PHCD must estimate the family income for the upcoming 12-month period, subtract the allowable deductions, from the gross annual income to determine the adjusted income.

For annual reexaminations, PHCD must:

- Determine the family income for the previous 12-months and any interim processed {24 CFR §5.609 (c)(2)} except when using a streamlined income determination.
- Consider any redetermination from an interim reexamination during that period.
- Adjust reflect current income if there was a change during that period.
- Subtract the allowable deductions, from the gross annual income to determine the adjusted.

### 7.5 Adjusted Annual Income

**(This section 7.5 shall become effective January 1, 2024, upon the implementation HOTMA and applicable regulations and guidelines promulgated by HUD)**

Adjusted income is the annual income of family members residing in or intending to reside in the rental unit, less allowable deductions of:

- A. **Child Care Expenses** - A deduction of amounts anticipated to be paid by the family for the care of children under 13 years of age for the period for which Annual Income is computed, but only when such care is necessary to enable a family member to be gainfully employed, ~~to seek employment~~ or to further their education. Amounts deducted must be unreimbursed expenses and shall not exceed: (1) the amount of income earned by the family member released to work; or (2) an amount determined to be reasonable by PHCD when the expense is incurred to permit education or to seek employment [(24 CFR §5.611(a) (4)].

B. **Hardship Exemption for Child Care Expenses [(24 CFR §5.611(d))].**

A family whose eligibility for the childcare expense deduction is ending may request a financial hardship exemption to continue the deduction.

**Hardship Exemption Eligibility:** PHCD will follow the verification hierarchy described in PIH Notice 2018-18 (Refer to Section 7.6). The family must demonstrate that:

- They are unable to pay their rent without the deduction and they must provide verification.
- The childcare expense is still necessary even though the family member is no longer employed or furthering education and they must provide verification

If the exemption is granted, the childcare deduction will remain in place for up to 90 days. It may be extended at PHCD's discretion, for additional 90-day periods depending on family circumstances.

- C. **Health and Medical Care and Reasonable Attendant Care and Auxiliary Apparatus Expense Deduction-** Unreimbursed health and medical care expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed the HUD-established percentage of annual income threshold.

The threshold is currently set at three (3) percent of annual income. Effective January 1, 2024, upon implementation of HOTMA and subject to applicable HUD regulations and guidance, this amount will be increased to ten (10) percent of annual income.

Health and medical care expense deductions are permitted only for families in which the head, spouse, or co-head is elderly or disabled. If a family is eligible for a health and medical care expense deduction, the medical expenses of all family members are counted. To be considered by PHCD for the purpose of determining a deduction from income, the expenses claimed must be verifiable.

- (1) Medical expenses include unreimbursed expenses for:
- Any costs incurred in the diagnosis, cure, mitigation, treatment or prevention of disease; Payment for treatments affecting any structure of function of the body; and

- Medical insurance and long-term care premiums that are paid or are anticipated to be paid for the applicable period.

(2) Medical Expense Deduction - A deduction of unreimbursed medical expenses, including insurance premiums, anticipated for the period for which annual income is computed. Medical expenses include but are not limited to:

- Services of physicians and other health care professionals
- Services of health care facilities
- Health insurance premiums (including the cost of Medicare)
- Prescription and non-prescription medicines
- Transportation to and from treatment
- Dental expenses
- Eyeglasses
- Hearing aids and batteries
- Attendant care (unrelated to employment of family members)
- Payments on accumulated medical bills
- Effective June 1, 2004, and while in effect, for residents who have the Medicare Prescription Drug Discount Card, consider the market (pre-discount) price of eligible drugs, not the discounted price
- Enrollment fee (up to \$30) of the Medicare Prescription Drug Discount Card program, if not paid by Medicare. (PIH Notice 2004-11)

D. Work-related Disability Expenses – A deduction of unreimbursed amounts paid for attendant care or auxiliary apparatus expenses for family members with disabilities where such expenses are necessary to permit a family member(s), including the disabled member, to be employed. In no event may the amount of the deduction exceed the employment income earned by the family member(s) able to work.

Equipment and auxiliary apparatus may include but are not limited to:

- Wheelchairs
- Lifts
- Reading devices for the visually impaired
- Equipment added to cars and vans to permit their use by the disabled family member.
- Included would be the annualized cost differential between a car and the cost of a van required by the family member with disabilities.
- For non-elderly families and elderly or disabled families without medical expenses: the amount of the deduction equals the cost of all unreimbursed expenses for work-related disability expense less the HUD established percentage (see above) of annual income, provided the amount so calculated does not exceed the employment income earned.
- For elderly or disabled families with medical expenses: the amount of the deduction equals the cost of all unreimbursed expenses for work-related disability expense less the HUD established percentage (see above) of annual income (provided the amount so calculated does not exceed the employment income earned) plus medical expenses as defined below.

E. Hardship exemptions for unreimbursed health and medical care and reasonable attendant care and auxiliary apparatus expenses are now defined in 24 CFR § 5.611(c).

There will be two types of hardships for the new ten (10) percent threshold for unreimbursed health and medical care expenses (for elderly and disabled families) and reasonable attendant care and auxiliary apparatus expenses (for families that includes a person with disabilities).

1. The first category, defined in 24 CFR § 5.611(c)(1), is for families eligible for and receiving the unreimbursed health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses deduction in effect prior to this final rule.
2. The second category, defined in 24 CFR § 5.611(c)(2), is for families that can demonstrate that the family’s health and medical care expenses or reasonable attendant care and auxiliary apparatus expenses increased, or the family’s financial hardship is a result of a change in circumstances that would not otherwise trigger an interim reexamination.

HUD is adding this second category in the final rule in recognition that the change from the three (3) percent threshold to the new ten (10) percent threshold for unreimbursed health and medical care expenses and/or reasonable attendant care and auxiliary apparatus expenses may result in financial hardship for families, including those families who were not receiving the deduction or may not even have been receiving housing assistance at the time this rule went into effect.

If eligible for this hardship relief, the family would receive a deduction for the eligible expense that exceeds five (5) percent of the annual income. The family’s hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or the 90-day period ends. PHCD may, at its discretion, extend the relief for one (1) or more additional 90-day periods.

| <b>Hardship Category 1</b>   | 2024<br>Recertification   | 2025<br>Recertification   | 2026<br>Recertification |
|--|---|---|-------------------------|
| <b>To qualify</b> family must already be receiving a medical expense deduction of 3% of Gross Income<br>May request hardship 2 at any time | 5% Of Gross Income  | 7.5% Of Gross Income  | 10% Of Gross Income     |
| Hardship Category 2  | 90-Day Period   | Additional 90-Day Periods   |                         |
| <b>To qualify</b> families must demonstrate a financial hardship   | 5% of Gross income ends when there is no need for hardship or the 90-day period end | Families may request an additional 90-day period if they can demonstrate a financial hardship, subject to PHCD’s approval |                         |

- F. A deduction is taken for each qualifying dependent.
  - The amount of the deduction is currently \$480. Upon implementation of HOTMA and subject to applicable HUD guidance, this amount will be adjusted annually by HUD in accordance with Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25.
  - A dependent is defined as any family 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.
  
- G. A deduction for elderly or disable family
  - A single deduction is taken for any family where the head of household, co-head or spouse is at least 62 years of age or disabled.
  - The amount of the deduction is currently \$400. Upon implementation of HOTMA and subject to applicable HUD guidance, this amount will be increased to \$525 and will be adjusted annually by HUD in accordance with CPI for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25.

**7.6 Enterprise Income Verification (EIV), Third Party Verification, and Factors Affecting Eligibility and Family Rent**

PHCD is required to use HUD’s Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR § 5.233(a)(2)].

Effective January 1, 2024, upon implementation of HOTMA and subject to applicable HUD regulations and guidelines, PHCD is required to use HUD’s Enterprise Income Verification (EIV) system and the Income Validation Tool (IVT) in its entirety as a third-party source to verify employment and income information for annual reexamination, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR § 5.233(a)(2)(i)].

Prior to initial certification, applicants shall be informed that PHCD will subsequently verify the family’s income information they have provided PHCD through HUD’s Enterprise Income Verification (EIV) system. EIV is a computer matching program that compares the income provided by the resident against income information supplied by state agencies on wages, unemployment compensation, and Social Security benefits. PHCD will follow the verification hierarchy described in PIH Notice 2018-18:

| Level | Verification Technique   | Ranking   |
|-------|--|---|
| 6     | <b>Upfront Income Verification (UIV)</b> , using HUD’s Enterprise Income Verification (EIV) system and the Income Validation Tool (IVT) (not available for income verifications of new applicants) | Highest (Mandatory)<br><br>(not available for applicants) |

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

**Level 6:** (Highest Ranking) Upfront Income Verification (UIV) and the Income Validation Tool (IVT) using HUD’s EIV System which is mandatory for residents but not available for applicants;

**Level 5:** Upfront (Optional) Income Verification (UIV) using non-HUD system such as the Work Number;

**Level 4:** Written Third-Party Verification (High) (Mandatory to supplement EIV reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV-reported employment and income information and is unable to provide acceptable documentation to support dispute. Written third-party verification documents shall be original and authentic and may be supplied by the family or received from a third-party source. Third-party documents provided by the family shall be dated within 60 calendar days of PHCD request date. If PHCD determines that third-party documents provided by the family are not acceptable, PHCD will explain the reason to the family and request additional documentation. 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.

**Level 3:** Written Third-Party Verification Form: (Medium–Low) Mandatory if written third-party verification documents are not available or rejected by PHCD; and when the applicant or participant is unable to provide acceptable documentation.

When upfront verification is not available, rejected by PHCD, or the family is unable to provide written third-party documents, or PHCD shall request a written third-party verification form. PHCD will send third-party verification forms directly to the third-party by regular mail, email, fax, or e-mail third-party written verification form requests to third-party sources. At least two (2) documented attempts must be made for written third-party verification before obtaining oral (telephone or in person) third-party verifications. The file must document the attempts made to obtain third-party verification.

**Level 2:** Oral Third-Party Verification: (Low) Mandatory if written third-party verification is not available. Level 2 oral verifications will be used when written verification is not obtained within ten (10) business days from the date that the written verification was mailed, faxed or e-mailed directly to the independent source. Documentation shall be placed in the applicant or resident file and on PHCD's computer system notes and shall indicate the name(s) of the person(s) who provided the information and date of the communication, as well as the name of the staff person who obtained the information.

**Level 1:** (Low) Use as a last resort when unable to obtain any type of third-party verification. Level 1 tenant certifications will only be used as a last resort when all other verifications are not possible. When PHCD relies on applicant/tenant certification (notarized statement or affidavit), the file must be documented as to the reason the oral third-party verification was not available.

If income information in EIV is not available or if it is substantially different from tenant-provided information, then written verification from third parties is the next most desirable form of verification. Currently, a substantial difference requiring third party verification in cases where EIV income data differs from tenant-provided and/or other verified income information is defined as being greater than \$200 per month (\$2,400 per year), unless amended by PHCD. If EIV income data is not substantially different than current tenant-provided income documentation, the following guidelines for projecting annual income will be used:

- If EIV income data is less than current tenant-provided documentation, PHCD will use tenant-provided documents to calculate anticipated income.
- If EIV income data is more than current tenant-provided documentation, PHCD will use EIV income data to calculate anticipated annual income unless the tenant provides PHCD with documentation of a change in circumstances (i.e., change in employment, reduction in hours, etc.). Upon receipt of acceptable tenant-provided documentation of a change in circumstances, PHCD will use tenant-provided documents to calculate anticipated annual income.

In cases where EIV income data is substantially different than tenant-reported income, PHCD will utilize the following guidelines:

- Request written third party verification from the discrepant income source. For EIV Social Security Administration (SSA) benefit discrepancies, PHCD shall require the tenant to obtain a current unaltered SSA benefit letter within ten (10) business days of the interview date.
- Review historical income data for patterns of employment, paid benefits, or receipt of other income, when PHCD cannot readily anticipate income, such as in cases of seasonal employment, unstable working hours, and suspected fraud.

- Analyze all data (EIV data, third party verification and other documents/information provided by the family) and attempt to resolve the income discrepancy.
- Use the most current verified income data (and historical income data if appropriate) to calculate anticipated annual income.

In verified differences of greater than \$200 per month (\$2,400 per year), PHCD may require the family to enter into a repayment agreement for monies owed or require payment in full. Should the family refuse to enter in a repayment agreement or not fulfill its obligations under its repayment agreement, PHCD shall recommend termination and may refer the case to the HUD Office of the Inspector General. PHCD, in its sole discretion, may recommend terminating assistance for tenant fraud on a case-by-case basis, e.g., forgery or has demonstrated a pattern of unreported or under-reported income in between or at prior reexaminations. In such cases, PHCD will make the determination whether to recommend terminating assistance and forwarding the case to the HUD Office of Inspector General via PHCD.

In instances where fraud (as defined in Attachment A of this policy), as opposed to tenant error (as defined in Attachment A of this policy), has occurred by the tenant and the difference is verified as being \$10,000, PHCD may recommend terminating housing assistance and shall forward cases to the HUD Office of Inspector General for fraud prosecution, where authorized by PHCD.

Tenant income information derived from the EIV system is confidential and cannot be released to outside parties or unauthorized staff. This information is exempt from the disclosure requirements of the Florida Public Records Act and HUD requires PHCD to keep said information private under penalty of Federal law. Any EIV-derived information is required to be kept guarded under lock and key and must be shredded and destroyed when no longer needed. Copies are not kept in tenant files to avoid risking the release of such information to anyone other than the client and authorized PHCD staff. PHCD shall provide the participant with information obtained through EIV upon the participant's request.

Unauthorized disclosure or inspection of EIV data can result in a felony conviction punishable by a fine up to \$5,000 or five (5) years imprisonment, as well as civil penalties, pursuant to the Privacy Act of 1974 as amended, 5 U.S.C. § 552(a).

#### **7.6.A HUD Form 9886 (Consent Form to Access EIV)**

The EIV information cannot be accessed unless a current (unexpired) Authorization to Release Information (HUD Form 9886) is on file. HUD Form 9886 also authorizes disclosure of information for routine uses such as to Federal, State, and local agencies for law enforcement purposes, employment suitability, and for the purpose of determining housing assistance. Although the current HUD Form 9886 expires in 15 months and must be signed annually, HUD will issue a new version of Form HUD-9886 on or after January 1, 2024, that only needs to be sign once by each adult family member. Thereafter, the HUD Form-9886, will need to be signed and submitted when:

- Anyone 18 years or older becomes a member of the family,
- When a member of the family turns 18 years old, or
- As required by HUD or by PHCD administrative instructions.

Families have the right to revoke the HUD Form 9886 (consent form) to PHCD; however, revoking this consent form and refusing to sign a new consent form (HUD form 9886) can result in termination or denial of assistance in accordance with Chapter 27(A)(2) of this Section 8 Administrative Plan.

### **7.7 Income Validation Tool (IVT)**

**(This Section 7.7 effective January 1, 2024, upon implementation of HOTMA, and applicable regulations and guidelines promulgated by HUD).**

The IVT report facilitates and enhances identification of unreported or under-reported income during regular reexaminations. The IVT also provides income and wage, unemployment compensation and SSA benefit information. Additionally, the IVT report provides income information for heads of household and family members where there may be discrepancies in family reported income and employer reported information.

At each regular reexamination of income and family composition and/or as needed, PHCD will:

- Review the EIV Income and IVT reports to confirm/validate tenant-reported income;
- Print and maintain the EIV Income and IVT Reports in the tenant file;
- Obtain current acceptable tenant-provided documentation to supplement EIV information (where applicable); and
- Use current tenant-provided documentation and/or third-party verification to calculate annual income.

Additionally, at each regular reexamination of income and family composition, and/or as needed, using the IVT, PHCD will:

- Identify any reported discrepancies in family reported income and employer reported information;
- Request the tenant to provide any documentation to confirm or dispute the income discrepancy;
- If applicable, determine the tenant rent using the correct and updated income;
- Determine the degree of tenant underreporting or misreporting of income information; and
- Take action in accordance with PHCD policy to resolve the identified discrepancies.

### **7.8 Assets**

#### **A. Verification of Assets**

Effective January 1, 2024, upon implementation of HOTMA, and subject to applicable HUD regulations and guidance, the following asset policies will apply:

1. For net family assets under \$50,000:
  - PHCD may accept self-certification from the family that the assets are under that amount, and no further documentation is required to be collected.
  - The certification must include any expected income from the assets (actual returns only).
  - PHCD must obtain third-party verification of assets every 3 years.
2. For net family assets totaling \$50,000 or greater:
  - PHCD will verify the value and income from assets using the applicable verification hierarchy.

See the section on **Limitations on Assets** under which a household may be disqualified from admission or continued occupancy.

B. Limitation on Assets (24 CFR § 5.618)

Upon implementation of the HOTMA Final Rule and subject to applicable HUD guidance, assistance under the HCV program may not be provided either initially or upon reexamination of family income if:

1. The family's net assets (as defined in 24 CFR § 5.603) exceed \$100,000, or as determined by HUD and adjusted annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers; and/or
2. The family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell real property that is suitable for occupancy by the family as a residence.
3. A property will be considered suitable for occupancy unless the family demonstrates that the property:
  - a) Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation);
  - b) Is not sufficient for the size of the family;
  - c) Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PHCD or owner);
  - d) Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
  - e) Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.
4. This real property restriction does not apply to:
  - a) Any property for which the family is receiving assistance under 24 CFR § 982.620 or under the Homeownership Option in 24 CFR Part 982;
  - b) Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
  - c) Any person who is a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking as defined in 24 CFR part 5, Subpart L; or
  - d) Any family that is offering such property for sale.
5. PHCD may establish exceptions to this policy according to family type and/or circumstance and in accordance with the Final Rule and any related guidance. These exceptions may be based on different factors, such as age, disability, income, the ability of the family to find suitable alternative housing, and whether supportive services are being provided.

Further, PHCD may delay the initiation of termination proceedings of a family based on noncompliance under this provision, unless it conflicts with other provisions of law, for a period not to exceed six (6) months. After the conclusion of six (6) months, the PHA or owner may begin eviction or termination of assistance.

## 7.9 Documents

In support of the applicant/tenant's declaration of income, PHCD may review original documents, authenticated copies, and/or electronic documents (unaltered) provided by the applicant or resident. All income related documents must be dated less than 60 days preceding the determination date (eligibility interview) and continues to be valid an additional 60 days following the request date. If income related documents expire, the applicant or resident will have to provide new documents. A photocopy will be placed in the file.

Acceptable applicant or resident provided documents include:

- Consecutive and unaltered pay stubs;
- Social Security Administration award letter;
- Assets and Asset Income:
- Pension benefit statements;
- TANF award letter;
- other official and authentic documents from a Federal, State or local agency.

### A. Federal Income Tax Return

If third-party income verification is not otherwise available, a copy of the most recent federal income tax return shall be submitted, including any W-2 information, or at least two (2) consecutive pay stubs or earnings statements. As stated above, notarized statements or affidavits are the least desirable forms of verifications and shall be accepted only when all other types of verification attempted have failed.

### B. Landlord Verification

PHCD may obtain verifications from previous landlords to verify the applicant's ability to pay rent and to comply with the lease terms, and will perform criminal background (not including juvenile records) and sex offender registration checks on applicants and family members 18 years of age and over. PHCD will conduct such checks on household members who are younger than 18 years if they are being tried as adults for certain criminal offenses. If PHCD discovers the family has a history of failure to comply with lease terms under previous landlords or fails the background check, such shall result in removal from the waiting list, withdrawal of an offer, or termination of assistance.

### C. Misrepresentation of Information

A family's intentional misrepresentation of information related to eligibility, preference for admission, housing history, allowances, family composition, income or rent would result in rejection. Unintentional mistakes that do not confer any advantage to the applicant will not be considered misrepresentations.

### D. Child Support

Uncollected child support will not be counted as income so long as the family provides documents proving the debt uncollectible for at least three (3) months. However, effective January 1, 2024, upon the implementation of Housing Opportunity through Modernization Act of 2016 (HOTMA) and applicable regulations and guidelines promulgated by HUD, PHCD will only process a full interim reexamination if the family's adjusted income is estimated to have decreased by ten (10) percent or more, the standard threshold set by HUD.

### E. Self-Employment Income

Effective January 1, 2024, upon implementation of the HOTMA Final Rule and subject to applicable HUD guidance, an independent contractor is an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done.

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

- 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 IRS regulations; and
- Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

#### F. Seasonal Employment

Effective January 1, 2024, upon implementation of the HOTMA Final Rule and subject to applicable HUD guidance, a seasonal worker is an individual who is hired into a short-term position and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for a specific employer or industry.

Income from seasonal employment (i.e., school board employees, teachers, etc.) may be calculated using one of the following methods:

1. Annualize income by projecting the current monthly income for 12 months even if the current income is not expected to last the entire 12 months. Under this method, the family has the right to come in for an interim re-examination once the income decreases by ten percent (10) or more.
2. Calculate average income based on anticipated changes for the upcoming year using verified historical evidence of past income fluctuations. This second method would not require an interim re-examination at the time income decreases by ten percent (10) or more since such decreases would already be averaged into the anticipated annual amount.

## **Chapter 8. Payment Standard and Housing Assistance Payments**

### **8.1 Payment Standard**

Under the Housing Choice Voucher program, a payment standard is used to calculate the monthly housing assistance payment for families of different sizes and compositions. The payment standard is based on the area Fair Market Rent (FMR) published by the HUD and is established by bedroom size. The payment standard is the maximum monthly subsidy payment PHCD will make for a family based on the unit size that PHCD determines as appropriate for the family. PHCD reserves the right to implement PIH Notice 2013-03 as needed to relieve administrative burden.

The payment standard per bedroom size may not be less than 90%, or more than 110% of FMR. PHCD shall review its payment standard annually after the FMR is published. The review shall include:

- A. Capacity for families to be mobile (i.e., ability of families to locate housing outside of high poverty areas);
- B. Fair housing choice (i.e., the ability of families to locate housing outside areas of minority concentration), and
- C. When families have difficulty locating housing for lease within the term of the voucher.

The Agency shall also review the payment standard for adequacy when 30% or more of the families have high rent burdens.

In order to maximize the number of families to be served based on available funds, PHCD may adjust, upon a waiver from HUD, the payment standards when HUD publishes the FMR. PHCD may adjust the payment standard amounts within these limits in order to assure continued affordability of units within the Miami-Dade County jurisdiction.

### **8.2. Exception Payment Standard**

PHCD may request an exception payment standard amount from HUD for all units or all units with a given number of bedrooms in a designated "exception rent area" if it is determined that an exception rent is needed to help families find housing in low-poverty areas based on market conditions, or if voucher holders are experiencing difficulty in finding housing for lease under the program terms.

PHCD shall apply to HUD for approval of payment standard amounts whenever deemed necessary by the analysis of need for a geographic area or neighborhood consistent with the Miami-Dade County Consolidated Plan.

### **8.3 Calculating Housing Assistance Payments**

PHCD shall use the applicable payment standard schedule for the FMR area or the HUD-approved exception rent area to calculate the housing assistance payment for a family. The

payment standard for a family is the lower of the payment standard for the family unit size determined by PHCD as appropriate for the family composition or the payment standard for the unit actually rented by the family.

During the Housing Assistance Payment (HAP) contract term for the unit, the payment standard is determined by the FMR rent limits effective at the most recent regular reexamination of family income and composition after the beginning of the HAP contract term.

The payment standard for a family shall not drop below the payment standard in effect at the time of Request For Tenancy Approval (RFTA) unless:

- A. The rent to owner decreases;
- B. There is a change in family size or composition; or
- C. The family enters into a new lease. A family entering into a new lease at a current or new unit shall have the current payment standard in effect.

#### **8.4 Reasonable Accommodation**

As a reasonable accommodation for a family that includes a person with a disability, PHCD may establish a higher payment standard for that family up to 110% of the published FMR. With approval of the HUD Field Office, the payment standard can be up to 120% of the published fair market rent. The applicant, participant, or representative must request this exception (Refer to Attachment C for PHCD's Reasonable Accommodation Policies and Procedures).

Applicants with Accessibility or Special Needs:

Applicants whose family includes a disabled person may request a current list of accessible units known to the Agency. The Agency shall not be held responsible for certifying the unit as accessible. Such verification is the responsibility of the family. Verification of the handicap or disability of the family member may be necessary to determine the need for an accessible unit as well as for any disability assistance expenses that the applicant may be able to make a claim.

If the need for an accessible unit is clearly evident, verification of need is not required. PHCD will conduct outreach efforts to encourage owners with accessible units to participate in the Housing Choice Voucher program (See Attachment C for PHCD's Reasonable Accommodation Policies and Procedures).

## **Chapter 9. Rent Comparability and Reasonableness**

### **9.1 Comparability**

Rent charged for a unit under the Housing Choice Voucher Program must be reasonable. PHCD must assure that the rent for the unit assisted is not more than rents charged for comparable units in the private housing market and that the rents approved by the Housing Choice Voucher Program for any units placed under lease do not have the effect of inflating rents in the area or neighborhood. In order to determine comparability PHCD performs surveys of comparable rents by field visits and through published rental data analyses. PHCD reserves the right to contract with a private entity to perform surveys of comparable rent.

At the time of initial move-in or change of dwelling, where the rent reasonableness study establishes a contract rent for a unit which is less than the amount requested by the owner and also less than the payment standard, the tenant does not have the option to pay the owner more than PHCD's approved contract rent nor the determined tenant portion of the rent.

If the rent reasonableness study for an initial move-in or change of dwelling establishes a contract rent that is greater than the payment standard, i.e., (the unit's value is greater than the payment standard) the family may agree to pay the difference in the rent given the family's ability to pay. PHCD will not approve a rent amount that is beyond the family's ability to pay and under no circumstances approve a tenant portion more than 40% of the family's adjusted monthly income if the gross rent is above the payment standard at time of initial move-in or change of dwelling. Under no circumstances may an owner charge an amount to a tenant that is more than is approved by PHCD nor demand side payments in addition to the approved rent.

### **9.2 Initial Determination of Rent**

A comparable unit shall be defined as a unit which is similar to the subject unit using the following criteria for comparison:

- Square footage
- Number of bedrooms/bathrooms
- Type (i.e., single-family, townhouse, duplex, multi-family, etc.)
- Location
- Condition or maintenance
- Amenities
- Year Built (Age)
- Quality
- Housing Services

On occasion, assessing the rent influence of a non-conforming design or condition may require unsupported but reasoned appraisal judgment. In many cases, however, the effect on the rent can be determined from market data.

In general, a minimum of two (2) to three (3) comparable private market (unassisted) units will be used. At the request of the family, PHCD will assist the family in negotiating the rent, if the rent reasonableness study shows that the unit is valued less than the amount requested by the owner. As part of the rent reasonableness documentation, PHCD may require the owner to provide a

rent roll of unassisted comparable units in buildings of two or more units that shall consist of, at minimum, the apartment or unit number, bedroom size, contract or full rent charged, and the utilities included in the rent, unless there are comparable, assisted units in the complex or building.

PHCD may require such documentation at lease-up and every time the owner requests an annual or special adjustment (increase) or if there is a change in the utility distribution. PHCD may request the owner to provide information on units in the general area for comparability.

### **9.3 Documentation and Record Keeping**

PHCD will maintain in a database listing (by zip code or census tract) the reasonable rents approved for units under a Housing Choice Voucher HAP contract for a minimum of three (3) years. Such documentation shall include the bedroom size of unit, address, last rent charged and date of last rent adjustment.

Copies of approved rental survey forms shall be maintained for three (3) years by PHCD and indexed to ensure easy reference. A copy of the approved survey shall also be maintained in the tenant file. PHCD shall also retain and maintain completed and approved rent increase requests and RFTAs.

## **Chapter 10. Housing Quality Standards and Inspections**

PHCD will inspect all units to ensure that the units are in a decent, safe and sanitary condition in accordance with the Housing Quality Standards (HQS) as described in 24 CFR § 982.401, interpretative guidance of acceptability criteria in Form HUD 52580-A Inspection Checklist the HUD Housing Inspection Manual.

### **Emergency HQS Violations**

The following items are considered emergency fails:

- A. No electricity
- B. No running water
- C. No gas if heat, hot water or range are powered by gas
- D. Natural gas leak or fumes from fuel burning appliances/equipment
- E. Major plumbing leaks or flooding, (such as sewer back up or water line breakage)
- F. No operational sanitary facilities
- G. Any electrical fixture or equipment that smokes, sparks, or short circuits creating a fire hazard
- H. Uninhabitable units due to fire, tornado, flood, or destroyed/vandalized units that prevent a tenant from using the bathroom or kitchen.

### **10.1 Initial Inspections**

No unit will be placed under an initial contract until the unit is inspected and any and all violations are corrected and the unit is approved by PHCD.

If the unit fails inspection, the family and owner will be advised of the repairs needed to pass inspection and given ten (10) business days to correct the failed items. The re-inspection will be automatically scheduled and completed ten (10) business days following the initial fail unless the owner or tenant decides to cancel the RFTA for the unit before the expiration of the ten days. If the unit does not pass re-inspection, the Request for Tenancy Approval will be voided and the family must find another suitable unit, if the family has time remaining on the Housing Choice Voucher.

Approval for the tenant to move in will not be given until the unit passes inspection, reasonable rent has been established, and the executed lease has been submitted.

### **10.2 Biennial Inspections**

Each unit under contract will be inspected at least biennially or any other time and as often as deemed necessary by PHCD to determine compliance with PHCD or inspection standards. Written notice of the biennial inspection date will be mailed to the tenant, with a copy to the owner. It is the tenant's responsibility to ensure PHCD access to the unit and premises. Failure to gain access to the unit and premises to conduct annual inspections and any subsequent re-inspections is a violation of the family's obligations and may result in termination from the program. The family is responsible for HQS violations caused by:

- The family's failure to pay for tenant supplied utilities;
- The family's failure to provide and maintain tenant supplied appliances;
- Damage caused by the family or guest to the assisted unit or premises.

All other HQS violations must be corrected by the owner.

PHCD will provide written notice to owners and tenants of specific HQS requirements that fail the Inspection. The notice will note whether violations are the tenant's or the owner's responsibility.

The participant must allow inspections to be made by PHCD. Additionally, the participant must allow the owner to make repairs upon reasonable notice and at reasonable hours. Failure of the participant to give access to the unit to allow inspections and/or repairs in compliance with the lease and housing program rules and regulations shall result in the family's termination from the program.

Owners and tenants will be given 24 hours to correct any HQS violation that is considered an emergency as described above. Owners and tenants must correct all other HQS violations within 30 calendar days of the annual inspection. The date of re-inspection will be automatically set by PHCD and appear on the notice to owner and tenant describing the failed items. Failure to gain entry to the unit and premises for the purposes of conducting a re-inspection will result in sanctions to the owner and/or tenant.

#### A. Non-Compliance Due to Violations that are Owner Responsibility

If an owner fails to correct HQS deficiencies by the time specified by PHCD, HUD requires PHCD to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR § 985.3(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated.

PHCD will make all HAP abatements effective the first of the month following the expiration of PHCD's specified correction period (including any extension). PHCD will inspect abated units within five (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 family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

The unit may remain in abatement status for a maximum of 180 days upon which time the HAP contract will automatically terminate. If the unit has not passed HQS inspection within ten (10) business days from notification of the abatement of HAP the tenant will be issued a voucher to move to another unit provided the tenant is in compliance with all program regulations including HQS. It is the owner's responsibility to request a compliance inspection if violations are corrected after the compliance date and prior to the HAP contract termination date. If the violations are corrected and verified by inspection before the HAP contract is terminated, the payments will be reactivated as of the date the unit passes inspection, as long as there is a current lease in place and the tenant still resides in the unit. If the violations are corrected after the termination, the owner and the tenant must execute a new lease and HAP contract. Another inspection must be conducted to verify there are no HQS deficiencies.

PHCD will notify the tenant in writing to request a change of dwelling due to violations that are the owner's responsibility and not corrected within PHCD-required time frame. The tenant will be contacted to begin the Change of Dwelling (COD) process. If there are both tenant and owner responsible violations, HAP will be abated and the tenant assistance may be recommended for termination according to HUD regulations.

#### B. Noncompliance due to Violations that are Tenant Responsibility

For violations that are deemed the tenant's responsibility and are not corrected within the above time frames, the tenant will be recommended for termination from the program. Both the owner and tenant shall be notified in writing by PHCD. If the tenant requests a compliance inspection within ten (10) business days from the date of notice of intent to terminate program assistance, and the unit passes, PHCD will cancel the termination process. Should a tenant's participation be recommended for termination for HQS violations in the unit, they will be entitled to a hearing in accordance with this Administrative Plan. While the hearing proceedings and decision are pending, HAP will continue to the owner provided the owner is in compliance with all other provisions of the HAP Contract, but not for longer than a period of 90 days from the date of the failed inspection or the end of the tenancy, whichever is shorter. Should the owner evict the tenant for tenant-responsible HQS violations, the owner may be paid through the date of eviction. For the payment to be approved, the owner must provide evidence that the eviction has been completed.

In the event that the family's participation is terminated as a result of a hearing decision, and the family remains in the unit, the family is responsible for the full rent to the owner. PHCD shall notify the owner and tenant by mail of the determination of a unit failing compliance inspection, abatement or termination of assistance. If there are both tenant and landlord responsible violations, HAP will be abated and tenant's assistance may be recommended for termination according to HUD regulations.

#### **10.3 Complaint Inspections**

Complaints regarding legitimate HQS issues will be investigated by PHCD. Complaint inspections will be scheduled by mail or telephone. HQS failures as a result of complaint inspections will be enforced by PHCD in the same manner as annual inspections.

#### **10.4 Quality Control Inspections**

Quality Control inspections will be conducted to ensure that inspections are in conformance with HQS, to verify the accuracy and efficiency of inspection personnel, and to monitor and document program performance. It is the intent that these inspections and the keeping of records will assist in the identification and prevention of repeated violations. Quality Control inspections will be conducted by a staff member of PHCD, trained and experienced in conducting unit inspections. The quality control inspection is a re-inspection of units recently inspected. Selection of the units for quality control inspections is done randomly by the Quality Control Inspector or Supervisor from a computer listing of all recently inspected units and should be a cross-section of neighborhoods and a cross-section of the work of inspectors to include the work of each inspector. HQS failures resulting from quality control inspections will be enforced in the same manner as annual inspections.

#### **10.5 Ongoing Maintenance required for Compliance with 24 CFR part 35, Lead-based Paint**

The owner and PHCD are required to conduct a visual assessment for deteriorated paint and failure of any hazard reduction at time prior to move-in and at least annually. In addition, the owner is required to make corrections of deteriorated paint and any failed lead hazards reduction measures.

### **10.6 Extensions of Time to Cure Inspection Violations**

Reasonable extensions to the time limitations for compliance established in this section may be granted by PHCD in extenuating circumstances. Requests for such extensions must be submitted in writing prior to the MDHCV re-inspection compliance date and supported by documentation. Examples of extenuating circumstances may include but are not limited to the following:

- Inclement weather
- Verification of unavailability of necessary parts or
- Emergency situations such as a natural disaster

In the event that the violation(s) is/are caused by a natural disaster, extensions to the compliance inspection date may be granted. In order to approve such an extension, PHCD may request evidence of insurance claims, estimates for repair or other related documents.

## **Chapter 11. Utilities**

### **11.1 Utility Allowance Schedule**

PHCD maintains utility allowance schedules for all commonly used utilities. Utility allowances are not meant to provide a dollar-for-dollar recapture of utility payments, but are an estimate of the monthly cost of a reasonable consumption of utilities by energy-conservative households that occupy housing of similar size and type in the same locality. The utility allowance schedules are reviewed and revised annually. If there is a 10% increase or decrease in utility rate in any utility category since the last revision, the utility allowance schedules shall be revised.

The utility allowance schedules are by unit size and typical unit types in the Miami-Dade County area. PHCD maintains utility allowance schedules that apply to the Housing Choice Voucher, Shelter Plus Care, Moderate Rehabilitation and Moderate Rehabilitation Single Room Occupancy units. A copy of the revised utility allowance schedules is provided to local HUD office annually for their review and comments prior to their implementation on the effective date.

Effective January 1, 2024, upon the implementation of Housing Opportunity through Modernization Act of 2016 (HOTMA) and applicable regulations and guidelines promulgated by HUD, foster children and foster adults are household members and will be considered when determining utility allowance.

### **11.2 Utility Reimbursements**

Where the utility allowance exceeds the total tenant payment of the family, PHCD will provide a utility reimbursement payment through a Utility Reimbursement Card. Deposits to the Utility Reimbursement Card will be made monthly. If the family owes any sums to PHCD or any other housing authority, PHCD may use any utility reimbursement amount owed to the family as payment.

PHCD, at its discretion and as deemed operationally feasible may make utility reimbursement payments directly to the utility company. Such direct payment shall not require the family's consent; however, PHCD shall inform the family immediately upon its decision to make payments directly.

### **11.3 Tenant-Responsible Utilities**

Utilities for which the tenant has agreed to be responsible, as stated in the Request for Tenancy Approval (RFTA), are a family responsibility as specified at 24 CFR § 982.404. The denial of service, disconnection or shutting off utilities that the resident is responsible for paying or the discovery that a resident is tampering with utilities to illegally obtain service, may result in a recommendation for termination.

## Chapter 12. Security Deposits and Late Fees

### 12.1 Security Deposits

For all housing assistance payments contracts, an owner may collect a security deposit from the tenant. It shall be the owner's responsibility to collect the security deposits from the family. The amount of the security deposit must be consistent with common practice in the Miami-Dade Private Rental Market and not in excess of security deposits collected for owner's unassisted tenants and not to exceed one month's rent.

### 12.2 Late Fees

Late fees by PHCD shall not be assessed on Housing Assistance Payments except when each of the following conditions is met:

- A. Such penalties are in accordance with generally accepted practices and law, as applicable in the local housing market, governing penalties for late payment of rent by a tenant;
- B. It is the owner's practice to charge such penalties for assisted and unassisted tenants;  
and
- C. The owner also charges such penalties against the tenant for late payment of family rent to owner.

Late fees may be assessed at the written request of the owner if the initial payment of the HAP has been delayed in excess of 60 days from the effective date of the HAP contract or if timely payment was not received from the County thereafter when it was due pursuant to the lease agreement between the Section 8 tenant and the landlord. In instances beyond PHCD's control, which affect payments to other owners, late fees shall not be assessed. This may include, but not be limited to, reactivation of payment delays because of system cutoff dates following abatements due to HQS violations.

Late fee(s) are paid to the landlord based on the same monthly late charge fee the landlord charges his/her tenants stipulated in the dwelling lease. However, no late payment penalty shall exceed \$50 per occurrence.

Owners shall submit a claim on a PHCD-approved form which can be either mailed to the Owner or (via U.S. mail or electronic mail) can be found on PHCD website. Late fee(s) are paid to the landlord based on the same monthly late charge fee the landlord charges his/her tenants stipulated in the dwelling lease. However, no late payment penalty shall exceed \$50 per occurrence.

For new leases or change of dwellings, PHCD is obligated to make housing assistance payments within 60 days from the HAP effective date. Except for new leases or changes of dwellings, generally HAP's are due to the owner on the first of each month. HAPs shall be considered made when the check is issued or electronically submitted to the owner. After the first two calendar months of the HAP contract term, owners can submit late payment claims to PHCD and PHCD may be required to pay late fees for any months the payment is past due. Owners must submit

any late payment claims on a PHCD-approved Claim Form within 30 days after receipt of the late housing assistance payment from PHCD. The *Claim Form* will be made available for downloading from the County's website located at [www.miamidade.gov/housing](http://www.miamidade.gov/housing) and will also be provided to new owners during the orientation described in Section 13.1 of this Administrative Plan. Failure of the owner to make a claim within 30 days waives his/her right to make a claim for late payment penalties. If there is any dispute over the amount of the late fee or a denial of the late fee, PHCD will endeavor to attempt to resolve the dispute.

## Chapter 13. Tenancy Approval

### 13.1 Documents to be Submitted

When the voucher holder has located a unit during the term of the housing voucher, they must submit a completed Request for Tenancy Approval package to PHCD containing the following:

- A. *Request for Tenancy Approval Form HUD-52517*, fully executed and signed by both owner and voucher holder tenant;
- B. Miami-Dade County Vendor Affidavit fully completed, executed by the owner;
- C. Proof of Ownership: if currently on the computerized Miami-Dade County property rolls, the tax bill or other document indicating the folio number may be submitted; if not current on the tax rolls, then a valid deed may be submitted;
- D. A Tenancy Addendum or other document or information source containing the same information as a Tenancy Addendum.
- E. Condominium, co-op, or homeowner association approval letter, if applicable and required by such association. The letter should also indicate whether the owner of the condominium or co-op is delinquent on any fees due to the homeowner association.
- F. Tax Identification Number or Social Security Number, as applicable, for the owner; and
- G. Other affidavits, as required by Miami-Dade County.

In circumstances where clarification of ownership is required, PHCD may request appropriate documentation and may verify such ownership with other Miami-Dade County Agencies and the County Attorney's Office.

Prior to the approval of the assisted tenancy, PHCD will request the following from the owner: *IRS Form W-9*, completed and executed, unless previously provided by the owner.

New owners will be provided with an orientation to advise them of their rights and responsibilities under the HAP. PHCD, may provide the option to attend this orientation or view an orientation video at a designated site including, but not limited to PHCD's website. Ownerships by trusts and corporations shall conform to Internal Revenue Service and the State of Florida requirements. A W-9 shall be completed for every ownership entity with a different tax identification number.

### 13.2 Approval of Assisted Tenancy and Approval to Move In

PHCD must review and approve all submitted documents, the rent must be reasonable; the unit must pass HQS initial inspection, and receive an executed lease prior to granting authorization for the family to move into the unit. The tenant shall be responsible for the full contract rent to owner if the family moves into the unit prior to being given authorization to move in. To the greatest extent possible, PHCD will approve tenancy within 15 days of RFTA acceptance given all documents are submitted, completed and executed, the rent is determined as reasonable or negotiated and the unit passes HQS inspection.

PHCD shall not approve a family for initial tenancy of a unit under Housing Choice Voucher if the family's portion of the rent exceeds 40% of the family's monthly adjusted income. This requirement is subject to change in conformance with HUD federal regulations.

### **13.3 Use of Unit for Business**

A tenant may conduct small-scale legal business in the unit if all of the following conditions are met. An example of a business includes, but is not limited to, cottage industries such as sewing and alteration service. Conditions for use of unit for business are:

- A. Must be included in the lease or as an addendum to the lease,
- B. Must be approved by owner,
- C. Income derived from the business must be included and calculated as part of the family's income,
- D. Business is in compliance with local zoning codes and other ordinances; and
- E. Business does not conflict with federal housing quality standards regarding space and occupancy standards.

### **13.4 Use of Unit Address**

Tenants must use their unit address as their mailing address for all official PCHD correspondence. This correspondence includes but is not limited to reexamination appointments, rent change notifications, inspection appointments, inspection results, termination proceedings, etc. Exceptions may be made to this rule on a case-by-case basis, i.e., domestic violence victims or if a tenant is able to demonstrate that their mailbox has been tampered with and is unsecure by submitting official documentation from the US postal service and/or police records.

## **Chapter 14. Housing Assistance Payments**

Payments under valid Housing Assistance Payments (HAP) contracts will be made on or about the first of the month for which the payment is due. HAP shall be considered made when the check is issued or electronically transmitted to the owner. Initial payments, due to processing steps, may be delayed. However, all amounts due to date will be paid when processing is complete.

### **14.1 HAP Contract and Lease Termination**

HAP payments will continue so long as the unit passes inspection, the family completes recertification annually, and is qualified and eligible for continuation in the Housing Choice Voucher program or until the HAP contract or lease is terminated by the owner, the tenant, or PHCD in accordance with federal regulations. If the HAP contract or lease is terminated, the assistance payment will terminate as follows:

- A. If the tenant moves, the HAP will be paid through the last month the tenant occupies the unit as determined by PHCD.
- B. If the owner terminates the lease, the HAP payment will terminate when the tenant vacates the unit. PHCD must be given a copy of owner-initiated notice of termination of lease.
- C. If the owner plans to evict the tenant for violating the terms of the lease, such notice must be given to tenant with a copy to PHCD prior to commencement of any eviction action. Such notice may not be simultaneous to eviction process.
- D. If PHCD terminates the contract, payment will stop on the date indicated in the Notice.
- E. See Chapters 22 for Transfer of Ownership and/or Chapter 23 for Owner's Foreclosure.

### **14.2 Right to Recoup Amounts Paid**

- A. Recapture by PHCD

If a contract is terminated after payment has been made or a stop payment is not possible, PHCD reserves the right to recoup amounts paid erroneously to owners by withholding any payment owed to that owner, even if the payment owed is for another Housing Choice Voucher tenant or for another program. If the owner has no other valid Housing Choice Voucher contracts, they will be responsible for making repayment to PHCD promptly upon request. As an accommodation to those owners who have only one active unit, or who are no longer participate, in the MDHCV program and are experiencing economic hardship repaying the entire amount to be recouped as a result of over payments, PHCD, may enter into a repayment agreement over a reasonable period of time, not to exceed one year, to recover such payments. The payment terms and duration of these repayment agreements shall be determined at the sole discretion of PHCD, in accordance with fair credit practices, local laws and ordinances.

PHCD reserves the right to place a lien on the property for any amounts owed after efforts to recoup funds are unsuccessful. PHCD may deny any new Requests for Tenancy approvals until the payment is made by the owner.

## B. County Obligations

PHCD reserves the right to withhold payments if an owner owes funds to another Miami-Dade County department. Such withholding is pursuant to County ordinance and administrative order and will only be made upon request by the affected department and with written notice to the owner.

### **14.3 Reduction or Termination of HAP Contract for Insufficient Funding**

PHCD may reduce or terminate the HAP contract if it is determined, in accordance with HUD requirements, that the funding under the consolidated ACC is insufficient to support the continued assistance for families in the program. In the event that termination of HAP contracts becomes necessary, PHCD shall exempt the following:

- Elderly persons, 62 years and older;
- Disabled families;
- Housing Choice Voucher Homeownership Program participants;
- Families receiving voucher assistance as a result of relocation due to HOPE VI development; or
- Families receiving voucher assistance through special allocations in VASH, Access 2000 and Mainstream programs.

PHCD reserves the right to determine the methodology of termination of HAP contracts. Such methodology shall be based on income. Families currently paying 75% or more of contract rent will have the HAP contracts terminated. If after terminating families paying 75% or more of contract rent there continues to be insufficient funding, then families paying 50% to 74% of contract rent will be terminated. If there continues to be insufficient funding, then families paying 25% to 49% of contract rent will be terminated. The order of families being terminated in these payment groups shall be conducted on a first in first out basis (i.e., those families who have participated the longest in the program by lease-up date will be the first HAP contracts terminated). Notice of the HAP contract termination will be provided to the tenant and owner. Families terminated due to lack of sufficient HAP funding leaving in good standing shall be afforded, where available, other housing opportunities, including homeownership opportunities and affordable rental housing. Families removed from the program shall be placed on a list until funding is available for re-housing.

## Chapter 15. Annual and Interim Re-certification

### 15.1 Annual Re-certification

#### A. Scheduling of Appointments

Each family participating in the Housing Choice Voucher and Moderate Rehabilitation Programs is required by federal regulation to be recertified every 12 months. Re-certification requires the program participant to provide information regarding family income and composition to PHCD so that tenant rent for the coming year may be established.

PHCD will notify the Housing Choice Voucher family approximately 90 to 120 days of re-certification time and will notify the family of documentation the family will be required to provide. Re-certification can be conducted either electronically, in person, by mail or home visit depending upon circumstances, at the discretion of PHCD. PHCD may access criminal records of any household members with the purpose of determining continued assistance under the program, at re-certification, change of dwelling, when adding a member to the household or a live-in aide, to substantiate allegations of criminal activities, and at any time PHCD deems necessary.

#### B. Number of Appointments and Missed Appointments

A family shall be allowed to miss no more than two appointments to complete the re-certification. If the family fails to keep the first appointment, a second notice shall be mailed stating that failure to complete the re-certification at the second appointment will be grounds for termination from participation in the Housing Choice Voucher program.

Exceptions may be granted by PHCD on a case-by-case basis with consideration of the reason or circumstances for not meeting the re-certification requirements. PHCD may require documentation from the family to prove any extenuating circumstances. The same number of appointments and procedure stipulated above shall apply to all programs, including the Family Unification program, Veterans Assisted Supportive Housing (VASH), and other targeted Housing Choice Voucher programs. The Florida Department of Children and Families shall be copied on the second appointment notification to Family Unification Program participants in an effort to provide any necessary intervention.

#### C. Failure to Comply in Timely Manner or Non-Compliance

A family's failure to comply with an interim or annual recertification requirements by providing all required documentation and signatures on forms is grounds for termination of assistance.

When the family causes an unreasonable delay in the recertification processing i.e., does not provide information within 30 days of the effective date of the recertification, PHCD will:

- Implement any decrease in family share of the rent on the first of the month following the completion of the recertification processing.
- Implement any increase in family share of the rent retroactive to the family's recertification effective date without a 30-day notice since the delay on the family's part results in a waiver of the 30-day notice.
- Families and owners will be notified, in writing, of the results of the recertification and the effective date of the change.

#### D. Timely Compliance

PHCD must conduct any annual interim reexamination within a reasonable time after the family request or when the PHCD becomes aware of a change. Reasonable processing time may vary based on the amount of time it takes to verify information, but generally no more than 30 days after the family reports changes in income to the PHCD.

#### E. Acceptable Verification of Income

PHCD will utilize the same procedures as used at admission for obtaining and verifying income. PHCD will utilize the verification guidelines under PIH Notice 2018-18, PIH Notice 2018-24 Verification of Social Security and Supplemental Security Income Benefits, and subsequent guidelines or regulations that may be issued by HUD.

Enterprise-Income Verification (EIV), when available, and third party written verification of information (which may be provided by the family), are the most desirable types of documentation. If EIV information conforms to the family's declared income as described under Section 7.5, third party verification may not be required.

#### F. Zero Income

Applicants reporting zero (0) income will be asked to complete the Monthly Family Expense and Income Contribution forms to document how much they spend on: food, transportation, healthcare, childcare, debts, household items, etc., and what the source of income is for these expenses.

- Zero income families are required to report any increase in any type of income, including cash and non-cash contributions, between regular recertifications.
- PHCD will conduct an interim recertification and increase rent for zero income families when income is received. When the family is no longer a zero-income family, interim reporting of increases in income is not required.
- PHCD will run an EIV income report every 90 days for families reporting zero income and will take appropriate action for unreported income.

#### G. Student Eligibility

A full or part-time household student must meet federal regulation eligibility requirements.

#### H. Family Composition Changes

The family is required to report all changes in household composition, in writing, to PHCD within 10 days of the change that may trigger an interim re-certification:

- A family member is added by birth, adoption or court-awarded custody, with or without increased income;
- The family wants permission to add a member by any method other than birth, adoption or court-awarded custody, i.e., marriage, inter-dependent relationship, foster child, foster adult and/or live-in aide; and/or.
- The family removes a member.

## 15.2 Interim Re-certifications

**(This section 15.2 shall become effective January 1, 2024, upon the implementation of Housing Opportunity through Modernization Act of 2016 (HOTMA) and applicable regulations and guidelines promulgated by HUD)**

### A. Interim Reexamination

1. Any approved addition to the family composition will be processed as an interim recertification. PHCD will only update the family composition information unless the family meets one of the conditions described under “Interim Rent Increases” or “Interim Rent Decreases” described below.
2. No increases in annual income will result in an interim reexamination unless the family reported zero income or a decrease in income within the same annual or biennial reexamination cycle (Refer to “Interim Rent Increases”).
3. EIV is no longer required to verify tenant’s employment and income information during an interim recertification.
4. The total family income increases or decreases must last longer than one-month (30 days); the tenant must report such change in writing to the management office within ten (10) days of occurrence.
5. PHCD will not conduct an interim reexamination for an increase in the last three months of an annual reexamination period. Should a credit be owed to the resident, it will be retroactively credited together with the annual reexamination.
6. If the monthly rental payment decreases by ten (10) percent or more as a result of the rent adjustment, the adjusted rent will become effective the first day of the month following the date the information is reported to PHCD. If the rent should increase by ten (10) percent or more based on the family income, the adjustment will become effective the first day of the second month following the month in which the change is reported or 30 days, whichever is greater, after proper verification is completed.
7. If it is found that the family failed to timely report any changes in income or family composition within ten (10) days or provided inaccurate or incomplete information, it may be considered fraud, any of the following may occur:
  - a) Any increase in rent which would have occurred had changes been reported in a timely manner will be made retroactive to the effective date of the change in circumstances and the family agrees to reimburse PHCD for the difference between the rent they should have paid and the rent they were charged.
  - b) Any decrease in rent that would have occurred had changes been reported in a timely manner will be made effective the first day of the month following the date the change is reported to PHCD and will not apply retroactively.

### B. Interim Rent Increases

1. Families are required to report to PHCD all increases in earned income that occurred between regularly scheduled annual re-examinations. Any increase of the family’s adjusted earned income by ten (10) percent or more, the standard threshold set by HUD.

## Section 8 Administrative Plan

2. Families are required to report to PHCD all increases in unearned income that occurred between regularly scheduled annual re-examinations. Any increase of the family's adjusted unearned income by ten (10) percent or more must be processed if the family reported zero income.

### C. Interim Rent Decreases

1. PHCD must conduct a full interim reexamination if the family's adjusted unearned income is estimated to have decreased by ten (10) percent or more, the standard threshold set by HUD.
2. PHCD must conduct a full interim reexamination for all decreases in adjusted income upon the permanent removal of a family member from the assisted unit.

## **Chapter 16. Family Moves**

### **16.1 Tenant Notice**

With proper notice, a participant family may move to another unit either within or beyond PHCD's jurisdiction at the expiration of the lease term. Moves after the initial year of the lease term are limited to not more than one move in any 12-month period. A second move within the same calendar year may be allowed only under hardship conditions upon the approval of PHCD and for victims of domestic violence, economic abuse, technological abuse, sexual assault, dating violence, and stalking, as described under Section 2.14 of this Administrative Plan. The notice to move must be in accordance with the lease and addressed to the owner with a copy to PHCD or its authorized contractor.

A family may move under the Housing Choice Voucher program with a change of dwelling approved by PHCD, as long as, the family has not been terminated from the program. PHCD will not pay HAP to a former landlord if a new HAP contract has been executed with another landlord, unless any payments are owed to the former landlord.

### **16.2 Mutual Lease Termination**

A participant may move from an assisted unit, prior to the end of the first year of lease, by obtaining a mutual lease termination executed by the participant and the owner. The Housing Assistance Payments contract with the owner will be terminated by PHCD as of the date the lease is mutually terminated. A mutual lease termination in the initial lease term only applies under the conditions stated above in Section 16.1.

### **16.3 Owner Responsibility on Tenant Move-out**

The owner is required to provide PHCD with a copy of any notice to the tenant upon move out.

## **Chapter 17. Tenant Rents and Housing Assistance Payment (HAP) Increases**

### **17.1 Tenant Rents**

The minimum rent imposed on tenants is in accordance with federal regulations. PHCD has adopted a minimum tenant rent of \$50.00 per month. If the family can demonstrate a long-term hardship (over 90 days) in paying the minimum rent that would result in the family being evicted from the unit for its inability to pay the minimum rent, PHCD shall temporarily exempt the family from payment and will review the tenant's circumstances at the next scheduled recertification.

### **17.2 HAP Increases**

An owner may request an adjustment to the contract rent 60 days prior of the anniversary date of the HAP contract. Requests by the owner shall be in writing to PHCD rent increases are subject to market rent comparability surveys that prohibit paying more for a Housing Choice Voucher unit than a comparable unit on the unassisted market.

The rent to owner will only be increased for housing assistance payments covering months commencing on the latter of: the first day of the first month commencing on or after the contract anniversary date or a minimum of 60 days after the request is received. PHCD shall not grant a rent increase unless the owner has complied with obligations under the HAP contract, including compliance with the HQS for all contract units. Prior to PHCD's approval the owner's rent increase request, the tenant must also consent in writing to such rent increase. Such written consent may include the execution of a lease or other agreement with the owner. Additionally, PHCD will also send a courtesy notice to tenants upon approval of an increase in rent or change. The requested rent must still be reasonable as relates to comparable rents in the market and shall be determined by a rent survey.

PHCD reserves the right to suspend consideration of the rent increase requests, dependent on available funding provided for the Housing Choice Voucher Program by HUD.

### **17.3 Change in responsibility for Utilities**

The approved contract rent to the owner and amount of HAP payment includes consideration of utilities. Should the owner and tenant agree to change the responsibilities for utilities, PHCD must be notified. PHCD will recalculate the contract rent and HAP payment. The owner will be required to enter into a new HAP and the owner and tenant will be required to execute a new lease.

## Chapter 18. Portability

### 18.1 Moving out of PHCD's Jurisdiction

A newly certified family may move to a unit outside of PHCD's jurisdiction after being certified for the Housing Choice Voucher Program so long as they are a resident of Miami-Dade County at the time of certification or for humanitarian reasons if they are not a resident at the time of certification. PHCD operates within all of the jurisdictions located within Miami-Dade County.

If the participant family is not a resident of Miami-Dade County at time of certification, the following applies to the family during the first 12 months after admission to the program:

- A. The family may lease a unit within PHCD's jurisdiction
- B. The family does not have any right to portability
- C. PHCD may choose to allow the family to port outside PHCD's jurisdiction
- D. Both PHCD and the receiving housing authority must agree to allow the family to lease a unit outside of PHCD's jurisdiction

PHCD may allow a family to port out to other housing agencies within the jurisdiction, as a reasonable accommodation.

### 18.2 Absorption of Incoming Portables

Absorption of incoming portable vouchers will be based on the following criteria:

- A. PHCD must determine the family's unit size for the portable family according to PHCD's subsidy standards
- B. PHCD may make the determination to deny or terminate assistance to a portable family in accordance with Section 2.4(E), Denial of Assistance, and Chapter 27, Termination of Assistance
- C. PHCD shall attempt to obtain criminal history checks, including sex offender, nationwide. The nationwide sex offender registration check will be conducted online using a database available at [www.nsowp.gov](http://www.nsowp.gov) (PIH Notice 2012-28).
- D. The same conditions apply for incoming portable families participating in the Family Self-Sufficiency (FSS) program in the PHA initiating the portability process.
- E. Availability of assistance and funding
- F. Number of incoming Portables from a specific jurisdiction
- G. Possibility of swapping vouchers within a given jurisdiction
- H. Dependent upon whether sufficient funding allows for absorption.

## **Chapter 19. Family Self-Sufficiency Program**

### **19.1 Overview**

The purpose of the Family Self-Sufficiency (FSS) program is to promote the development of local strategies to coordinate the use of public housing assistance and housing assistance under the Section 8 voucher programs with public and private resources, to enable families eligible to receive assistance under these programs to achieve economic independence and self-sufficiency. PHCD's FSS is an employment and savings incentive program for low-income families receiving assistance under the Housing Choice Voucher Program. It was designed to encourage program participants' economic self-sufficiency and possibly homeownership via gainful employment, thereby decreasing and ultimately eliminating their dependency on welfare assistance. FSS consists of case management services, which are partnered with social service agencies, schools, businesses, and other organizations, to help families pursue job search training, employment, educational opportunities and supportive services; escrow accounts into which PHCD deposits the increased rental charges that a family pays as its earnings rise.

### **19.2 Selection and Screening**

Family participation is voluntary and encouraged. Interested families can request information and an application. Housing Choice Voucher program staff reaches out to participants of the Family Unification, and Homeownership programs, as well as others. Applicants must be in compliance with HCV program requirements and family obligations in order to enroll in FSS. Applicants may be screened for interest and motivation to attend FSS orientation sessions or pre-selection interviews and may be assigned certain tasks that indicate their willingness to meet the obligations imposed by the *FSS Contract of Participation (COP)*. Any tasks assigned must be readily achievable by the family, based on its educational level and disabilities, if any. However, they cannot be screened for education, job history or performance, credit rating, marital status, or number of children, and any other factors that could result in discriminatory practices toward individuals with disabilities or those from minority or non-minority groups. Applications to the FSS Program are time dated and considered on a first come/first serve basis, as slots become available.

### **19.3 Contract of Participation: Term and Conditions**

If the last annual or interim reexamination is older than 120 days, an annual or interim reexamination must be conducted before the Contract of Participation (COP) is executed. Family members must fulfill all requirements to obtain full benefits. The FSS contract requires that the family comply with lease stipulations, that all family members become independent of welfare assistance, and that the head of the family seek and maintain suitable employment that pays a living wage.

The family and case manager will work together to establish goals. The COP must be executed no more than 120 days after the household's most recent annual or interim re-examination. It lists the family's current annual income, the amount of earned income included, and the family's Total Tenant Payment (TTP).

During the term of the COP, increases in earned income and TTP are compared to the amounts listed in calculating escrow credits. The initial term of the COP is five (5) years; however, PHCD may grant an extension of up to two (2) years in response to a written request from the family

describing “good cause.” Good cause includes circumstances beyond the family’s control (e.g., serious illness or involuntary loss of employment) that thwarted the family’s ability to remain off of welfare assistance for 12 consecutive months. The COP is considered complete and the family’s FSS participation concluded when:

- A. The family has fulfilled all of its obligations under the COP on or before the contract expiration date; or
- B. 30% of the monthly adjusted income equals or exceeds the published FMR for the family unit size under PHCD’s subsidy standards. To claim its escrow, no family member can be receiving welfare as defined by the FSS regulations, but the 12 consecutive months requirement does not apply. Although successful completion of the contract requires that no family member be receiving welfare assistance, the family may still receive rental assistance at the time of and after their successful completion of the FSS program.

#### **19.4 Individual Training and Services Plan**

The Individual Training and Services Plan (ITSP) identifies appropriate service needs for the head of household and each participant adult family member. Before the COP can be executed, PHCD must determine if employment goals proposed in the ITSP are appropriate, considering the participant’s skills, interests, education, and jobs available in the local market. Based on these employment and personal goals, FSS Program staff refers participants to the appropriate resources and services that are needed for them to achieve their self-sufficiency goals. The ITSP establishes interim and final goals to be achieved within specific deadlines so the family’s progress toward self-sufficiency can be measured.

#### **19.5 Services Provided under FSS**

Case management services may include, but not be limited to:

- A. Childcare
- B. Transportation
- C. Education
- D. Job readiness, training, and employment counseling
- E. Substance/alcohol abuse treatment or counseling
- F. Household skills training
- G. Life skills training
- H. Homeownership counseling

#### **19.6 The Escrow Account**

A single, interest-bearing FSS escrow account is established for each participating family. An escrow credit, based on increases in the family’s earned income, is credited to the account by PHCD during the term of the COP. A portion of this escrow amount can be made available to the family to complete an interim goal (e.g., education). If the family completes the terms of the COP and no member is receiving welfare assistance, the amount of the escrow account is paid to the head of the family. If the FSS contract is terminated, or if the family fails to complete it before the expiration date, the escrow funds are forfeited.

## Chapter 20. Expanding Housing Opportunities

### 20.1 Overview

PHCD actively recruits landlords of suitable rental units for their participation in the Housing Choice Voucher Program. Likewise, PHCD provides voucher holders with a list of landlords who are participants in the program, information concerning the availability and benefits of mobility opportunities, as well as encouragement, support, and guidance on leasing rental units. Moreover, voucher holders are briefed on the effective implementation of portability and other cooperative mobility strategies within and outside of Miami-Dade's jurisdiction. The overall objective is to encourage the availability of affordable housing and maximum geographic diversity, and the movement of voucher families into a broader range of neighborhoods.

### 20.2 Outreach to Owners and Owner Referral Lists

PHCD employs a variety of strategies to recruit owners of units inside, and especially outside areas of high poverty and minority concentration. For the latter group, landlords will be contacted through groups including the Miami-Dade County Realtors Association and Builders Association of South Florida. Additional strategies may include:

- A. Newsletters and semi-annual seminars that provide up-to-date information, including program changes, to current and prospective owners;
- B. Surveys of owners are conducted to identify issues and based on the results, to improve program operation;
- C. Periodically, PHCD engages in direct advertising in *The Miami Herald*, *The Miami Times*, *Diario Las Americas* periodicals, the *Haiti en March*, and *The Voice*. It also makes public service radio and television announcements;
- D. Informational letters and flyers are posted at community organizations, neighborhood centers, churches and other places of worship; word-of-mouth leads and referrals are encouraged;
- E. This Administrative Plan and other information on the Housing Choice Voucher program are provided on the internet at PHCD's website so interested landlords or property owners can readily access information;
- F. Success stories involving the program and its participating families are disseminated via various media;
- G. Membership in associations of owners/managers of rental properties;
- H. Direct personal contact with owners

PHCD will maintain a listing by bedroom size of available rental units, including accessible units for persons with disabilities. Upon request, this list shall be made available to Housing Choice Voucher participants and shall be placed in public reception areas of the Housing Choice Voucher Program office.

### **20.3 Information Assistance for Voucher Families**

PHCD will provide all new Housing Choice Voucher holders an information packet, typically distributed at the initial briefing, home visit or via mail. Maps will be provided showing areas of housing opportunities outside areas of poverty or minority concentration within its and neighboring jurisdictions and assemble information on the characteristics of these areas (e.g., population demographics, types of housing offered, rent levels, schools, transportation, shopping, and employment options). The information is intended to introduce the family to a full range of neighborhoods where they may lease units and the advantages each offers. The maps and related information are used to brief voucher holders of the full range of areas where they may lease units. The packet requirements are as follows:

- A. A list of owner-landlords who are willing to lease units within and outside of poverty or minority concentrated areas, or organizations that are willing to help families find units within and outside of poverty or minority concentration areas.
- B. A written description of how portability works and a list of contact persons for neighboring housing agencies outside Miami-Dade County (including name, address, and phone numbers) for families who move under portability.
- C. Information about the existence and availability of units that can accommodate a family member with disabilities.
- D. The participants' fair housing rights and what to do if discrimination is encountered will be discussed. In cases where discrimination is suspected, PHCD will advise the family to file a discrimination complaint with the Department of Housing and Urban Development, the Florida Commission on Human Relations, the Miami-Dade Commission of Human Rights or any other enforcement agency.

PHCD periodically analyzes whether rental voucher holders have experienced difficulties in finding housing outside areas of poverty or minority concentration; if so, it also analyzes whether it is appropriate to seek approval of exception payment standard amounts within its jurisdiction and seeks HUD approval when necessary.

## **Chapter 21. Providing Information and Complaints**

### **21.1 Florida Public Records Act**

Pursuant to the State of Florida's Public Records Act, Chapter 119 of Florida Statutes, all records generated by public entities during the normal course of business are considered public records and are open to review upon reasonable notice, unless exempted by State of Florida law or as stipulated below. A copy of this Administrative Plan shall be made available to the public at the Housing Choice Voucher Program office and posted on PHCD's website.

Requests to view a file must be made in writing or by submitting a Public Information Request to PHCD during normal business hours. Upon requesting a file, the person making the request shall be notified of the location at which the file may be accessed. Files may not be available at the time requested. If a file is not available, PHCD shall provide the requestor with the date or date/time the file will be available for viewing. PHCD shall obtain the requestor's name and telephone number to contact the requestor of any change in date or time the file is available for reviewing.

Copies of file documents may be requested. There will be a charge for copies in accordance with the Public Records law and Miami-Dade County Administrative Order No.4-48. Requests that require extensive staff time, or information checking resources, may access a charge that reflects the lowest salary (plus fringes) among all clerical workers, and if applicable, among all supervisory/management personnel who might perform such work, or the actual salary and fringes of the specific person or persons performing the work. Files may not be removed from the Housing Choice Voucher office.

Notwithstanding the requirement to comply with Chapter 119 of the Florida Statutes, PHCD reserves the right to claim any applicable exemption from the general requirements of the statute. In instances of families in witness protection, victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking, families with restraining orders or other documented circumstances where the file identifies information that places the family at liability, requests for reviewing such files, which include addresses and other identifying information, shall be considered based on a review of the appropriateness of the requestor and individual circumstances.

### **21.2 Information to Owner**

A potential owner will be provided the following information about the program participant on the Owner/Agent Certification form upon request:

- A. The participant's current and prior address as shown in PHCD records;
- B. The address of the participant's current and prior landlord; and
- C. A statement to the effect that the Agency has not screened the family's background or suitability for tenancy with the exception of a criminal and sex offender background check in accordance with PHCD's policies.

The landlord is responsible for any other screening to be completed in a non-discriminatory manner. Landlords are responsible for determining whether to conduct their own criminal

background checks to decide if the family is suitable for tenancy. If the current or potential owner requests criminal background information on an applicant/tenant, PHCD may not release details of the criminal background check but may notify the owner verbally over the telephone or in writing whether the family is eligible for assistance.

### 21.3 Complaints

PHCD shall promptly notify the owner of any complaints by or about the family concerning its tenancy or housing as it relates to their tenancy or the Housing Choice Voucher program. Such notification shall be in conformance with Miami-Dade County Resolution No. R-1543-97. PHCD has the right to request action by the owner or a response as to the resolution or outcome of the issue. In responding to a complaint, PHCD may require the family to come to the Housing Choice Voucher Office for an interview to address its concerns regarding participation in the Housing Choice Voucher program. Members of the public may file complaints against owners, tenants, and employees of PHCD by submitting a letter describing the specific problems to:

Director, Public Housing and Community Development  
701 NW 1st Court, 16th Floor  
Miami, Florida 33136-3914

PHCD investigates allegations of fraud or illegal activity committed by housing program applicants and tenants. Incidents of fraud or illegal activity may be reported by calling PHCD fraud hotline number. All calls are confidential and callers remain anonymous at all times.

Additional information on PHCD's Fraud Program can be found on PHCD's website. Except as described in Chapter 30, Fair Housing and Equal Opportunity and Grievance Procedures, all non-fair housing and ADA complaints shall be reviewed by an appropriate staff member and answered in no more than 30 calendar days. Persons filing complaints shall be informed on a regular basis as to the progress of their complaint and any decisions made by PHCD. Persons wishing to report welfare fraud may do so by calling or writing:

Address: Florida Department of Children and Families  
ACCESS Central Mail Center  
Fraud Report  
PO Box 1770  
Ocala, FL 34478-1771

Fax: 850-487-0800

Telephone: Customer Call Center: 1-850-300-4323  
Florida Relay 711 or TTY 1-800-955-8771

Online: <https://www.myflfamilies.com/>

## **Chapter 22. Transfer of Ownership**

Section 14 of the existing HAP contract requires the owner to obtain the prior written consent of PHCD before any assignment of the HAP contract. In the event prior written consent was not requested nor granted, the HAP contract may be terminated. See Chapter 23 for change of ownerships resulting from foreclosures.

The new owner must submit all necessary paperwork and documents to Housing Choice Voucher Program staff and be qualified as an owner as indicated in Chapter 24. At the time of notification, PHCD, shall stop payment to the former owner. If there is an overlap between the transfer of ownership date and the date the payments are stopped, PHCD shall not be responsible for funds already disbursed to the former owner and Housing Assistance Payment disbursements shall be settled between the new and the previous owners.

### **Chapter 23. Owner's Foreclosure**

Any notification of foreclosure of a unit received by the housing agency shall be placed in the tenant file. A change of dwelling shall be given to the family at the discretion of PHCD. Preliminary notice of foreclosure action does not necessitate that the family move. PHCD may contact the owner or the foreclosing party (mortgage holder) for information. Failure of PHCD or its authorized contractor to make housing assistance payments when payment is owed and due shall not be the responsibility of the family. In such cases, the Agency shall expedite payment, including remittance of emergency check to assure continued tenancy for the Housing Choice Voucher family. PHCD will comply with PIH Notice 2010-49. If a property is foreclosed during the term of the lease, the new owner cannot require the tenant to vacate the property prior to the effective date of transfer of ownership. However, the tenancy can be terminated as of the effective date of transfer if the owner:

- A. Will occupy the unit as a primary resident; and
- B. Has provided the tenant a 90-day notice to vacate.

Otherwise, the new owner shall assume the same lease and HAP contract that was effective between the prior owner, tenant, and PHCD.

## **Chapter 24. Disapproval of Owners and County Employee Participation in Tenant-Based Programs**

### **24.1 Disapproval of Owners: Conditions**

PHCD shall limit, deny or terminate participation of owners in any of the following circumstances:

- A. When the owner is debarred, suspended, or subject to a limited denial of participation by HUD;
- B. When directed by HUD as a result of an administrative or judicial action in violation of the Fair Housing Act;
- C. When an owner has a history of uncorrected HQS;
- D. When an owner has a history of fair housing violations or complaints;
- E. When an owner has been convicted of fraud, bribery or any corrupt or criminal act in connection with any federal housing program;
- F. When an owner has violated a HAP contract pursuant to the federal regulation at 24 CFR part 982;
- G. When an owner has engaged in any drug-related or violent criminal activity;
- H. When an owner has not paid local property real estate taxes, fines or assessments;
- I. When an owner has claimed homestead exemption on the assisted unit;
- J. When the owner is any member of the participant family, unless PHCD determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities;
- K. When the owner or a member of the owner's family is a County employee and has not obtained a waiver from the Miami-Dade Ethics Commission;
- L. When the owner has not paid in full all utility bills related to the tenancy of a Housing Choice Voucher family that are owner responsibility;
- M. When an owner has a history of failing to terminate the tenancy of Housing Choice Voucher tenants for activity engaged by the tenant, any member of the household, guest or other person that threatens the health, safety or right to peaceful enjoyment of the premises by other tenants, for drug-related criminal activity; or violent criminal activity;
- N. When an owner has a history of being abusive towards PHCD staff or program participants.

Nothing in this Administrative Plan is intended to give or confer any rights upon any owner any right to participate in PHCD's Housing Choice Voucher Program. There are no appeal rights for the Agency's decision to disapprove owner participation.

### **24.2 County Employees and Immediate Family – Participation in Tenant-Based Programs**

- A. PHCD complies with 24 CFR § 982.161 which states that any employee of PHCD, contractor, subcontractor or agent shall not enter into a contract or other arrangement in connection with tenant-based programs.
- B. Any PHCD employee or member of the employee's family wanting to participate in a tenant-based program must obtain a waiver from the Miami-Dade Ethics Commission.

## Chapter 25. Project-based Voucher Program

### 25.1 Overview

#### A. Overall Approach

PHCD may designate a maximum of 20% of its non-targeted housing choice voucher allocation for project-based vouchers in order to administer project-based Voucher assistance. PHCD will project-base the vouchers for newly constructed, rehabilitated or existing housing units. PHCD will enter into a Housing Assistance Payments (HAP) contract with qualified owners to provide project-based voucher assistance in compliance with PHCD's PHCD plan and consistent with the goals of deconcentrating poverty and expanding housing and economic opportunities.

#### B. Program Objectives

The project-based voucher program is intended to provide housing assistance to individuals and families, so that specific objectives can be accomplished in accordance with HUD's regulations as follows:

1. To encourage developers or property owners, including non-profit housing development corporations, to construct standard, or to upgrade substandard, rental stock throughout the Miami-Dade County;
2. To make existing, newly constructed or rehabilitated dwelling units available to very low- and low-income persons at rents within PHCD's applicable payment standard.

Preference will be given to proposals that intend to attach project-based assistance to larger units, i.e., units with three (3) bedrooms or more.

#### C. Program Requirements

1. At its discretion, PHCD will solicit proposals from developers, property owners and nonprofit housing corporations to participate in the project-based voucher program. Project based assistance may be attached to existing units, units to be rehabilitated and newly constructed units. In addition, a maximum of 25% of the units in anyone building may receive project-based voucher assistance. However, single-family properties and properties designated for elderly families, disabled families, or families receiving supportive services are exempt from the 25% limit.

#### D. Owner Proposal Selection Procedure

1. PHCD must select PBV proposals by either of the following two methods.
  - a) PHCD request for PBV Proposals. PHCD may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.
  - b) Selection based on previous competition. PHCD may select, without competition, a proposal for housing assisted under a federal, State, or local government housing assistance, community development, or supportive services program that

required competitive selection of proposals (e.g., HOME, and units for which competitively awarded low-income housing tax credits (LIHTCs) have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within 3 years of the PBV proposal selection date, and the earlier competitively selected housing assistance proposal did not involve any consideration that the project would receive PBV assistance.

For the purposes of the project-based voucher program, existing units require a maximum expenditure of less than \$1,000 per assisted unit, including a prorated share of work on common areas or systems to comply with federal Housing Quality Standards (HQS) at the time PHCD notifies the applicant of selection. Rehabilitated units, for the purpose of the project-based voucher program, are units that require a minimum expenditure of \$1,000 per assisted unit, including a prorated share of work on common areas or systems to comply with HQS.

All units in the building receiving project-based assistance shall be inspected for HQS, as stipulated in Chapter 10 of this Administrative Plan. PHCD shall inspect each unit on an annual basis. Only units that comply with HQS shall be included in the HAP contract.

For units undergoing rehabilitation or new construction concerning site and neighborhood standards apply. The site shall be accessible to social, recreational, educational, commercial, health facilities, and other appropriate municipal facilities and services.

Properties to be assisted under the project-based voucher program will be subject to the Uniform Relocation Assistance and Real Property Acquisitions Policies Act (URA) and the requirements of 49 CFR, part 24, subpart B.

#### E. Location of Project-based Vouchers

PHCD may administer the program on a county-wide basis. In compliance with the federal regulations and PHCD's Equal Housing Opportunity Plan, suitable dwelling units must be made available under the project-based voucher program in structures that are in areas outside of low-income and minority concentrations, unless a waiver is requested from and granted by HUD.

PHCD may request exceptions of the requirement that project-based assistance be located in census tracts with a poverty rate of less than 20%, based upon the review of the proposals submitted to PHCD.

#### F. Administrative Approach

PHCD shall perform traditional Housing Choice Voucher program administrative responsibilities associated with the implementation of the project-based voucher program. These functions include, but are not limited to, outreach, review and selection of proposals, inspections, tenant selection from the waiting list, determination of tenant eligibility, and annual recertifications, in accordance with this Administrative Plan, for applications that involve new construction or rehabilitation of units. PHCD staff will also perform work write-ups, cost estimates, and feasibility analyses.

PHCD reserves the right to solicit proposals from private concerns to perform selected administrative responsibilities in the implementation of the project-based voucher program or may contract with the property owner or developer of the project-based property for any administrative functions that are the responsibility of the housing agency.

## 25.2 Administration of Project-based Program

### A. Solicitation of Owner Proposals

PHCD will solicit owner participation by advertising in three newspapers of general circulation, such as *The Miami Herald*, *Diario Las Americas* and *The Miami Times*, stating proposals to attach rental assistance for specific properties will be accepted.

The advertisement may be published at least three times over a period of not less than 30 days and will include a statement that applications will not be accepted beyond the specified 30-day deadline. The advertisement will also specify the number of dwelling units PHCD estimates that it will be able to assist under the funding that PHCD is making available for this purpose and that only applications submitted in response to the advertisement will be considered. The advertisement will also state PHCD's selection policies.

For proposals requiring new construction or rehabilitation of assisted units, PHCD will establish competitive procedures for the submission of proposals, which will be submitted to HUD for approval.

An application packet will be prepared for distribution to interested parties and will also be made available at PHCD administrative offices. The packet will contain a description of the project-based voucher program, an outline of the rules and regulations governing the project-based voucher program, the required contents of owner proposals, and the criteria that PHCD will use in the selection of eligible proposals.

At PHCD's discretion, additional information may be provided at pre-proposal conferences or workshops.

### B. Requirements for the Submission of Proposals

The owner's submission of the application to PHCD must contain:

1. Description of housing to be assisted, including the number of units by size (square footage); bedroom count; bathroom count; sketches of proposed new construction or rehabilitation, if applicable; unit plans; listing of amenities and services and estimated date of completion for units to be rehabilitated or constructed. For rehabilitation, the description must describe the property "as-is" and must also describe the proposed rehabilitation.
2. Evidence of site control, and for new construction, identification and description of the proposed site, site plan and neighborhood.
3. Evidence that the proposed new construction or rehabilitation is permitted by current zoning ordinances or regulations or evidence to indicate that the needed rezoning is likely and will not delay the project.
4. The proposed contract rent per unit, including an indication of which utilities, services and equipment are included in the rent and which are not included.

5. Information concerning the occupancy status of the units to be assisted under the project-based voucher program, including applicability of permanent and temporary relocation of site occupants.
6. A certification from the owner that there will be no displacement of residential tenants from units to be assisted under the project-based voucher program.
7. The identity of the owner, developer, builder, architect, management agent (and other participants) and the names of officers and principal members, shareholders, investors, and other parties have a financial interest; a disclosure of any possible conflict of interest by any of these parties; and information on the qualifications and experience of the principal participants, including previous participation in any HUD programs.
8. The owner's marketing plan.
9. The owner's plan for managing and maintaining the units.
10. Evidence of financing or lender interest and the proposed terms of financing.
11. The proposed term of the HAP Contract.

#### C. Initial Inspection

Prior to the ranking and rating of proposals, an initial inspection will be performed by PHCD staff for properties included in proposals accepted for consideration of rating and ranking. PHCD will not inspect properties included in the proposals that do not meet threshold requirements for further consideration.

1. The inspection will determine if the property is eligible as defined at 24 CFR § 983.101, meets federal HQS, and the occupancy status of the units to be assisted.
2. For proposals which will involve rehabilitation, the inspection will also determine if the property can be rehabilitated without causing displacement of residential tenants from units to be assisted, will identify the rehabilitation work meets the minimum \$1,000 per unit requirement, and if the specific work items will bring the units in compliance with HQS.
3. For proposals in which there will be new construction, the inspection will determine that construction work has not begun.
4. Should PHCD discover because of the initial inspection that the proposal does not meet program requirements, the owner will be informed in writing of the reasons for the rejection.

#### D. Rating and Ranking of Proposals

The rating and ranking of proposals will be performed by PHCD staff. With regard to the initial screening of proposals, the criteria that will be utilized to determine whether a proposal should be rejected without further review or accepted for further consideration of rating and ranking will include:

1. Receipt of the proposal by the date and time as specified in the advertisement
2. Receipt of the proposal in the proper format, including submission of all specified forms with all of the entries completed as required
3. Proposals that indicate gross rents will exceed 110% of PHCD payment standards, or which clearly indicate that the proposed project is infeasible, will be rejected
4. Proposals involving ineligible properties or housing types identified in 24 CFR § 983.53 will be rejected.

Proposals will be evaluated based on the factors determined by PHCD to rate and rank proposals. Among the factors to be considered in the ranking and rating of proposals include: suitability of the site to accommodate the number and type of units proposed for assistance, including environmental and health and safety concerns; design elements, with preference to proposals that offer larger units to be assisted; experience of the owner and other participants in providing affordable housing; plan for the relocation of current tenants, if applicable; and financial feasibility of the project.

For proposals that involve new construction or rehabilitation of units, additional factors will be considered: the estimated cost per unit of construction or rehabilitation, and the experience of the owner and other participants in construction or rehabilitation of rental properties in accordance with HUD regulations.

#### E. Notification to Owners

Proposals that have been received in response to PHCD's advertisement which comply with all of the prescribed selection criteria and procedures and are deemed feasible will be rated and ranked in accordance with PHCD's written policies. The Owners who submitted the highest ranked feasible proposals will be sent a written Notice of Acceptance stating the tentative number of units to be assisted.

### **25.3 Agreement to Enter into Housing Assistance Payments Contract**

#### A. Pre-Agreement Process

For proposals in which there will be rehabilitation or new construction, owners shall have 60 days in which to complete required actions before an Agreement to Enter into a Housing Assistance Payments (AHAP) Contract can be signed.

Prior to the AHAP execution for rehabilitation projects, the actions required are: preparation of detailed work write-ups, cost estimated, specifications and plans, as appropriate, depending upon the nature of the nature of the identified rehabilitation. Davis-Bacon wage rates are applicable for those buildings containing nine (9) or more units. The work write-ups must address the specific work items identified to meet the \$1000 per assisted unit rehabilitation requirement as well as the work items that are needed to bring each unit to be assisted up to the HUD Housing Quality Standards.

Prior to the AHAP execution for new construction units, the HUD shall review owner proposals, which are submitted by PHCD, for compliance with site and neighborhood requirements set forth

in at 24 CFR § 983.154. Davis-Bacon wage rates are applicable for those buildings containing nine (9) or more units. In addition, the Owner must submit the design architect's certification that the proposed new construction reflected in the working drawings and specifications comply with HQS, local codes and ordinances, and zoning requirements.

B. Selection of Contractor

Owners are responsible for the selection of a competent contractor to undertake the new construction or rehabilitation work under the AHAP contract. The owner, contractor and his/her subcontractors are subject to Section 3 of the Housing and Urban Development Act, as amended in 1968, and the regulations at 24 CFR part 135, which requires that training, employment and contracting opportunities be provided, where feasible, to low-income Section 3 residents. PHCD's Administration Division shall provide oversight and assistance regarding the owner's responsibility under Section 3.

C. Uniform Federal Accessibility Standards: Section 504 and Fair Housing Act

The owner and his/her contractors and subcontractors are subject to compliance with the Fair Housing Acts, Americans with Disabilities Act and Section 504 of the Rehabilitation Act and are required to comply with Uniform Federal Accessibility Standards requirements for persons with disabilities and the Fair Housing Amendments Act. PHCD's construction unit will coordinate Section 504/ADA requirements through PHCD's ADA Coordinator's office.

D. Execution of the Agreement

When all required pre-Agreement procedures have been satisfactorily completed, the AHAP contract shall be executed. The AHAP must be executed before the start of any new construction or rehabilitation to be performed under the AHAP. Under the AHAP, the owner agrees to construct the units in accordance with PHCD approved working drawings and specifications or to rehabilitate the units in accordance with PHCD approved work write-ups.

**25.4 New Construction or Rehabilitation Phase**

A. Timely Performance of Work

Immediately following the execution of the AHAP contract, the owner shall promptly proceed with the construction or rehabilitation work as provided in the agreement. In the event the work is not so commenced, diligently continued, or completed, PHCD may terminate the Agreement or take other appropriate action.

B. Inspections

PHCD shall conduct periodic inspections during the new construction or rehabilitation phase to ensure that work is proceeding on schedule and is being accomplished in accordance with the terms of the AHAP. Inspections shall be performed at such intervals so as to ensure that the work meets the levels of materials specified in the work write-ups or working drawings and specifications, and meets typical levels of workmanship in the area.

C. Changes to Work

Owners must obtain prior approval from PHCD for any changes from the work specified in the AHAP contract that would alter the design or quality of the required new construction or rehabilitation. If the owner makes any changes without the prior approval of PHCD, PHCD may request HUD to lower the initial contract rents in the amount determined by HUD, and may require the Owner to remedy any deficiencies, prior to, and as a condition for, acceptance of the units. PHCD shall have the right to disapprove any changes requested by the owner.

#### D. Completion of New Construction or Rehabilitation

The owner must notify PHCD in writing when the work is completed and submit evidence of completion. Among the documents the owner must submit is a Certificate of Occupancy, or other official approvals required by the locality, and a certification that the work has been completed in accordance with the requirements of the AHAP.

PHCD will conduct a final inspection to verify the completion of all the work items required by the AHAP and a determination regarding compliance with Section 504/ADA/ Fair Housing Act, and other applicable laws, regulations and executive orders, HQS and the South Florida Building Code. If PHCD determines from the review and inspection that the unit(s) has been completed in accordance with the AHAP contract, PHCD shall accept the units(s).

If there are any items of delayed completion that are minor items or that are incomplete because of weather conditions, and in any case that do not preclude or affect occupancy, and all other requirements of the AHAP contract have been met, PHCD shall accept the unit(s); however, PHCD shall require the owner to deposit in escrow with PHCD's funds in an amount PHCD determines to be sufficient to ensure completion of the delayed items. In addition, the owner and PHCD shall execute a written agreement, specifying the schedule for completion of these items. If the items are not completed within the agreed time period, PHCD may terminate the AHAP contract or exercise other rights under the AHAP contract.

### **25.5 Housing Assistance Payments (HAP) Contract**

#### A. Time of Execution

PHCD and the owner shall execute the Housing Assistance Payments (HAP) contract if PHCD determines from review and inspection that the unit(s) has been completed in accordance with the AHAP contract and the owner has submitted the required evidence of completion as set forth herein. The effective date of the contract may not be earlier than the date of PHCD's inspection and acceptance of the unit(s).

#### B. Term of Contract

The HAP contract shall have a term no greater than ten (10) years, subject to available funding. At the discretion of PHCD and for a term determined by PHCD, extension to the contract may be granted beyond the original term, contingent upon continued funding to achieve long-term availability of affordable housing for eligible households or to expand housing opportunities.

#### C. Initial Contract Rents

The HAP contract shall establish contract rents that will not exceed 110% of the Fair Market Rent (FMR) and will be the lowest of the reasonable rent or the rent requested by the owner. The initial contract rent must be reasonable in relation to rents currently being charged for units in the private

unassisted market, considering the location, size, structure type, quality, amenities, facilities, and management and maintenance service of the unit.

If the property has been allocated low-income tax credits, but it is not located in a “qualified census tract,” the rent to owner must not exceed the lowest of: the tax credit rent minus any utility allowance, the reasonable rent or the rent requested by the owner.

#### D. Contract Rent Adjustments

The HAP contract allows for adjustments in contract rent during the contract term and such adjusted rents shall be reasonable.

#### E. Vacancy Payments

Vacancy Payments will be made only if PHCD has elected to include the vacancy payments in the HAP contract. If a unit becomes vacant as a result of a tenant moving out, PHCD shall continue to provide assistance for the unit for up to a maximum of 60 days. Such payment will be made only if the vacancy is not a result of the owner’s failure to take reasonable action to minimize such vacancies.

#### F. Reduction of Contract Units after Vacancy

If no eligible family rents a vacant unit with 120 days of the vacancy, PHCD may terminate its commitment to make additional assistance payments for the unit for the balance of the HAP contract.

### **25.6 Management Phase**

#### A. Family Selection and Participation

The selection of tenants for the project-based voucher program will be consistent with the procedures detailed in Chapter 2 of this Administrative Plan. An applicant who rejects an offer of a projected-based unit or who is rejected by the owner of the housing unit will remain in the same position on the tenant-based assistance list, as if the offer had not been made. If a dwelling unit to which assistance is to be attached under the project-based voucher program is occupied, PHCD must determine whether the unit’s occupants are eligible for assistance. If a unit is occupied by an eligible family and the unit is selected by PHCD, the family must be placed in an appropriately size project-based assisted unit in the project without requiring the family to be placed on PHCD’s waiting list.

In the event that there are an insufficient number of eligible persons on the waiting list, PHCD shall place applicants referred by the owner on the waiting list. Eligibility for selection in the Project-based voucher program shall be consistent with PHCD’s tenant-based and project-based assistance programs.

Should a family elect to move from a unit assisted under the project-based voucher program after the initial year, PHCD must provide the family with a Housing Choice Voucher. If no vouchers are available to the family, PHCD must give the family priority to receive the next available tenant-based voucher.

#### B. Briefing of Families

When a family is selected to occupy a unit under the program, PHCD shall provide the family with written information concerning the tenant rent and any applicable utility allowance. The information conveyed at the briefing will include, but not be limited to:

1. Family and owner responsibilities,
2. That the subsidy is tied to the unit and the family must occupy an approved unit under the program,
3. The likelihood of the family receiving a Housing Choice Voucher after the HAP contract expires,
4. The family's options under the project-based voucher, program, if the family is required to move because of a change in family size or composition, and
5. Hearing procedures, including a description of the circumstances in which PHCD is required to provide the opportunity for an informal hearing and of the procedures for requesting a hearing.

#### C. Lease Requirements and Termination of Tenancy

The lease between the family and the owner shall be for one (1) year, or the remaining term of the HAP contract, if the contract will expire within one (1) year. The lease may contain a provision permitting the family to terminate the lease on not more than 60 days advance written notice to the owner. In the case of a lease term for more than one (1) year, the lease must contain a provision permitting the family to terminate the lease on not more than 60 days advance written notice to the owner after the first year of the term.

#### D. Informal Hearing and Review

The regulations at 24 CFR §§ 982.554 and 982.555 regarding informal reviews for applicants and informal hearings for participants, apply to this program. See Chapter 29 for PHCD's Informal Hearing and Review Procedures.

#### E. Overcrowded and Under Occupied and Accessible Units

If PHCD determines that a family is occupying an overcrowded or under-crowded unit, or a unit with accessibility features that the family does not require, and the unit is needed by a family that requires the accessibility features, PHCD must notify the family and the owner of this determination and of PHCD's offer of continued assistance. The continued assistance offer may be:

1. Project-based voucher assistance in an appropriate size-unit (in the same building or another building);
2. Other project-based housing assistance;
3. Tenant-based rental assistance under the voucher program;
4. Other comparable public or private tenant-based assistance (e.g. under the HOME program.)

The determination of the offer of continued assistance will be at the discretion of PHCD. However, if PHCD offers the family the opportunity to receive tenant-based rental assistance under the voucher program, PHCD must terminate assistance payments for the project-based unit at the expiration of the term of the voucher.

If PHCD offers the family the opportunity for another form of continued housing assistance, except for tenant-based voucher assistance, and the family does not accept the offer, does not move out of the Project-based Voucher unit within a reasonable time, or both, PHCD must terminate the housing assistance payments for the project-based unit.

### **25.7 PBV Preferences**

PHCD may announce preferences for PBV site-based waiting lists on a development-by-development basis via the self-service portal and/or the developer's advertisement, or via other appropriate method. These preferences may include preferences from the tenant-based voucher program (Chapter 2) and/or the following:

- An admission preference for applicants with a demonstrated need for specialized services offered by the particular project will be available for PBV site-based waiting lists. Any individual who is qualified for the services must be able to receive the preference, including qualified individuals with disabilities.

Examples include, but are not limited to, preferences that may be only for persons who qualify for employment assistance, or for transportation services, or a preference that may be for persons who qualify for either housekeeping assistance, case management, outpatient health services, personal assistance, education services, services designed to help the recipient live in the community as independently as possible, disability-specific services such as mental health services, and the provision of medication, which are provided to support a person with a disability.

- A preference for public housing residents affected by redevelopment and/or any government action.
- A preference for elderly households 62 years old and older.
- A preference when required by regulation (e.g., eligible in-place families, family's right to return, elderly families or units with supportive services, or mobility impaired persons for accessible units).
- A preference to assist vulnerable populations; PHCD may establish further admission preferences to assist vulnerable populations, subject to resource availability and at its discretion. Examples of such population include families under the witness protection program, ex-offenders and felons that are part of a reentry program, and pregnant women or women with children where one or more members of the household have been diagnosed with the acquired immunodeficiency syndrome (AIDS).

Applicants with the same preference will be selected according to the date and time of their application. These preferences are not weighted and are not listed in any specific priority order. A family may have one or more preferences but having multiple preferences does not create a higher priority preference for the family.

PHCD may also adopt a limited preference for Special Needs Households, as defined at Section 67-48.002(108) of the Florida Administrative Code (FAC), which may be amended, that may be referred by a Special Needs Household Referral Agency, as defined at in Section 67-48.002(109) of the FAC.

### **25.8 PBV Site-Based Waiting Lists**

PHCD may create and utilize separate site-based waiting lists for admission to projects selected to receive PBV assistance. Once a project is selected for PBV assistance, applicants listed on PHCD's community-wide waiting list for tenant-based assistance will be offered the opportunity to apply for placement on PHCD's site-based PBV waiting list. Placement on a site-based PBV waiting list has no effect on the applicant's standing on the tenant-based waiting list. PHCD will also accept referrals from the owner to populate site-based waiting lists and fill units with applicants meeting agreed upon preferences at initial rental. Applicants on PHCD's community wide tenant-based waiting list will be placed on the PBV site-based waiting list according to the date and time of their Section 8 application to the tenant-based waiting list. Referrals from the owner will be placed on the site-based waiting list according to the date and time PHCD receives the Section 8 application from the owner.

## **Chapter 26. Homeownership under Housing Choice Voucher**

### **26.1 Overview**

PHCD shall administer and offer a homeownership program as allowed under 24 CFR §§ 982.625 through 982.641 to permit eligible Housing Choice Voucher recipients to purchase a home using the voucher subsidy. With the competitive rental market and increasing need for affordable housing in Miami-Dade County, the establishment of a Housing Choice Voucher Homeownership program will create a larger selection of housing choice which eligible Housing Choice Voucher families can use.

PHCD shall oversee the Housing Choice Voucher Homeownership program, hereafter referred to as the Homeownership program. PHCD shall determine eligibility of families and enforce the federal regulations regarding homeownership and its Administrative Plan rules.

The goal of the program is to provide homeownership opportunities, along with counseling, self-sufficiency, training and support, thereby facilitating economic opportunity within communities while providing parameters to ensure the success of the homebuyer. This program is designed to minimize default of the homeowner, which would have a negative impact on the family and the neighborhood where the unit is located and would enhance economic opportunity for families eligible for such a program.

PHCD implements a wide range of housing programs designed to enhance housing opportunities for low and moderate-income families, including homeownership for first time homebuyers. PHCD's experience in homebuyer opportunity programs dates back to 1984. A maximum of 10% of the voucher allocation inventory may be targeted for homeownership. The percentage may be amended based on the success of the program and need of Housing Choice Voucher families. Upon authorization by HUD, PHCD may opt to administer other types of homeownership programs using the housing subsidy, including but not limited to an alternative down payment assistance program.

### **26.2 Eligibility of Family**

Family eligibility shall be:

- A. A family assisted under the homeownership option may be a newly admitted or existing participant in the program;
- B. The family must be currently in good standing with the housing agency, including no outstanding debt to PHCD for previous housing quality standard damages or unpaid rent;
- C. The family must be in compliance with the current lease;
- D. The family shall not have tenant responsible housing quality standards violations existing in the unit which have not been corrected within the time provided by the Inspections Department;
- E. The family shall not have a history of late rent payments;

- F. The family must be a first time homebuyer and not have any member of the immediate family owning a home for a minimum of three (3) years prior to receiving the homeownership assistance. A displaced homemaker or single parent who owned a home with a former spouse is exempt from this requirement;
- G. The family must not have any financial interest in any other home while receiving Housing Choice Voucher assistance;
- H. The family must not have any outstanding debts which would deem them unqualified for home financing;
- I. Any family member must not have been previously assisted under PHCD's Homeownership program while an adult and defaulted on a mortgage obtained through a PHCD Homeownership program;
- J. The family must be income eligible and have at least one adult family member who is employed full time year round for a minimum of one year. Families with an adult family member who is disabled or elderly shall be exempt from the employment requirement; and
- K. The family must not be within the initial one-year (1-year) term of the HAP contract in order to be considered eligible.

Families currently enrolled in the Family Self-Sufficiency Program shall be encouraged to participate in the Homeownership program.

### **26.3 Income Requirements**

Homeownership opportunities will be offered to Housing Choice Voucher households having acceptable credit to the private lenders participating in the Homeownership Program. Those families without acceptable credit shall be allowed ample time to clear credit while completing other requirements as defined herein, in order to participate.

Exceptions may be made on a case-by-case basis by PHCD regarding time limits or other policies to help facilitate usage of the Voucher for homeownership as a realistic goal. Eligible families must demonstrate that the monthly income for the head of household or spouse/partner is sufficient to meet homeownership guidelines and other family expenses for initial qualification for the program. At least one (1) adult member of the household must be currently employed on a full-time basis, or not less than 30 hours per week, and must have been continuously employed full-time for the year before receiving homeownership assistance, with the exception of elderly or disabled families.

Except for disabled families, a family must have a minimum annual income of not less than the federal minimum hourly wage multiplied by 2,000 hours. The current amount may change when the minimum wage changes as defined by 24 CFR § 982.627 (c)(1)(i).

Except in the case of an elderly or disabled family, PHCD shall not count any welfare assistance received by the family in determining the annual income (24 CFR § 982.627 (c)). For an elderly or disabled family, welfare assistance for the adult family members who will own the home will be included for determining if the family meets the minimum income requirement. For disabled families, the minimum annual income is the monthly Federal Supplemental Security Income (SSI)

benefit for an individual living alone (or paying their share of food and housing costs) multiplied by 12. Full time employment records must be submitted and reviewed as part of the qualification process. Families interested in the program will have their income eligibility determined by Housing Choice Voucher staff once determined initially eligible, the family shall be referred to PHCD's Homeownership program administrator for an initial briefing regarding the program.

#### **26.4 Income and Credit Verification**

The Homeownership program shall use the Housing Choice Voucher definition for income, which is based on annual income. Annual income is the gross amount of income anticipated to be received by all adults in a family (excluding full-time students and authorized live-in aides) during the 12 months following the effective date of the determination. PHCD's non-federal funding may be utilized for second mortgage financing which allows for income averaging for the prior two (2) years for candidates that are self-employed, earn commission, tips or overtime.

When the homeownership case is sent to PHCD's HCD, designated Homeownership staff will conduct an Enterprise Income Verification (EIV) as described under Section 7.5. Applicants' income will be verified using the following one or more documents:

- A. Last two (2) pay stubs from employer and past two (2) years tax returns;
- B. If self-employed, past two years tax returns will be required and a profit and loss statement as of the date of application;
- C. Verification of employment;
- D. Any other source of income that can be readily verified, i.e., Social Security, SSI (SSI income may be subject to federal restrictions, which may limit their use), pension retirement, and child support (Note: uncollected child support will not be counted so long as the family provides documents demonstrating that the debt is uncollectible or has not been paid or received for more than three (3) months); and
- E. Any other form of verification as required by funding.

In addition to federal income tax returns, the number of household occupants shall be verified using any one or more of the following items:

- A. Birth certificates on which the parent/applicant's name is listed
- B. School records which give the parent's name and address
- C. Court-ordered letters of guardianship/adoption
- D. Copy of recorded divorce decree and property settlement

A credit report will be generated and at the option of PHCD, staff will complete a home visit.

#### **26.5 Homebuyer Education and Counseling**

As a requirement of the program, the family must attend and complete homeownership education and counseling. Once PHCD determines eligibility, the Housing Choice Voucher participant is required to participate in the counseling regarding purchasing and financing a home. PHCD contracts with several homebuyer counseling agencies to provide homeownership training to all low income population groups in Miami-Dade County in English, Spanish, and Creole. The normal

homebuyer training curriculum requires a minimum of an eight (8) hours course and an original certificate of completion or certified copy must be part of the loan application.

The counseling shall include such issues as types of financing, how to find appropriate financing, fair housing practices, credit counseling, budget and money management, how to locate a home, selecting a neighborhood including consideration of schools, employment and transportation, how to negotiate a purchase price, and home maintenance. Through counseling, the family will also be encouraged to consider the advantage of purchasing a home in deconcentrated areas.

Post purchase counseling shall be ongoing and will be afforded to assure the success of the family once they assume homeownership.

### **26.6 Eligible Housing**

Eligible voucher families, as defined in Section 26.2, participating in the Homeownership program may purchase a home using federal housing assistance. Section 8 assistance may be used to purchase an existing home or a new home under construction, defined as a home where the foundation has been completed with footings in place. The following housing is eligible:

- A. A newly constructed single-family or town home (never lived in),
- B. An existing single-family home or town home,
- C. A single-family home or town home under construction,
- D. A condominium,
- E. A cooperative,
- F. Twin home (one-side only),
- G. Manufactured home meeting the Florida Building Code minimum requirements for construction must have a permanent foundation and a 40-year lease.

Eligible properties to be acquired may be owner-occupied or vacant. Under no conditions will the property be sold to an applicant if the acquisition triggers the relocation requirement. The maximum purchase price of eligible properties shall be reviewed annually. Various funding sources may have requirements regarding maximum purchase price.

### **26.7 Loan Qualification and Application Process**

Homeownership loans to applicants allow for the following ratios:

- A. Funding Source First mortgage lender
- B. Monthly housing expense-to-income 33%
- C. Monthly total obligations-to-income 45%

Exceptions to the total obligations-to-income ratio may only be made by PHCD on a case-by-case basis, when compensating factors exist. Participating lenders should bring the ratios as close to the maximum as possible.

Housing Choice Voucher families interested in purchasing a house may do so by purchasing a newly constructed house from a developer in the County's affordable loan program, or purchase an existing house, as defined in Section 26.6 in the open market utilizing a participating lender.

PHCD provides each Housing Choice Voucher family with a pre-qualification letter and HCD provides the family with an affordability study indicating the maximum dollar value of the home to be purchased using the voucher. Once a home is selected, all homebuyers must be approved by a qualified lender. Once the lender takes an application and provides a loan commitment, the lender will forward a copy of the loan file to PHCD on behalf of the Housing Choice Voucher family to reserve the required secondary mortgage financing, if needed.

Upon completion and processing of the loan by the lender and PHCD, the loan is scheduled for closing by the lender. PHCD may provide first mortgage financing in limited instances upon the recommendation of the HCD staff.

### **26.8 Housing Search**

After pre-qualification, the family will be advised they have a period of 120 days to locate a home for purchase. Upon initial selection of a unit, the family will be allowed an additional 120 days to secure financing and close on the chosen property. During this time, the family shall be allowed to continue to use their Housing Choice Voucher for rental assistance. At the option of PHCD, due to reasonable documented circumstances, time limitations may be extended or revised on a case-by-case basis.

Should the family be unable or unwilling to complete the purchase of a home through the Homeownership program, the family may continue to use their voucher for rental assistance, so long as they continue to be eligible and comply with PHCD policies, as contained in this Administrative Plan, and federal housing regulations.

### **26.9 Down Payment Requirement**

The required down payment is 3% of the purchase price. One percent (1%) must come from the applicant's own funding. The family may be eligible and seek additional funding for down payment and closing costs as assistance to low-income families.

### **26.10 Program Requirements**

Once a family purchases the unit, the family must use the property as their primary residence which will be reflected in the mortgage documents. The family must comply with all mortgage requirements. At the option of the housing agency, the homebuyer may be requested to attend and complete additional homeownership counseling and training.

Ownership must be in fee simple title, a 99-year leasehold interest, or ownership or membership in a cooperative. In cases of a 99-year leasehold interest, the remaining lease term must equal the term of the loan.

Annual recertification by the family is required, for as long as homeownership assistance is being provided. Limitation of homeownership assistance will be a maximum of 15 years for a home purchased with 20 or more years financing from the date of the first homeownership housing assistance payment and a maximum of ten (10) years in all other cases. If the family qualifies as elderly or disabled upon commencement of the homeownership assistance, there is no time limit by which the family may receive such assistance.

HCD may provide second mortgage financing to Homeownership Program participants. HCD requires that applicants obtain 30-year first mortgage financing from a first mortgage lender in order to obtain the secondary financing. For families who sell the original house and seek to purchase another house under the Homeownership program with continued homeownership assistance, the maximum term commences upon the date of purchase of the first house.

PHCD shall encourage participants to establish and maintain a savings, credit union, or other type of investment account at the time of the loan closing. The purpose of this account will be to generate a reserve fund for necessary maintenance, replacement or repair needs. Funds would then be withdrawn as needed for the home. PHCD reserves the right to establish such accounts on behalf of the homebuyer.

### **26.11 Housing Assistance Payments**

The family's monthly Housing Assistance Payment will be the lesser of the Housing Choice Voucher payment standard minus the Total Tenant Payment (TTP) or the monthly homeowner expenses minus the TTP. PHCD will annually re-examine the family's income and family composition and make appropriate adjustments to the amount of the monthly Housing Assistance Payment.

Homeownership expenses include, but may not be limited to principal, interest, applicable taxes and insurance on mortgage debt, refinancing charges of mortgage debt, and PHCD determined utility and maintenance allowances. Other housing expenses that may be incurred by the family include but are not limited to condominium maintenance fees.

Families who have lost their employment will be considered for adjustments, as will families with changes in their family composition. If a family's income increases to a point that they are not eligible to receive a Housing Assistance Payment, eligibility for such payments will continue for 180 calendar days. At the end of a continuous period of 180 days, eligibility for Housing Choice Voucher assistance will automatically terminate.

To assure the timely mortgage payment, PHCD's loan servicing unit will issue the monthly mortgage payment to the first lender. The family shall be responsible for remitting the TTP of the payment to the loan servicing unit by the first of each month along with the payment due on the second mortgage loan, if applicable. If the Housing Assistance Payment is greater than the mortgage payment and taxes and insurance escrow payments, the difference will be paid to the family.

### **26.12 Financing and Payments**

First mortgage financing must meet current lending standards, including Federal National Mortgage Corporation "Fannie Mae" and Federal Home Loan Mortgage Corporation "Freddie Mac." First mortgages shall be offered by a participating lender at prevailing market rates.

PHCD shall reserve the right to determine whether the Housing Choice Voucher family can afford the proposed financing. In order to protect the family and to meet the parameters of the financial arrangement by the family, the Homeownership program will prohibit any financing which includes balloon payments, variable interest rates, or private seller financing.

For those homebuyers who are FSS participants, PHCD shall encourage these families to utilize their escrow balance to assist with the down payment and closing costs of the home purchase as well as the capitalization of the escrow reserve. Escrow withdrawals will be permitted for the purchase of required home appliances and for necessary home improvements and repairs only if the family has fulfilled established interim goals and requires a portion of the FSS escrow for purposes consistent with the contract of participation. Such releases from the FSS escrow reserves will be at the discretion of the Agency.

The amount of the monthly homeownership assistance payment shall include all principal, interest, taxes and insurance and, if applicable, homeownership association fees and maintenance allowance, the allowance for cost of major repairs and replacements and the applicable utility allowance. This payment will be the lower of the payment standard, less the total tenant payment or the family's monthly homeownership expenses, minus the total tenant payment. The total tenant payment will not exceed 30% of the family's gross monthly income, taking into consideration allowances and deductions permitted by regulation.

Second mortgage loan payments may be interest deferred, principal only. Deferred loans may be given to Housing Choice Voucher families on an as-needed basis.

### **26.13 Inspections Requirements**

In accordance with the federal housing regulations and PHCD loan policies, inspections of the property will be conducted prior to the approval for purchase of the home. An inspection by the Housing Choice Voucher Inspections Department will be conducted for compliance with federal housing quality standards.

A second inspection must be an independent professional home inspection conducted by an independent inspector. The cost of this inspection must be borne by the Housing Choice Voucher family. If the homebuyer is a participant in the FSS program, this inspection may be paid from funds in their FSS escrow account. The inspector shall be certified by the American Society of Home Inspections. Such inspection shall require the inspector to develop a written list of items that are likely to need replacement or repair within the next one to three years. Such an inspection shall include, but not be limited to, cover the major building systems and components, including the foundation and structure, the house's exterior and interior, roofing, plumbing, electrical and air conditioning/heating systems. These inspections shall be performed before closing of all units with the Homeownership program. PHCD retains the right to disqualify the unit for inclusion in the Homeownership program, based on the inspections.

In addition, on newly constructed properties funded through Miami-Dade County, the County will provide random inspections during the construction of the home and detailed final inspections prior to the placement of the first or second mortgage. Environmental clearances will be required when using federal funds.

### **26.14 Insurance Requirements**

Title insurance will be required. In the case of the Housing Choice Voucher family, the costs for title insurance shall be included in the closing costs. The family shall obtain and maintain hazard, flood and windstorm (if required) insurance, at minimum, in the amount of all financing (first, and if necessary second and subsequent mortgages). The family should be responsible for obtaining such insurance. The cost for the insurance may be included in the loan amount. If PHCD has financed any portion of the loan, PHCD must be listed as a loss payee. The lender has the responsibility to determine and document whether the unit is in a flood hazard zone. It is the responsibility of the family to insure units in flood zones for flood damage.

### **26.15 Sales Contract**

Housing Choice Voucher families purchasing a home through the Homeownership program must complete a contract of sale with the owner of the property to be purchased. The unit must be substantially built before the contract is executed. The contract must include the price of the unit, terms of sale, the purchaser's inspection requirements, and notice that the sale is condition on the purchaser's acceptance of the inspection reports and include an agreement that the purchaser is not obligated to pay for necessary repairs.

The contract must also provide a certification from the seller stating the seller has not been debarred, suspended or subject to a limited denial of participation by HUD.

### **26.16 Family Obligations**

Before closing, the family must execute a statement of homeowner obligation in a form prescribed by the housing agency. To receive homeownership assistance, a family must comply with the following obligations:

- A. The family must comply with the terms of the mortgage securing debt incurred to purchase the home;
- B. For as long as the family is receiving homeownership assistance, the family may not sell, convey, encumber or transfer any interest in the home to any entity or person other than a member of the assisted family residing in the home, without PHCD's knowledge and approval;
- C. The family must supply required information regarding income and family composition in order to correctly calculate total tenant payment and homeownership assistance;
- D. The family must provide information on any mortgage or other debt incurred to purchase the home and any refinancing of such debt and any sale or other transfer of any interest in the home;
- E. The family must notify PHCD if the family defaults on a mortgage securing any debt incurred to purchase the home;
- F. The family must notify PHCD before the family moves out of the home;
- G. The family must, at annual recertification, document that they are current on all housing related payment include mortgage, insurance and utility payments; and

H. The family cannot refinance without the authorization of PHCD.

### **26.17 Portability**

Families that are determined eligible for homeownership assistance may exercise the homeownership option outside of PHCD's jurisdiction if the receiving housing agency is administering a Homeownership program and is accepting new families into the receiving housing agency's homeownership program.

### **26.18 Default and Termination of Assistance**

If the family fails to comply with its family obligations as set forth in federal regulations or in this Administrative Plan, the family may be terminated from homeownership assistance. Federal regulations further require the housing agency to terminate homeownership assistance for any family that is dispossessed from the home pursuant to judgment or foreclosure. If the family defaults on the mortgage, the family will have their housing voucher withdrawn and no new voucher will be issued for either homeownership or rental assistance. Exceptions to this policy shall be reviewed on a case-by-case basis, particularly as it relates to income loss of the family. Termination from the homeownership program will be in compliance with Chapter 27.

### **26.19 Continuation of Assistance**

A homeownership family may purchase another home with assistance provided there is no mortgage loan default and the family is in compliance with the statement of homeowner obligations.

### **26.20 Down Payment Assistance and Other Program Issues**

PHCD shall consider and implement other homeownership program rules as promulgated by HUD, including but not limited to use of housing assistance payment funding for down payment assistance.

## Chapter 27. Termination of Assistance

### 27.1 Grounds for Termination of Assistance

- A. Housing Choice Voucher housing is a scarce resource and PHCD holds the position that Housing Choice Voucher families must be held accountable for their actions as it relates to their tenancy under the Housing Choice Voucher program.

PHCD shall terminate assistance for a participant family, including Moderate Rehabilitation tenants (where applicable), on any of the following grounds:

1. If the family violates any family obligation stipulated in federal housing regulation under the program or the Statement of Understanding;
2. If the family fails to sign and submit consent forms or other documentation required to determine continued eligibility in the program;
3. Failure by the participant to report to any recertification interview or provide verification of any information required by PHCD. Participants who fail to comply are provided an Intent to Terminate letter and an opportunity to cure. See Section 15.1.
4. Discovery of material false statements in connection with information provided at application or recertification, or fraud committed by the participant in connection with any federally assisted housing program.
5. If there is any drug-related criminal activity, violent criminal activity, or non-violent criminal activity, felonious criminal activity, whether on or off the premises, committed by the participant, any member of his/her household, a guest or a person under the control of the participant, that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents. Any such criminal activity shall be cause for termination (See Section 2.4(E) – Denial of Assistance for additional details):
  - a) Felonious violent criminal activities, including but not limited to murder, arson, aggravated felony battery and sex-related crimes not subject to lifetime registration under a state sex offender registration program.
  - b) Drug-related criminal activity includes, but is not limited to: illegal possession, illegal manufacture, sale, distribution, use and/or possession with intent to manufacture, sell, distribute or use a controlled substance.
  - c) Violent criminal activity includes, but is not limited to: any criminal activity that has as one (1) of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, non-trivial bodily injury or property damage.
  - d) Non-violent criminal activity includes, but is not limited to: any activity that threatens the health, safety, or right to peaceful enjoyment by other residents, employees of PHCD or any other Miami-Dade County personnel or official.
  - e) The conduct underlying arrests, only if the conduct indicates the individual is not suitable for tenancy or threatens the health, safety, or right to peaceful enjoyment

- by other residents, employees of PHCD or any other Miami-Dade County personnel or official.
- f) An arrest where the criminal charges are dropped, dismissed no action, nolle prossed or other resolution that does not involve an admission of guilt, or where the participant is found not guilty or acquitted, may not result in denied assistance except for the cases specified in Paragraph 7 below that may threaten health, safety, or right to peaceful enjoyment by other residents, employees of PHCD or any other Miami-Dade County personnel or official.
  - g) A fugitive felon or parole violator after conviction of a crime or attempt to commit a crime is considered a person that threatens the health, safety and right to peaceful enjoyment of the premises by other participants or employees of PHCD.
  - h) As concerns juvenile household members under the age of 18, PHCD will consider criminal related activity only if they are being tried as adults for certain criminal offenses or if the acts occur on PHCD property.
6. If any activity does not threaten the health, safety or right to peaceful enjoyment of the participants, after a warning has been issued, any subsequent warning regarding the same individual shall be considered a violation of the Statement of Understanding.
  7. If the family currently owes rent or other amounts to PHCD or to another housing authority in connection with Housing Choice Voucher or public housing assistance under the 1937 Act;
  8. If the family has not reimbursed any housing authority for amounts paid to an owner under a HAP contract for rent, damages to the unit or other amounts owed by the family under the lease;
  9. If the family breaches an agreement with PHCD to pay amounts owed to PHCD or amounts paid to an owner by PHCD;
  10. If the family has engaged in or threatened abusive or violent behavior toward PHCD personnel;
  11. If the family has made threatening behaviors to others or has failed to maintain the property or caused severe damage to the unit;
  12. The denial of service, disconnection or shutting off of utilities that the participant is responsible for paying will result in termination; PHCD will not terminate assistance if the participant restores utility service legally within 30 days of the issuance of the Intent to Terminate notice.
  13. Discovery that a participant is tampering with utilities to illegally obtain service;
  14. If the participant, any member of his/her household, a guest or a person under the participant's control threatens, obstructs or interferes with a PHCD employee conducting official business.

15. If the family repeatedly breaks obligations under the lease or for serious violations of the lease, including, but not limited to:
  - a) failure of HQS inspection due to tenant caused violations, serious or repeated damage to dwelling unit,
  - b) repeated activities which interfere with the peaceful enjoyment of the premises by other residents documented by police reports, neighborhood complaints or other third-party information.
  - c) If the owner terminates tenancy through court action for serious or repeated violation(s) of the lease, including but not limited nonpayment and damage to the unit
  - d) Non-payment of rent does not include any portion of HAP payment being withheld by PHCD for owner's failure to comply with the HAP contract;
16. If PHCD determines that a household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other tenants.
17. Full-time or part-time students who do not meet student eligibility requirements.
18. Tenants who execute a Lease for an assisted unit but are not in the unit at the time a Voucher expires, will be considered as having moved out without authorization.
19. Any other grounds for termination permitted by HUD.
20. However, PHCD shall not terminate assistance for a participant family on the basis or as a direct result of the fact that the person is a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking.
21. The net family assets exceeds \$100,000 and/or the family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell the real property (based on laws of the state or locality in which the property is located) that is suitable for occupancy by the family as a residence; therefore, based on 24 CFR § 5.618 this family has exceeded the asset limitation. (This clause is effective January 1, 2024, upon the implementation of HOTMA and applicable regulations and guidelines promulgated by HUD).

#### B. Mitigating Circumstances

Mitigating circumstances are facts relating to negative rental history or behavior, that, when verified, indicate that the reason for the unsuitable rental history or behavior is no longer in effect or is under control, justifying admission or continued occupancy. Mitigating circumstances would overcome or outweigh information gathered in the screening process. See Chapter 2, Section 2.4(E) – Claiming Mitigating Circumstances for Applicants and Residents, for additional details.

### 27.2 Notice

If PHCD recommends termination of a family's participation in the program, the family will be notified in writing stating the grounds for proposed termination of assistance and the effective date of termination. The notice will also state whether the participant has a right to a hearing in

accordance with the regulations, the procedure for requesting a hearing, and that the participant may be represented at the hearing at their own expense. The owner will receive notice of the recommendation of termination of a family's participation. The same provision stipulated above shall apply to the Family Unification Program. However, PHCD shall notify the Department of Children and Families if a family is at-risk of termination in order to allow timely intervention.

## **Chapter 28. Policies Concerning Repayment of Amounts Owed to PHCD**

Except as otherwise required under Section 7.5, EIV and ITV , Third Party Verification, and Factors Affecting Eligibility and Family Rent, PHCD has the discretion to enter into repayment agreements with program participants for amounts owed to PHCD, if it is in the best interest of the County, the debt has not been expunged by operation of law, and the participant has not intentionally committed any act that led to the amount owed. Currently, the debt will be considered expunged by operation of law if the time period has exceeded five (5) years and PHCD has not attempted to collect the debt within the five-year period.

### **28.1 Standards for Repayment**

If a repayment agreement is offered to a participant in lieu of full payment, it will be in writing and may be within the following guidelines:

- A. Down payment of at least 20% to be paid at time of signing the repayment agreement by money order or cashier's check.
- B. The balance is to be paid a maximum of 12 consecutive monthly payments starting 30 days from the date of down payment.

### **28.2 Exceptions**

Any terms allowing more time for repayment or for a lower down payment must be approved by Housing Choice Voucher Program director or his/her designee. A hearing officer shall also have the discretion to set the amounts and length of time for repayment, if a repayment agreement is a stipulation of participation determined at an informal hearing. Strict adherence to the terms of the repayment agreement by the participant is necessary otherwise, benefits may be terminated in accordance with this plan, as indicated in Chapter 27.

## Chapter 29. Informal Hearing and Review Procedures

### 29.1 Participant Hearings

Informal hearings will be allowed regarding the application of PHCD policies in this Administrative Plan to a particular participant. Such hearings will not be a means to challenge a policy as a whole. Thus, if a program participant considers an PHCD action, such as being terminated from the Housing Choice Voucher program, detrimental to their interest, the participant may request an informal hearing to contest the action, not the policy which resulted in the action.

Hearings are afforded to Housing Choice Voucher participants in accordance with the Code of Federal Regulations 24 CFR § 982.555 and as included in this Administrative Plan. (The process described in PHCD's Reasonable Accommodation Policies and Procedures document included under Attachment C will be followed for participants denied reasonable accommodation requests.) Further, this document describes the process that must be followed if the hearing officer becomes aware that the reason for the termination of assistance or other adverse action occurred because of the participant's disability.

Hearings are not afforded to families appealing decisions on:

- A. HQS violations; except when the family is terminated due to breach of HQS as caused by the family
- B. Determination that the unit is not in accordance with HQS because of family size;
- C. PHCD determination not to approve an extension or suspension of a voucher term;
- D. PHCD determination not to approve a unit for lease under Housing Choice Voucher;
- E. Discretionary administrative determinations by PHCD;
- F. General policy issues or class grievances;
- G. Establishment of PHCD's utility allowance schedule.
- H. PHCD's determination to exercise or not to exercise any right or remedy against an owner under a HAP Contract.

If PHCD proposes to terminate assistance on the basis of a criminal record, PHCD will advise the head of household in the recommendation of denial letter with the (1) name of the affected family member and description of the charge; that (2) the family member with the criminal record and the head of household may request a copy of the criminal record either before or at the informal review and (3) they will be provided an opportunity to dispute the accuracy and relevance of that record.

1. Requesting a hearing and pre-hearing procedures

A hearing may be requested by written request to the Hearing Office at the address indicated on the adverse action notice. The hearing must be requested within 15 business days of the notice date. Failure of the participant to respond within the required time waives the right to a hearing.

When feasible, PHCD will schedule the hearing within 30 calendar days of the participant's request. The hearing will be scheduled at the first available hearing date. The participant and any other interested parties will be notified of the date and time for the hearing by mail from PHCD.

A program participant shall not be adversely affected by the scheduling of a hearing beyond the 30 calendar days. Payment shall continue to the owner so long as the family remains in the unit and a hearing has been scheduled.

Before the hearing, the tenant has the right to review any PHCD documents, including but not limited to the tenant's file, that are directly related to the informal hearing. If the tenant requests to review or make copies of documents, they must do so no later than three (3) days prior to the informal hearing. In the event PHCD fails to make the documents available for examination upon request of the tenant or the tenant's representative, PHCD is prohibited from relying on the document(s) at the hearing. Participants may be charged for copying costs.

## 2. Hearing Procedures

Pursuant to 24 CFR § 982.555(4), a hearing officer may be anyone designated by PHCD other than a person who made or approved the decision under review or a subordinate of this person.

The hearing officer's decision will be based solely on the testimony of witnesses, written documentation in the tenant's file, and any other evidence presented at the hearing. The hearing officer must verify any document provided by the participant, such as evidence of completion of rehabilitation program or any other proof or testimony provided, before submitting the decision letter to uphold or overturn the denial of assistance.

The tenant must attend the hearing at the time scheduled as notified by the Hearing Office. The owner may attend. The tenant may be represented by legal counsel or another person chosen as a representative.

The party that fails to appear for a hearing will relinquish all further hearings or appeals of the adverse action.

A hearing may be held via telephone conference call in situations where a health condition or portability to another housing agency's jurisdiction prevents either party (tenant or owner) from attending the hearing in person. Hearings held by telephone conferences are not allowed simply for the convenience of the tenant or owner. Any other reasons shall be at the discretion of the hearing office supervisor.

The decision of the hearing officer shall be forwarded in writing to the participant and other interested parties within 30 calendar days of the hearing. The decision of the hearing officer shall be final, except on the occasion when PHCD Director or his/her designee may review, overturn or modify the decision of a hearing officer upon showing of the following:

- a) The hearing decision concerns a matter for which PHCD is not required to provide an opportunity for an informal hearing under 24 CFR § 982 or that otherwise exceeds the authority of the person conducting the hearing under PHCD's hearing procedures.

- b) The hearing decision is contrary to HUD regulations or requirements, or otherwise contrary to federal, state of the Code of Miami-Dade County or other local laws.

If PHCD determines that it is not bound by a hearing decision, PHCD shall promptly notify the family of the determination, and of the reasons for the determination. The hearing officer's decision shall not abridge any other rights the participants have under law.

## **29.2 Applicant reviews**

Applicants denied program participation or removed from the waiting list shall be entitled to a review conducted by PHCD in accordance with 24 CFR § 982.554. Applicants will be notified of such determination in writing, generally at the time of their initial certification appointment. Applicants who have not completed application forms as instructed in the Housing Application Instructions will not be processed and their name will not be placed on the waiting list. Applicants in this situation will not be offered an informal review.

The process described in PHCD's Reasonable Accommodation Policies and Procedures included under Attachment C will be followed for applicants denied reasonable accommodation requests. Further, this document describes the process that must be followed by the hearing officer if they become aware during the informal review that an applicant's ineligibility determination occurred because of the applicant's disability. It is an applicant's responsibility to inform PHCD staff when there is a change in address.

### **A. Processing Removals**

An applicant or who is determined ineligible for program benefits shall be notified in writing that his/her name will be removed from the waiting list unless they requests an informal review by contacting PHCD within 30 days of the notice. The applicant whose mail is returned by the post office will be automatically withdrawn from the waiting list.

Applicants who have been removed from the waiting list for failing to respond to notices calling them for processing may, within 30 days of being removed from the waiting list, request an informal review seeking reinstatement to his/her original place on the waiting list.

If PHCD proposes to deny admission on the basis of a criminal record, PHCD will advise the head of household in the recommendation of denial letter with the (1) name of the affected family member and description of the charge; that (2) the family member with the criminal record and the head of household may request a copy of the criminal record either before or at the informal review and (3) they will be provided an opportunity to dispute the accuracy and relevance of that record.

Before the review, the applicant has the right to review any PHCD documents, including but not limited to the applicant's file, that are directly related to the informal review. If the applicant requests to review or make copies of documents, they must do so no later than three (3) days prior to the informal review. Applicants may be charged for copying costs.

### **B. Requesting a review**

Applicants may request a review in writing to the address or fax number indicated on the adverse action letter. The request shall be made within 30 days from the date of the notice. PHCD, at its

discretion, may schedule an informal review at the applicant's request, beyond the thirty (30) days, on a case-by-case basis. PHCD will schedule the review for the next available hearing date and forward written notification to the applicant.

### C. Review Procedures

The review will be conducted by a designated PHCD hearing officer or supervisor. When feasible, the reviewer's decision will be made in writing within 30 calendar days of the review. The hearing officer must verify any document provided by the applicant, such as evidence of completion of rehabilitation program or any other proof or testimony provided, before submitting the decision letter to uphold or overturn the denial of assistance. The decision of the reviewer shall be final. The reviewer's decision, however, shall not abridge any other rights the applicants have under law.

### **29.3 End of Participation Reviews**

Participants who have been terminated, within the past 90 days, from the program may request a final review of their case, if they failed to request a hearing within the time period allowed by this plan. PHCD will review the case and determine whether reinstatement is appropriate due to agency error or mitigating circumstances as delineated in Section 27.1. To be reinstated, the participant must be in compliance with the program. If the participant is reinstated, HAP will be paid to the landlord retroactive to the date of the effective End of Participation so long as the participant continues to reside in the previously assisted unit.

## **Chapter 30. Fair Housing and Equal Opportunity and Grievance Procedures**

### **30.1 Non-discrimination Policy**

- A. PHCD complies with all federal, state and local antidiscrimination laws including, but not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, Title VI of the Civil Rights Act of 1964, and all other applicable laws and regulations.
- B. PHCD will ensure that persons with disabilities have full access to PHCD's Housing Choice Voucher (HCV) program and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the HCV program.
- C. No person shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under programs operated and/or funded by PHCD on the basis of race, color, sex, religion, national or ethnic origin, familial status, marital status, sexual orientation, gender identity, ancestry, age, pregnancy, disability, or source of income.
- D. PHCD prohibits inquiries regarding sexual orientation or gender identity, which includes but is not limited to whether a person is transgendered.
- E. PHCD will provide applicants and participants with federal/state/local information regarding discrimination and any recourse available to them if they believe they may be victims of discrimination.
- F. PHCD will display the Fair Housing poster at their program offices. Upon eligibility determination, applicants will be provided with the Housing Discrimination Complaint form and information pertaining to procedures to be followed if the applicant believes they have experienced illegal discrimination.
- G. PHCD will ask all applicants and participants if they require any type of accommodation, in writing, on the intake application and reexamination documents
- H. PHCD will inform disabled applicants who believe that they have been subject to unlawful discrimination on how to file a fair housing complaint. PHCD 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). These applicants will also be provided with the Fair Housing complaint Hotline number: 1-800-669-9777. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at 1-800-887-8339.

### **30.2 Processing Discrimination Complaints and Reasonable Accommodation Requests**

- A. All applicable Fair Housing Information and Discrimination Complaint forms will be made available at PHCD's 504/ADA Coordinator's office and/or by the 504/ADA Coordinator mailing copies of information to person requesting same. In addition, all

appropriate written information and advertisements will contain the appropriate written information, and advertisements will contain the appropriate Equal Opportunity language and logo.

- B. PHCD's 504/ADA Coordinator will assist any family that believes they have been discriminated against by providing copies of the federal and local housing discrimination forms and the addresses of the applicable offices. In addition, PHCD's 504/ADA Coordinator will facilitate conciliation of discrimination complaints upon the request of complainants, to the greatest extent feasible.
- C. PHCD will cooperate with HUD in conducting monitoring and compliance reviews and complaint investigations, pursuant to all applicable civil rights statutes and regulations, Executive Orders, and all civil rights related program requirements.
- D. Reasonable accommodation requests are processed through the 504/ADA Coordinator's office (refer to Attachment C, Reasonable Accommodation Policies and Procedures).

PHCD's Reasonable Accommodation Policies and Procedures are included under Attachment C.

## **Chapter 31. Special Rules for Moderate Rehabilitation**

The foregoing policies and procedures apply in general to the Moderate Rehabilitation Program except as provided below:

### **31.1 Transfer and Waiting List Referrals**

#### **A. Vacancy Notices**

Every unit vacancy, which occurs in the Moderate Rehabilitation Program administered by PHCD, must be reported to PHCD. Owners or managers must immediately forward the vacancy notice either by hand delivery, facsimile, or mail to the following address:

Public Housing and Community Development  
Attention: Moderate Rehabilitation Program Unit  
701 NW 1st Court, 14th Floor  
Miami, Florida 33136-3914  
Fax: (786) 469-4222

#### **B. PHCD Transfer Referrals**

PHCD approved transferees will be offered available units before applicants from PHCD's waiting list. Section 31.5 details PHCD's transfer policy for the Moderate Rehabilitation Program.

If there are families on the transfer list, PHCD's first mail-out will consist of PHCD's transfer referrals for a period of eight (8) days to applicants for whom the unit is suited. If applicable, PHCD will conduct a second mail-out for a period of eight (8) days if: (a) none of PHCD's referrals accept the offer; (b) the referrals are rejected by the owner based on a valid, non-discriminatory reason within the ten (10) day period; or (c) there is no response from the applicant. For each unit, PHCD will offer up to 20 interested applicants for whom the unit is suited.

#### **C. PHCD Waiting List Referrals**

If there are no families on the transfer list, PHCD will refer interested applicants to the owner/manager from PHCD's waiting list.

In order to deter discrimination by a Moderate Rehabilitation owner/manager (hereafter referred to as owner), PHCD shall utilize the following procedure for the screening and selection process. After proper receipt of the vacancy notice from the owner/manager, PHCD's offer letters (often referred to as "mail-outs") will be mailed no later than five (5) working days from the date the unit passes Housing Quality Standard (HQS) Inspection. Applicants will have a minimum of eight (8) calendar days to respond to PHCD and the owner/manager of the offered unit concerning their interest.

Owner/managers must make themselves available to accept the referred applicants' and to show the unit. The unit must have passed HQS inspection prior to showing. PHCD shall also forward to the owner a log of all applicants referred to the available unit. The owner shall provide to PHCD his/her written policy on selection procedures to include the policy regarding the collection of application fees, if applicable.

Owners may only reject applicants for valid, nondiscriminatory reasons and must report the reason for any rejected applicants in writing to PHCD.

In the event that the owner/manager request a release of the available unit, PHCD shall assign a staff person to contact each applicant within the mail out(s), three days after the close of the final mail out to assure that all applicants referred the unit are being treated fairly under the law. The assigned staff shall also confirm that the owner's selection process was expeditious and unbiased. Assigned staff will maintain a log to document all communications with the applicants and owners. The unit will not be released if there are sufficient applicants to refer off the waiting list or if the owner/manager fails to comply with submittal of their written policy on selection procedures and/or written notification of the rejection of applicants.

After the owner selects a prospective tenant for the unit, the owner shall submit to PHCD a selection package. This package will include a log of all PHCD referred applicants, a written letter stating the results of the owner's screening, and justification with supporting documentation for the applicant selected or rejected for tenancy. PHCD will review the owner package to confirm that the selection process was without bias.

#### D. Assignment of Accessible Units

Accessible units will be offered in the following order:

1. Current tenant in the development who requires the accessibility features of the vacant unit;
2. Current tenant(s) in other developments who require the accessibility features of the vacant, accessible unit;
3. Interested applicant(s) on the waiting list for the tenant-based program who requires the accessibility feature(s) of the vacant, accessible unit;
4. Interested applicant(s) on the waiting list for the tenant-based program who do not require the accessibility features of the vacant, accessible unit.
5. Interested applicants referred by the owner who require the accessibility features of the vacant, accessible unit; then
6. Interested applicants referred by the owner who do not require the accessibility features of the vacant, accessible unit.

Transfer requests related to reasonable accommodation for a person with disabilities will be processed in accordance with PHCD's Reasonable Accommodation Policies and Procedures included under Attachment C. Transfer requests related to reasonable accommodation must be approved by PHCD's ADA coordinator.

Further, transfers of tenants with disabilities and placement of applicants with disabilities in units with accessible features will be centrally coordinated through the division responsible for the management of the Moderate Rehabilitation Program. . The owner will be encouraged to incorporate language in their lease that requires the tenant to transfer to a non-accessible unit when one becomes available, in situations where an applicant is housed in an accessible unit but does not require the accessibility features.

### **31.2 Condition of Units**

Owners must make units ready for occupancy and HQS inspection by the time applicants are referred to the unit. PHCD reserves the right to not make referrals for units that are not ready for occupancy.

Units with a history of repeated or habitual violations will be inspected every six (6) months. Inspections shall be performed at the discretion of PHCD and shall not require prior notification to the owner as to when an inspection will occur.

### **31.3 Valid Rejections of Offered Units**

An applicant will be made three offers of a housing unit under the Moderate Rehabilitation program. However, the offer is not considered a suitable offer under the following circumstances:

The applicant rejects the offer for “good cause,” that is, the applicant can demonstrate through objective evidence that a move into the offered unit located more than five (5) square miles in distance would result in a hardship related to the ability of the applicant or a member of the applicant’s family to retain their employment, job training, or retain particular day care, or educational programs for children with disabilities or medical services uniquely suited to the affected individual’s needs.

- A. The offered unit is not suitable or accessible due to a disability of the applicant or a member of the applicant's family.
- B. If the applicant accepts a unit but is rejected by the owner/manager.
- C. If the unit is not ready for occupancy and has not passed an initial HQS Inspection.
- D. The family demonstrates that accepting the offer will place a family member’s life, health or safety in jeopardy. The family must provide specific and compelling documentation, such as restraining orders, other court orders or risk assessments from a law enforcement agency. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.
- E. A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (each as listed on final application) or live-in aide necessary to the care of the principal household member.
- F. The unit is refused because a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking reasonably believes the proposed transfer would not safe (refer to Attachment D of this Administrative Plan).

When an offer is not counted against the applicant, the applicant’s name will remain in active status on the waiting list to receive another offer. PHCD will maintain a record of units offered, including location, date and circumstances of each offer, and each acceptance or refusal, including the reason for the refusal.

### **31.4 Changes to Family Composition**

Family members will be added to the family composition if they are born to the family during tenancy under the Moderate Rehabilitation program, if the family is awarded custody, guardianship, by any other operation of law, or as otherwise provided under Section 5.2 of this plan.

PHCD will consider the request for approval and require documentation that the head of household has authorization to include a minor as part of the household. Court approved custody or guardianship is not the only mechanism for establishing that the head of household has authorization to include a minor. Changes to the family composition may also be allowed for families in which one or more children less than 18 years of age live with the designee of the parent or legal custodian, with the parent's or legal custodian's consent.

Documentation can include, but is not limited to, court documents, pre-need guardian, school records, other state and federal public assistance documentation, power of attorney, etc.

The owner of the family's unit must consent to the addition of any additional family members.

### **31.5 Transfer Policy**

Transfer requested for victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking must be processed in accordance with Attachment D of this Administrative Plan.

All other transfers in the Moderate Rehabilitation Program will be granted if there are available units in the circumstances described below. In all instances, families on the transfer waiting list will be given one (1) offer. If the offer is refused, except for good cause, including reasonable accommodation for a family member with disabilities, the family's name will be removed from the transfer waiting list.

#### **A. Overcrowded or Under-Occupied Units**

If a family has a change in family composition that causes the number of occupants of the unit to be more than the occupancy standards allowed for the bedroom size, or less than the minimum occupancy for the bedroom size, then the family will be required to move. The family shall move into the appropriate size unit or be terminated from participation in the program. If there is an available appropriate vacancy in the same development, the family will be offered such vacancy in the same development. This offer may not be refused, except for good cause, including reasonable accommodation for a family member with disabilities.

#### **B. Medical Necessity**

Transfers based on medical or disability need shall be documented and shall relate to either proximity (define as at least five (5) squares miles in distance) to medical facilities that a family member must attend on a frequent basis (at least once per week) or other verifiable reason, as determined by PHCD's ADA Coordinator, or be related to a condition/s of the unit or complex that must be changed or avoided due to physical health concerns. If a transfer is necessary due to a condition in the unit, the owner of the project has the option to make an accommodation in lieu of the transfer.

Transfers based on medical necessity shall be given the next available suitable unit based on the date of the requested transfer.

#### C. Special Circumstances

Special circumstances that may be considered for transfer include, but are not limited to, the following:

1. Hate crimes or overt discrimination against a family member;
2. Habitual violence or victimization against a family member; or
3. Cooperation for a witness protection program.

Transfers for special circumstances shall be documented (i.e., police reports, support letters from law enforcement, restraining orders, etc.) and shall be required for the immediate safety and welfare of the family. A special circumstance transfer shall be given the next available vacancy that is not in the same project.

#### **31.6 HQS**

HQS inspections shall be performed in conformance with the Moderate Rehabilitation standards.

#### **31.7 Occupancy Standards**

The general occupancy policies described in Chapter 5 will apply to Moderate Rehabilitation applicants and tenants.

#### **31.8 Single Room Occupancy (SRO) and Shelter Plus Care Programs**

All Moderate Rehabilitation Single Room Occupancy Administrative Plans for homeless individuals are developed and submitted to HUD on a project basis for approval.

All Single Room Occupancy Moderate Rehabilitation Administrative and Shelter Plus Care Plans have been approved.

SRO and Shelter Plus Care Moderate Rehabilitation developments are subject to Section 3 of the Housing and Urban Development Act of 1968, as amended, and Section 504 Uniform Federal Accessibility Standards pertaining to accessible units for persons with disabilities.

## **Chapter 32. PBVs Under the Rental Assistance Demonstration (RAD) Program**

### **32.1 General Requirements and Standards**

#### **32.1.A. Overview and History of the RAD Program**

- A. The Rental Assistance Demonstration (RAD) program was authorized in 2012 in order to assess the effectiveness of converting public housing, moderate rehabilitation properties, and units under the rent supplement and rental assistance payments programs to long-term, project-based Section 8 rental assistance. The program's four primary objectives are to:
1. Preserve and improve public and other assisted housing.
  2. Standardize the administration of the plethora of federally subsidized housing programs and rules. The conversions are intended to promote operating efficiency by using a Section 8 project-based assistance model that has proven successful and effective for over 30 years. In other words, RAD aligns eligible properties more closely with other affordable housing programs.
  3. Attract private market capital for property renovations. Through the use of this model, properties may be able to leverage private debt and equity to make capital repairs.
  4. Increase tenant mobility opportunities.
- B. This chapter will focus on public housing conversions to the PBV program under RAD. In order to distinguish between requirements for public housing conversion under RAD and PBV units under the standard PBV program, we will refer to the standard PBV program and the RAD PBV program.
- C. PHCD has and may engage in RAD conversions that includes the construction of new housing and rehabilitation of existing former public housing projects. RAD properties may be leased to private developers through a long-term ground lease and other applicable agreements and documents. The properties would then be managed by these private developers, their affiliates, or third parties. PHCD acknowledges that such RAD properties may be subject to federal Tax Credit Requirements.

#### **32.1.B. Applicable Regulations**

- A. On the whole, the regulations for both the standard and RAD PBV programs generally follow the regulations for the tenant-based HCV program found at 24 CFR part 982. However, important parts of the tenant-based regulations do not apply to the project-based program. 24 CFR part 983 outlines the sections of 24 CFR part 982 that are not applicable to the project-based program.
- B. For the RAD PBV program, Congress authorized HUD to waive certain statutory and regulatory provisions or establish alternative requirements from the standard PBV program. These provisions are identified in Notice PIH 2019-23 (issued September 5, 2019). Any non-RAD PBV units located in the covered project are subject to the same waivers and alternative requirements as set forth in Notice PIH 2019-23 and in this policy.
- C. Otherwise, all regulatory and statutory requirements for the standard PBV program in 24 CFR part 983 and Section 8(o)(13) of the Housing Act of 1937, and all applicable standing and subsequent Office of Public and Indian Housing (PIH) notices and guidance, including related handbooks, apply to RAD PBV. This includes environmental review, Davis-Bacon, and fair housing requirements.

- D. In other words, the standard PBV program follows many of the same regulations as the tenant-based HCV program, but not all of them, and the RAD PBV program follows many of the same regulations as the standard PBV program, but not all of them.
- E. Requirements specific to the RAD program may be found in the following:
1. Generally, public housing projects converting assistance under RAD are bound by the terms of the notice in effect at the time of closing.
  2. Notice PIH 2019-23 was immediately applicable at the time of closing to all projects converting assistance (notwithstanding execution of a commitment for conversion). Notice PIH 2019-23 was published on September 5, 2019.
    - a) Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which are effective after a 30-day comment period.
  3. Notice PIH 2016-17, Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component – Public Housing Conversions.
    - a) This Notice applies to all projects that have applied for RAD conversion but have not yet converted as of November 10, 2016.
- F. PHCD has and may blend Section 18 of the Housing Act of 1937 and RAD to perform comprehensive rehabilitation of its housing in accordance with Notice PIH-2019-23. This Section 18 Disposition/RAD blending option allows for 25 percent of the units to be proposed for disposition (refer to as non-RAD PBV units) and for the remainder 75 percent to convert to PBV under RAD (refer to as RAD-PBV units).
- G. PIH Notice 2019-23 requires that all the tenant protections be provided to both RAD PBV and non-RAD PBV units in a RAD converted development to facilitate the uniform treatment of residents.

### **32.1.C. Tenant-Based VS. Project-Based Voucher Assistance [24 CFR § 983.2]**

- A. Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of PHCD's policies related to tenant-based assistance also apply to RAD PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR § 983.2. Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, PHCD's policies for the tenant-based voucher program contained in this administrative plan also apply to the RAD PBV and non-RAD PBV units in a RAD converted development and its participants. This chapter is intended to address requirements specific to the RAD PBV and non-RAD PBV program only.

### **32.1.D. Relocation Requirements**

- A. For projects that apply for conversion of assistance under the First Component of RAD and will convert November 10, 2016, or later, the following applies [Notice PIH 2016-17]:
1. In some developments, in-place residents may need to be relocated because of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been

- completed. Any non-RAD PBV units located in the same project are also subject to the right to return.
2. Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements, and other requirements which may be applicable such as Section 104(d) of the Housing and Community Development Act of 1974, as amended.
  3. In addition, PHCD must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR part 24. The obligation due to relocating residents under RAD are broader than URA relocation assistance and payments.
  4. Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to either: a) a unit at the development once rehabilitation or construction is completed, provided the resident's household is not under-housed; or b) a unit in the development which provides the same major features as the resident's unit in the development prior to the implementation of the RAD conversion.
  5. Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete.
  6. If PHCD's proposed plans for conversion would preclude a resident from returning to the development, the resident must be given an opportunity to comment and/or object to such plans. PHCD must alter the project plans to accommodate the resident's right to return to the development if the resident would be precluded from returning to the development.
  7. Examples of project plans that may preclude a resident from returning to the development include, but are not limited to:
    - a) Changes in the development's bedroom distribution that decrease the size of the units, resulting in the resident being under-housed;
    - b) The resident cannot be accommodated in the remaining assisted units due to a reduction in the number of assisted units at the development;
    - c) Income limit eligibility requirements associated with the LIHTC program or another program; and
    - d) Failure to provide a reasonable accommodation, in violation of applicable law, where reasonable accommodation may include installation of accessibility features that are needed by the resident.
  8. Residents of a development undergoing conversion that would be precluded from returning to the development may voluntarily accept a PHCD's offer to permanently relocate to alternative housing, and thereby waive their right to return to the development after rehabilitation or construction is completed. In this event, PHCD must secure the resident's written consent to a voluntary permanent relocation in lieu of returning to the development. PHCD is prohibited from employing any tactics to

pressure residents into relinquishing their right to return or accepting other housing options. Additionally, PHCD may not terminate a resident's lease if PHCD fails to obtain the resident's consent and the resident seeks to exercise the right to return.

9. In the case of multi-phase RAD transactions, the resident has a right to return to the development or to other converted phases of the development that are available for occupancy at the time the resident is eligible to exercise their right of return. Generally, the resident's right to return must be accommodated within the development associated with the resident's original unit, however, PHCD may treat multiple converted developments on the same site as one for purposes of right to return. Should PHCD seek to have the resident exercise the right to return at a future phase, PHCD must secure the resident's consent in writing.
10. Alternative housing options may involve a variety of housing options, including but not limited to:
  - a) Transfers to public housing
  - b) Admission to other affordable housing properties subject to the applicable program rules
  - c) Housing Choice Voucher (HCV) assistance
  - d) Other options identified by PHCD
11. In some developments, in-place residents may need to be relocated because of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed.
12. Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements. Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to an assisted unit at the development once rehabilitation or construction is completed.
13. Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete. Residents of a development undergoing conversion of assistance may voluntarily accept a PHCD's or owner's offer to permanently relocate to another assisted unit, and thereby waive their right to return to the development after rehabilitation or construction is completed.
14. In accordance with Resolution No. R-1181-19, which was adopted by the Miami-Dade County Board of County Commissioners ("Board"), PHCD will execute a Board-approved Tenant Relocation Agreement with each public housing tenant who is impacted by the redevelopment of a public housing development owned by Miami-Dade County and which is proposed to be converted through the RAD program.

**32.1.E. Equal Opportunity Requirements [24 CFR § 983.8; 24 CFR § 5.105; Notice PIH 2016-17]**

- A. RAD conversions are governed by the same civil rights authorities that govern HUD-assisted activities in general. These authorities prohibit discrimination and impose affirmative obligations on HUD program participants. PHCD must comply with all applicable fair housing

and civil rights laws, including but not limited to the Fair Housing Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973, when conducting relocation planning and providing relocation assistance. For example, persons with disabilities returning to the RAD project may not be turned away or placed on a waiting list due to a lack of accessible units. Their need for an accessible unit must be accommodated. See the RAD Fair Housing, Civil Rights, and Relocation Notice [Notice PIH 2016-17] for more information.

## **32.2 PBV Project Selection**

### **32.2.A. Overview**

- A. Unlike in the standard PBV program where PHCD typically selects the property through an owner proposal selection process, projects selected for assistance under RAD PBV are selected in accordance with the provisions in Notice PIH 2019-23 and any successor Notices. Therefore, 24 CFR § 983.51 does not apply since HUD selects RAD properties through a competitive selection process.

### **32.2.B. Ownership and Control [Notice PIH 2019-23]**

- A. PHCD will follow all selections and project requirements set forth in HUD regulations and Notice PIH 2019-23 and any successor Notices.
- B. Except where permitted to facilitate the use of tax credits, during both the initial term and all renewal terms of the HAP Contract, HUD will require ownership or control of the Covered Project by a public or non-profit entity. HUD may also allow ownership of the project to be transferred to a tax credit entity controlled by a for-profit entity to facilitate the use of tax credits for the Covered Project, but only if HUD determines that PHCD or a non-profit entity preserves an interest in the property.
- C. Public or non-profit ownership or control, or preservation of an interest by PHCD or a non-profit in a property owned by a tax-credit entity controlled by a for-profit entity, may be satisfied if PHCD, a public entity or non-profit entity (or entities), directly or through a wholly owned affiliate:
  - 1. Holds a fee simple interest in the real property of the Covered Project;
  - 2. Is the lessor under a ground lease with the Project Owner;
  - 3. Owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable;
  - 4. Owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD;
  - 5. Owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or
  - 6. Demonstrates other ownership and control arrangements approved by HUD.

Notwithstanding the forgoing, it is understood, that PHCD cannot have an ownership interest in a for profit or non for profit entity as such interest would be in violation of the Florida Constitution.

### **32.2.C. PHCD Owned Units**

- A. A unit is considered to be owned by PHCD if the unit is in a project that is owned by the Miami-Dade County (which such ownership excludes PHCD from having a “controlling interest” in the entity that owns the unit), or owned by an entity wholly controlled by the Miami-Dade County.

**32.2.D. PBV Percentage Limitation and Unit Cap [Notice PIH 2019-23]**

A. PBV Percentage Limitation

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

B. Unit Cap Limitation

1. When HUD published REV-3 of Notice PIH 2012-32, the cap on the number of assisted units in each project was eliminated. Under the standard PBV program the cap is set at the greater of 25 units or 25 percent of the units in the project. HUD is waiving this requirement, and projects governed by Notice PIH 2019-23 and Notice PIH 2012-32, REV-3 have no cap on the number of units that may receive PBV assistance in a project.

**32.2.E. Site Selection Standards [Notice PIH 2019-23; Notice PIH 2016-17]**

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

- B. To facilitate the uniform treatment of residents and units, any non-RAD PBV units located in the same project are subject to the terms of this provision. HUD will conduct a front-end civil rights review of PHCD's proposed site in certain circumstances. For RAD PBV conversions that involve new construction located in an area of minority concentration (whether on the existing public housing site or on a new site) HUD will determine whether it meets one of the exceptions that would allow for new construction in an area of minority concentration. PHCD must ensure that its RAD PBV conversion, including any associated new construction, is consistent with its certification to affirmatively further fair housing and complies with civil rights laws.

**32.3 Dwelling Units**

**32.3.A. Overview**

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

**32.3.B. Housing Quality Standards [24 CFR § 983.101]**

- A. The housing quality standards (HQS) for the tenant-based program generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.
- B. The physical condition standards at 24 CFR § 5.703 do not apply to the PBV program.

**32.3.C. Lead-based Paint [24 CFR § 983.101(c); Notice PIH 2019-23]**

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

**32.3.D. Housing Accessibility for Persons with Disabilities [Notice PIH 2016-17]**

- A. Federal accessibility requirements apply to all conversions, whether they entail new construction, alternations, or existing facilities. The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and implementing regulations at 24 CFR part 8. PHCD must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), as implemented by HUD's regulations at 24 CFR part 8, subpart C.
- B. Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR § 100.205, as applicable. (24 CFR § 983.102)

**32.3.E. Inspecting Units**

- A. Initial Inspection [RAD Quick Reference Guide; Notice PIH 2019-23]
  - 1. Under standard PBV regulations at 24 CFR § 983.103(b), a PHCD may not enter into a HAP contract until PHCD has determined all units comply with HQS. In order to accommodate projects in which repairs are conducted, however, HUD has waived this requirement when units are undergoing rehabilitation. In this case, units must meet HQS by the date indicated in the RAD Conversion Commitment (RCC).
- B. Turnover Inspections [24 CFR § 983.103(c), FR Notice 1/18/17, and Notice PIH 2017-20]
  - 1. Before providing assistance to a new family in a contract unit, PHCD must inspect the unit. PHCD may not provide assistance on behalf of the family until the unit fully complies with HQS.
- C. Biennial Inspections [24 CFR § 983.103(d); FR Notice 6/25/14]
  - 1. PHCD will conduct biennial inspections for a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. PHCD may also conduct inspections as often as deemed necessary to determine compliance with PHCD's designated inspection standards.
- D. If more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, PHCD must reinspect 100 percent of the contract units in the building.
- E. Other Inspections [24 CFR § 983.103(e)]
  - 1. PHCD must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. PHCD must consider complaints and any other information coming to its attention in scheduling inspections.
  - 2. PHCD must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.
  - 3. In conducting a supervisory quality control HQS inspections, PHCD should include a representative sample of both tenant-based and project-based units.
- F. Inspecting PHCD-Owned Units [24 CFR § 983.103(f); Notice PIH 2017-21]

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

### **32.4 Housing Assistance Payments (HAP) Contract**

#### **32.4.A. Overview [PBV Quick Reference Guide 10/14]**

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

#### **32.4.B. HAP Contract Requirements**

- A. Contract Information [*PBV Quick Reference Guide 10/14*; Notice PIH 2019-23]
  1. The RAD PBV program uses the PBV HAP contract for new construction or rehabilitated housing (Form HUD-52530A), as modified by the RAD rider (Form HUD-52621). For closings on or after January 1, 2018, HUD incorporated the RAD rider directly into the standard PBV HAP contract. For closing that occurred prior to January 1, 2018, the RAD rider must be attached to the PBV HAP contract.
  2. The distinction between “existing housing” and “rehabilitated and newly constructed housing” is overridden by RAD requirements. The project must also have an initial RAD use agreement. All public housing RAD conversion properties financed with LIHTC are also required to include an LIHTC rider.
- B. Execution and Effective date of the HAP Contract [*RADblast! 7/11/16*]
  1. RAD PBV projects do not employ an Agreement to Enter into a Housing Assistance Payments (AHAP) contract like in the standard PBV program. Rather, when the conditions of the CHAP and the RCC are met and the conversion has closed, PHCD executes the HAP contract. Project owners may select the effective date of the HAP contract as the first day of either of the two months following the completed closing.
- C. Term of HAP Contract [Notice PIH 2019-23]
  1. The initial term of the HAP contract may not be for less than 15 years and may be for a term of up to 20 years upon request of the owner and with approval of the administering voucher agency. Upon expiration of the initial term of the contract, and upon each renewal term of the contract, the owner must accept each offer to renew the contract, for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to PHCD and HUD approval, at another site through a future transfer of assistance. Contracts are subject to the terms and conditions applicable at the time of each offer and further subject to the availability of appropriations for each year of each such renewal. To implement this provision, HUD is waiving section 8(o)(13)(F) of The United States Housing Act of 1937, which permits a minimum term of one year, as well as 24 CFR § 983.205(a), which governs the contract term.

D. Agreement to Enter into a HAP (AHAP) Contract [Notice PIH 2019-23]

1. For public housing conversions to PBV, there will be no agreement to enter into a Housing Assistance Payments (AHAP) contract. Therefore, all regulatory references to the Agreement (AHAP), including regulations under 24 CFR part 983 subpart D, are waived. The definitions for proposal selection date, new construction, rehabilitation, and existing housing are not applicable.

E. Mandatory Contract Renewal [Notice PIH 2019-23]

1. By statute, upon contract expiration, the agency administering the vouchers will offer, and PHCD will accept, renewal of the contract for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to PHCD and HUD approval, at another site through a future transfer of assistance. The contract is subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal. Consequently 24 CFR § 983.205(b), governing PHCD's discretion to renew the contract, will not apply.
2. In the event that the HAP contract is removed due to breach, non-compliance or insufficiency of appropriations, for all units previously covered under the HAP contract, new tenants must have incomes at or below 80 percent of the area median income at the time of admission and rents may not exceed 30 percent of 80 percent of median income for an appropriate size unit for the remainder of the term of the RAD use agreement.

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

1. PHCD may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If PHCD determines that a contract unit does not comply with HQS, PHCD may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.
2. PHCD will abate and terminate PBV HAP contracts for noncompliance with HQS in accordance with the policies used in the tenant-based voucher program.

**32.4.C. Amendments to the HAP Contract**

A. Floating Units [Notice PIH 2019-23]

1. Upon request of the owner to the voucher agency that will administer the project, HUD will permit assistance to float among units within the project that are the same bedroom size. The unit to which assistance is floated must be comparable to the unit being replaced in quality and amenities.
2. If PHCD chooses to float units, units are not specifically identified on the HAP contract, rather the HAP contract must specify the number and type of units in the property that are RAD PBV units. The property must maintain the same number and type of RAD units from the time of the initial HAP contract execution forward.
3. PHCD may float assistance among unoccupied units within the project. Tracking of the number and type of units at the property, as well as identification of comparable units when assistance is floated, will be maintained by each property.

B. Reduction in HAP Contract Units [Notice PIH 2019-23]

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

2. PHCD may not reduce the number of assisted units without written HUD approval. Any HUD approval of PHCD's request to reduce the number of assisted units under contract is subject to conditions that HUD may impose.
3. If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, PHCD must reinstate the unit after the family has vacated the property. If the project is partially assisted, PHCD may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR § 983.207, or where the development has "floating" units.

**32.4.D. HAP Contract Year and Anniversary Dates [24 CFR § 983.302(e)]**

- A. The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.
- B. The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year. There is a single annual anniversary date for all units under a particular HAP contract.

**32.4.E. Owner Responsibilities under the HAP Contract [24 CFR § 983.210]**

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

**32.4.F. Vacancy Payments [24 CFR § 983.352(b)]**

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

payment received by the owner, including amounts available from the tenant's security deposit.

### **32.5 Selection of PBV Program Participants**

#### **32.5.A. Overview**

A. Many of the provisions of the tenant-based voucher regulations [24 CFR part 982] also apply to the PBV program (please see chapter 2). This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

#### **32.5.B. Prohibited Rescreening of Existing Tenants upon Conversion [Notice PIH 2019-23]**

- A. Current households cannot be excluded from occupancy at the covered project based on any rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. Post-conversion, the tenure of all residents of the covered project is protected pursuant to PBV requirements regarding continued occupancy unless explicitly modified by Notice PIH 2019-23 (e.g., rent phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR § 982.201, concerning eligibility and targeting, will not apply for current households. Once that remaining household moves out, the unit must be leased to an eligible family. Existing residents at the time of conversion may not be rescreened for citizenship status or have their social security numbers reverified.
- B. Further, so as to facilitate the right to return to the assisted property, this provision must apply to current public housing residents of the converting project that will reside in non-RAD PBV units placed in a project that contain RAD PBV units. Such families and such contract units will otherwise be subject to all requirements of the applicable program, specifically 24 CFR § 983 for non-RAD PBV. Any non-RAD PBV units located in the same project are also subject to the right to return.
- C. For the RAD PBV program, *in-place family* means a family who lived in a pre-conversion property at the time assistance was converted from public housing to PBV under RAD.

#### **32.5.C. Eligibility for PBV assistance [24 CFR § 983.251(a) and (b)]**

- A. Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and PHCD, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR § 982.201(a) and 24 CFR § 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR §§ 5.216 and 5.218] and consent to PHCD's collection and use of family information regarding income, expenses, and family composition [24 CFR § 5.230]. PHCD may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.
- B. PHCD will determine an applicant family's eligibility for the RAD PBV program in accordance with the policies in Chapter 2 of this administrative plan.

**32.5.D. Organization of the Waiting List [24 CFR § 983.251(c); Notice PIH 2019-23]**

- A. The standard PBV regulations at 24 CFR § 983.251 set out program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents will be admitted. These provisions will apply unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies. Any non-RAD PBV units located in the same project are also subject to these requirements.
  - a) PHCD may establish and manage separate site-based waiting lists for individual projects or buildings that are receiving RAD PBV assistance, in accordance with 24 CFR § 983.251(c).
  - b) For any applicants on the public housing waiting list that are likely to be ineligible for admission to a covered project converting to PBV because the household's TTP is likely to exceed the RAD gross rent, PHCD will consider transferring such household, consistent with program requirements for administration of waiting lists, to PHCD's remaining public housing waiting lists or to another voucher waiting list, in addition to transferring such household to the waiting list for the covered project.
  - c) PHCD will give priority to participants moving under a VAWA emergency transfer from one PBV development to another in accordance with Section 18-VI.E.

**32.5.E. Selection from the Waiting List [24 CFR § 983.251(c)]**

- A. After conversion to RAD PBV, applicants who will occupy units with RAD PBV assistance must be selected from PHCD's designated waiting list. PHCD may establish selection criteria or preferences for occupancy of particular PBV units and may place families referred by the PBV owner on its designated site-based waiting lists.

**32.5.F. Income Targeting [24 CFR § 983.251(c)(6); Notice PIH 2019-23]**

- A. At least 75 percent of the families admitted to PHCD's tenant-based and project-based voucher programs during PHCD fiscal year from the waiting list must be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs.
- B. Families in place (i.e., public housing residents) at the time of the conversion are exempt from income targeting requirements. New admissions follow standard PBV requirements. Any non-RAD PBV units located in the same project are also subject to these requirements.

**32.5.G. Units with Accessibility Features [24 CFR § 983.251(c)(7)]**

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

**32.5.H. Preferences [24 CFR § 983.251(d); FR Notice 11/24/08; Notice PIH 2019-23]**

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

**32.5.I. Offer of PBV Assistance**

- A. Refusal of Offer [24 CFR § 983.251(e)(3)]
  - 1. PHCD is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- a) Refusing to list the applicant on the waiting list for tenant-based voucher assistance
  - b) Denying any admission preference for which the applicant qualifies
  - c) Changing the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under PHCD's selection policy
  - d) Removing the applicant from the tenant-based voucher waiting list
- B. Disapproval by Landlord [24 CFR § 983.251(e)(2)]
1. If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.
- C. Acceptance of Offer [24 CFR § 983.252]
1. Family Briefing
    - a) When a family accepts an offer for PBV assistance, PHCD must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, PHCD must provide a briefing packet that explains how PHCD determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.
  2. Persons with Disabilities
    - a) If an applicant family's head or spouse is disabled, PHCD must assure effective communication, in accordance with 24 CFR § 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available. In addition, PHCD must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.
- D. Persons with Limited English Proficiency
1. PHCD should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

### **32.5.J. Owner Selection of Tenants**

- A. The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection.
- B. Leasing [24 CFR § 983.253(a)]
1. During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by PHCD from PHCD's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on PHCD's subsidy standards.
- C. Filling Vacancies [24 CFR § 983.254(a)]
1. The owner must promptly notify PHCD of any vacancy or expected vacancy in a contract unit. After receiving such notice, PHCD must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. PHCD and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

**PHCD Policy**

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

PHCD will make every reasonable effort to refer families, upon exhaustion of the site-based waiting list, to the owner within 30 business days of receiving such notice from the owner.

**32.5.K. Tenant Screening [24 CFR § 983.255]**

**A. PHCD Responsibility**

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

**PHCD Policy**

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

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

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

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

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

**32.6 Occupancy**

**32.6.A. Overview**

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

**32.6.B. Lease [24 CFR § 983.256]**

- A. The tenant must have legal capacity to enter into a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.
- B. The tenant and the owner must enter into a written lease agreement that is signed by both parties. The tenancy addendum must include, word-for-word, all provisions required by HUD.

1. Lease Requirements [24 CFR § 983.256(c); Notice PIH 2019-23]
  - a) The lease for a PBV unit must specify all of the following information:
    - (1) The names of the owner and the tenant;
    - (2) The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
    - (3) The term of the lease (initial term and any provision for renewal);
    - (4) The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
    - (5) A specification of the services, maintenance, equipment, and utilities that will be provided by the owner; and
    - (6) The amount of any charges for food, furniture, or supportive services.
    - (7) PHCD must include resident procedural rights for termination notification and grievance procedures in the owner's lease. These requirements are not part of the regular PBV program but are required under RAD.

C. Tenancy Addendum [24 CFR § 983.256(d)]

1. The tenancy addendum in the lease must state:
  - a) The program tenancy requirements
  - b) The composition of the household as approved by PHCD (the names of family members and any PHCD-approved live-in aide)
  - c) All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.
2. Initial Term and Lease Renewal [24 CFR § 983.256(f); *PBV Quick Reference Guide* 10/14]
  - a) Leases for residents who will remain in place (i.e., who will not be relocated solely as a result of conversion) must have an effective date that coincides with—and must be signed on or before—the effective date of the RAD PBV HAP contract.
  - b) The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g., month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:
    - (1) The owner terminates the lease for good cause
    - (2) The tenant terminates the lease
    - (3) The owner and tenant agree to terminate the lease
    - (4) PHCD terminates the HAP contract
    - (5) PHCD terminates assistance for the family
3. Changes in the Lease [24 CFR § 983.256(e)]
  - a) If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give PHCD a copy of all changes.
  - b) The owner must notify PHCD in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by PHCD and in accordance with the terms of the lease relating to its amendment. PHCD must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

4. Owner Termination of Tenancy [24 CFR § 983.257; Notice PIH 2019-23]
  - a) With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see 24 CFR § 982.310). In the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.
  - b) Projects converting from public housing to PBV under RAD have additional procedural rights that do not apply to the standard PBV program. These procedural rights must be included in the owner’s lease. In addition to the regulations at 24 CFR § 983.257 related to project owner termination of tenancy and eviction, the termination procedure for RAD conversions to PBV will require that PHCDs provide adequate written notice of termination of the lease, which may not be less than:
    - (1) A reasonable period of time, but not to exceed 30 days:
      - (a) If the health or safety of other tenants, PHCD employees, or persons residing in the immediate vicinity of the premises is threatened; or
      - (b) In the event of any drug-related or violent criminal activity or any felony conviction
    - (2) Not less than 14 days in the case of nonpayment of rent
    - (3) Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply
    - (4) These provisions apply to non-RAD PBV units located in the project as well.
5. Tenant Absence from the Unit [24 CFR §§ 983.256(g) and 982.312(a)]
  - a) The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHCD policy. According to program requirements, the family’s assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHCD termination of assistance actions due to family absence from the unit are subject to 24 CFR § 982.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.
6. Continuation of Housing Assistance Payments [24 CFR § 983.258; Notice PIH 2019-23]
  - a) Current residents living in the property prior to conversion are placed on and remain under the HAP contract when TTP equals or exceeds gross rent. In this case, until such time as the family’s TTP falls below the gross rent, the family will pay the owner the lesser of their TTP minus the utility allowance or any applicable maximum rent under the LIHTC program. The family will continue to pay this amount until/if circumstances change and HAP is paid on their behalf. In other words, assistance may subsequently be reinstated if the tenant becomes eligible for assistance. In such cases, the resident is still considered a program participant. All of the family obligations and protections under RAD and standard PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP contract. Any non-RAD PBV units located in the same project are also subject to these requirements.
  - b) Unless a waiver is requested and approved, following conversion, 24 CFR § 983.53(d) applies, and any new admission referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program. PHCD may request a waiver from HUD in order to admit otherwise eligible families whose TTP exceeds gross rent and to allow the units those families occupy to

- remain under the HAP contract even if PHCD has not paid HAP for the family in 180 days.
- c) Further, for any new families admitted after the conversion, assistance will be terminated 180 days after the last housing assistance payment on their behalf. The cessation of housing assistance payments does not affect the family's other rights under its lease, nor does it preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within the 180-day window. If a family's assistance is terminated as a result of their zero HAP status, PHCD must remove the unit from the HAP contract. If the project is fully assisted, PHCD must reinstate the unit after the family has vacated the property. If the project is partially assisted, PHCD may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR § 983.207.
  - d) PHCD will not request a waiver from HUD to allow families whose TTP initially exceeds gross rent to occupy units.
  - e) If a participating family who was admitted after the RAD conversion receive zero assistance and subsequently experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify PHCD of the change and request an interim reexamination before the expiration of the 180-day period.
7. Security Deposits [24 CFR § 983.259; *PBV Quick Reference Guide* 10/14]
- a) Owners are permitted to recognize security deposit amounts that have been previously provided by tenants who are in-place at the time of the RAD conversion. Otherwise the security deposit requirements for standard PBV apply.
  - b) The owner may collect a security deposit from the tenant. PHCD may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.
  - c) PHCD will allow the owner to collect a security deposit amount the owner determines is appropriate.
  - d) When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.
  - e) The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.
  - f) If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. PHCD has no liability or responsibility for payment of any amount owed by the family to the owner.

### **32.6.C. Public Housing FSS and ROSS Participants [Notice PIH 2019-23**

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

- B. Residents who were converted from the PH FSS program to the HCV FSS program through RAD may not be terminated from the HCV FSS program or have HCV assistance withheld due to the participant's failure to comply with the contract of participation. Consequently, 24 CFR § 984.303(b)(5)(iii) does not apply to FSS participants in converted properties.
- C. At the completion of the FSS grant, PHCDs should follow the normal closeout procedures outlined in the grant agreement. If PHCD continues to run an FSS program that serves PH and/or HCV participants, PHCD will continue to be eligible (subject to NOFA requirements) to apply for FSS funding.
- D. Current Resident Opportunities and Self-Sufficiency–Service Coordinators (ROSS–SC) program grantees will be able to finish out their current ROSS–SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future public housing ROSS–SC grants.
  - 1. At the completion of the ROSS-SC grant, PHCD should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be a nonprofit or local resident association and this consequence of a RAD conversion may impact those entities.
  - 2. Any non-RAD PBV units located in the same project are also subject to these requirements.

#### **32.6.D. Resident Participation and Funding [Notice PIH 2019-23]**

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

#### **32.6.E. Moves**

- A. Overcrowded, Under-Occupied, and Accessible Units [24 CFR § 983.260; Notice PIH 2019-23]
  - 1. All in-place tenants at the time of conversion are eligible to remain in the project. Over-housed families should be moved into appropriately sized units if such units are available in the new or rehabbed project. If appropriately sized units are not available, the existing tenants may continue to be over-housed until an appropriately sized unit becomes available or until the tenant leaves the project. Once the unit turns over, it must be leased to an appropriately sized family. Any non-RAD PBV units located in the same project are also subject to these requirements.
  - 2. Following conversion, the standard PBV regulations apply. If PHCD determines that a family is occupying a wrong-size unit, based on PHCD's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, PHCD must promptly notify the family and the owner of this determination, and PHCD must offer the family the opportunity to receive continued housing assistance in another unit.
  - 3. PHCD will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit. PHCD may offer the family the following types of continued assistance in the following order, based on the availability of assistance:
    - a) PBV assistance in the same building or project
    - b) PBV assistance in another project
    - c) Tenant-based voucher assistance

4. If PHCD offers the family a tenant-based voucher, PHCD must terminate the housing assistance payments for a wrong-size or accessible unit at the earlier of the expiration of the term of the family's voucher, including any extension granted by PHCD, or the date upon which the family vacates the unit. If the family does not move out of the wrong-size unit or accessible unit by the expiration of the term of the family's voucher, PHCD must remove the unit from the HAP contract.
5. If PHCD offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by PHCD, or both, PHCD must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by PHCD and remove the unit from the HAP contract.
6. When PHCD offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, PHCD will terminate the housing assistance payments at the expiration of this 30-day period.
7. PHCD may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

B. Family Right to Move, Choice Mobility [24 CFR § 983.261]

1. The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to PHCD.
2. Prior to providing notice to the owner to terminate the lease, the family may submit a written request to PHCD for a choice mobility voucher at any time after completing the 12-month occupancy requirement.
3. If the family wishes to move with continued tenant-based assistance, the family must contact PHCD to request the rental assistance prior to providing notice to terminate the lease. If the family terminates the lease in accordance with lease requirements, PHCD is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance.
4. If a voucher or other comparable tenant-based assistance is not immediately available, PHCD must give the family priority to receive the next available opportunity for continued tenant-based assistance.
5. If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.
6. Choice mobility vouchers: Under the PBV program, a tenant may request Housing Choice Voucher after living in a RAD property for one year:
  - i. The family will remain eligible to request a choice mobility voucher as long as they continue living at the same covered project. If a family

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

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

#### C. Turnover Cap

1. If the total number of PBV units under HAP contract exceeds 20% of PHCD's total authorized vouchers, PHCD may limit the number of choice-mobility vouchers it issues to 75% of its annual turnover vouchers.
2. As a result of RAD, the total number of PBV units (including RAD PBV units) administered by PHCD may exceed 20 percent of PHCD's authorized units under its HCV ACC with HUD. Therefore, PHCD will establish a turnover cap. PHCD will not provide more than three-quarters of its turnover vouchers in a single year to residents of covered projects.
3. Families who requested a choice mobility voucher and are denied due to the cap may be given priority the following year when choice mobility vouchers are again issued since the choice mobility list will be organized by the date and time of the family's request.

#### D. Emergency Transfers under VAWA [Notice PIH 2017-08]

1. Except where special consideration is needed for the project-based voucher program, PHCD will follow VAWA policies as outlined in this administrative plan.
2. HUD requires that PHCD include policies that address when a victim has been living in a unit for less than a year or when a victim seeks to move sooner than a tenant-based voucher is available.
3. When the victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking has lived in the unit for less than one year, PHCD will provide several options for continued assistance.
4. PHCD will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where PHCD has PBV units. PHCD will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible. If assistance is transferred to another development, PHCD will give priority to the participant on the other development's waiting list. If no units are available for an internal transfer to a PBV development or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to either

tenant-based rental assistance (HCV) or assistance in PHCD's public housing program. Such a decision will be made by PHCD based on the availability of tenant-based vouchers and/or vacancies in public housing units. Such families must be selected from the waiting list for the applicable program. PHCD has adopted a waiting list preference for victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, and stalking in both its HCV and public housing programs in order to expedite this process.

5. If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are available, PHCD will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where PHCD has PBV units. PHCD will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.
6. If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to PHCD's public housing program. PHCD has adopted a waiting list preference for victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, and stalking as part of the public housing ACOP in order to expedite this process.

#### **32.6.F. Reexaminations [PBV Quick Reference Guide 10/14]**

- A. A family living in a unit converted from public housing to RAD PBV may retain its certification date. Unless a family's annual reexamination is due at the same time as the effective date of the RAD PBV HAP contract, PHCD does not need to recertify tenants at the point of conversion.

#### **32.6.G. Earned Income Disallowance**

**(This section 32.6.G shall be eliminated as of January 1, 2024, upon the implementation of HOTMA and applicable regulations and guidelines promulgated by HUD)**

- A. Effective January 1, 2024, HUD will be discontinuing the Earned Income Disallowance (EID). As a result, no new individuals may qualify for the EID after December 31, 2023. Any individual who has an EID as of December 31, 2023, may continue to receive the EID—as described in this section—until it expires.
- B. Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID until the maximum 2-year disallowance time frame expires. No new families may be added. Further, within two years from the effective date of the final rule implementation (January 1, 2026), no family will receive the EID benefit.
- C. Upon the expiration of the EID for such families, the rent adjustment will not be subject to rent phase-in; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time. Any non-RAD PBV units located in the same project are also subject to these requirements.
- D. Under the HCV program, the EID exclusion is limited to only persons with disabilities [24 CFR § 5.617(e)].

#### **32.6.H. Phase-In of Tenant Rent Increases [Notice PIH 2019-23]**

- A. Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID until the maximum 2-year disallowance time frame expires. No new families may be added. Further, within two years from the effective date of the final rule implementation (January 1, 2026), no family will receive the EID benefit.
- B. For in-place tenants, if the amount the tenant would pay for rent and utilities (TTP) would increase by more than the greater of 10 percent or \$25 purely as a result of conversion, the rent increase will be phased in over three years. To implement this provision, HUD is waiving section 3(a)(1) of the 1937 Act, as well as 24 CFR § 983.3 (definition of *total tenant payment (TTP)*) only to the extent necessary to allow for phase-in of tenant rent increases. For families who were on EID at the time of conversion to RAD PBV, upon the expiration of the EID, the rent adjustment is not subject to rent phase-in.
- C. PHCD must communicate this policy in writing to affected residents.
- D. PHCD will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate the family's tenant rent in PBV. PHCD will implement a three-year phase-in for in-place families whose TTP increases by more than the greater of 10 percent or \$25 purely as a result of the conversion as follows:
  - 1. Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion: 33 percent of the difference between the most recently paid TTP and the calculated PBV TTP. (If the family was paying flat rent immediately prior to conversion, PHCD will use the flat rent amount to calculate phase-in for Year 1.)
  - 2. Year 2: Year 2 annual recertification (AR) and any interim recertification (IR): 50 percent of the difference between the most recently paid TTP and the calculated PBV TTP
  - 3. Year 3: Year 3 AR and all subsequent recertifications: Full calculated TTP
- E. Once the standard TTP is equal to or less than the previous TTP, Phase-in ends and tenants will pay full TTP from that point forward.
- F. PHCD will communicate PHCD's phase-in policy in writing to the family at the time PHCD first determines that the family qualifies for a rent phase-in. Any non-RAD PBV units located in the same project are also subject to rent phase-in requirements.
- G. Upon implementation of HOTMA and HUD's applicable regulations and guideline, effective January 1, 2024, only families currently participating in EID may continue to receive benefits up to 2 years from this date.

### **32.6 .I. Residents' Procedural Rights [Notice PIH 2019-23]**

- A. HUD is incorporating additional termination notification requirements for public housing projects that convert assistance under RAD to PBV and to non-RAD PBV units located in the same project beyond those for the standard PBV program. In addition to the regulations at 24 CFR § 983.257 related to owner termination of tenancy and eviction (which MTW agencies may not alter), the termination procedure for RAD conversions to PBV requires that PHCD provide adequate written notice of termination of the lease, which is:
  - 1. If the health or safety of other tenants, project owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
  - 2. In the event of any drug-related or violent criminal activity or any felony conviction.
  - 3. Not less than 14 days in the case of nonpayment of rent
- B. A reasonable period of time, but not to exceed 30 days:
  - 1. If the health or safety of other tenants, project owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
  - 2. In the event of any drug-related or violent criminal activity or any felony conviction.
  - 3. Not less than 14 days in the case of nonpayment of rent

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

### **32.6.J. Informal Hearings and Grievance Procedures [Notice PIH 2019-23]**

#### **A. Overview of RAD PBV Grievance Procedures**

1. For the termination of assistance and several other PHCD determinations, the RAD PBV program rules require Miami-Dade County through its housing department, Public Housing and Community Development or its designee (collective "PHCD") to provide an opportunity for an informal hearing in accordance with 24 CFR § 982.555. The RAD PBV grievances procedures apply solely to PHCD's RAD PBV program.
2. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(v), an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a Project Owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the tenant's rights, obligations, welfare, or status.
3. For any hearing required under 24 CFR § 982.555(a)(1)(i)-(v), PHCD, as the contract administrator, will perform the hearing, as is the current standard in the program for:
  - a) A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment.
  - b) A determination of the appropriate utility allowance (if any) for tenant-paid utilities from PHCD utility allowance schedule.
  - c) A determination of the family unit size under PHCD subsidy standards.
  - d) A determination to terminate assistance for a participant family because of the family's action or failure to act (see 24 CFR § 982.552).
  - e) A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under PHCD policy and HUD rules.
4. For any additional hearings required under RAD, the Project Owner will perform the hearing unless PHCD determines it shall perform a PHCD-led informal hearing in accordance with parts 32.6.I (B)-(C) of this section. The Project Owner must give residents notice of their ability to request an informal hearing as outlined in 24 CFR § 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR § 982.555(a)(1)(i)-(v). The project owner may appoint any person as the hearing officer other than a person who made or approved the decision under review or a subordinate of that person.
5. There is no right to an informal hearing for class grievances or to disputes between residents not involving the Project Owner or Contract Administrator. In accordance with applicable regulations, PHCD is not required to provide a participant family an opportunity for an informal hearing for any of the following:
  - a) Discretionary administrative determinations by PHCD.
  - b) General policy issues or class grievances.
  - c) Establishment of PHCD's schedule of utility allowances for families in the program.
  - d) A PHCD determination not to approve an extension of the voucher term.

- e) A PHCD determination not to approve a unit or tenancy.
  - f) A PHCD determination that an assisted unit is not in compliance with HQS. (However, PHCD must provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family as described in 24 CFR § 982.551(c).)
  - g) A PHCD determination that the unit is not in accordance with HQS because of the family size.
  - h) A determination by PHCD to exercise or not to exercise any right or remedy against the owner under a HAP contract.
6. If HUD has issued a due process determination and PHCD is terminating the lease through judicial eviction procedures, PHCD is not required to provide the opportunity for a hearing under PHCD's grievance procedure. Additionally, if HUD has issued a due process determination, PHCD may exclude the following three types of terminations or evictions from its grievance procedure:
- a) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of PHCD;
  - b) Any violent or drug-related criminal activity on or off such premises; and
  - c) Any criminal activity that resulted in felony conviction of a household member.

**B. PHCD Grievance Coordinator Review Process**

1. The Project Owner must provide all final decisions of Project Owner-led hearings to PHCD Grievance Coordinator within 5 business days of the Project Owner's decision, and before any actions regarding residents' status can be taken.
2. The final decision must be mailed to:  
**ATTN: PHCD RAD Program - Grievance Coordinator**  
701 NW 1 Court, 16th Floor  
Miami, Florida 33136
3. PHCD Grievance Coordinator will conduct a review of the Project Owner's decision within 5 business days after receipt of the Project Owner's final decision, or within 5 business days of receiving the review request directly from the RAD PBV tenant.
4. PHCD Grievance Coordinator may extend the review period to an additional 5 business days, if needed.
5. During the review process, PHCD Grievance Coordinator may reverse the Project Owner's decision and initiate a PHCD-led informal hearing, if PHCD Grievance Coordinator determines one of the following:
  - a) PHCD is required to perform the hearing pursuant to 24 CFR § 982.555(a)(1)(i)-(v)
  - b) The Project Owner's hearing decision may not be in conformity with County, State or federal law and/or HUD guidelines for the administration of the RAD Program
  - c) PHCD may perform an informal hearing because the Project Owner's hearing decision may lead to an eviction that may affect the safety and wellbeing of the family

6. If PHCD Grievance Coordinator deems it necessary to initiate a PHCD-led informal hearing, PHCD must perform an informal hearing that follows the procedures described under Subsection C of this chapter (see 32.6.1.(C)).

C. PHCD Informal Hearing Procedures for the RAD PBV Program

1. **Hearing Scheduling:** PHCD Grievance Coordinator will schedule an informal hearing in a reasonably expeditious manner:
  - a) **Grievances Arising out of PHCD Grievance Coordinator Review Process:** Upon determination that a PHCD Informal Hearing is necessary, PHCD Grievance Coordinator will, when feasible, the hearing within 30 calendar days of the Project Owner's decision.
    - (1) **Grievances Arising out of a Tenant's Request:** If a RAD PBV tenant requests a hearing that must be performed by PHCD, then PHCD must schedule the hearing within 15 calendar days of the hearing request. To present a grievance, an individual must be a PHCD RAD PBV tenant, defined as the adult person(s) (other than a live-in aide) who resides in the unit and executed the lease as the lessee or, where there is no such person, who resides in the unit or resides in the unit and is the remaining head of household.
2. **Hearing Re-scheduling:** If the complainant or PHCD fails to appear at the scheduled hearing, the hearing officer may decide to postpone the hearing in a reasonable time not to exceed 5 business days; or that the party has waived its right to a hearing. A hearing may be held in person or via telephone/video conferencing platforms at the discretion of the Hearing Officer.
3. **Hearing Officer Appointment and Authority:** The hearing may be conducted by any person or persons designated by PHCD, other than a person who made or approved the decision under review or a subordinate of this person.
  - a) The hearing will be conducted informally by the Hearing Officer. Oral or documentary evidence pertinent to the facts and issues raised by the complaint may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings.
  - b) The Hearing Officer will require PHCD, the complainant, counsel and other participants to conduct themselves in an orderly fashion. Failure to comply with the directions of the Hearing Officer to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate.
4. **Discovery and procedural rights:** The complainant will be afforded a fair hearing, which will include the opportunity to examine before the hearing any PHCD documents, including records and regulations, that are directly relevant to the hearing.
  - a) The complainant will have the right to:
    - (1) be represented by counsel or other person chosen as the Tenant's representative, and to have that person make statements on the Tenant's behalf;
    - (2) present evidence and arguments in support of the tenant's complaint;
    - (3) controvert evidence relied on by PHCD; and
    - (4) confront and cross examine all witnesses upon whose testimony or information PHCD relies.

- (5) If needed by the complainant to participate in the hearing, PHCD will provide a specific accommodation (such as a qualified sign language interpreter, reader, accessible location, or attendant) if the complainant is a person with disabilities; or an interpreter if the complainant has a limited ability to read, write, speak or understand English.
5. **Hearing Decision:** The Hearing Officer must issue a written decision, stating briefly the reasons for the decision within 10 business days after the hearing. A decision must be based solely and exclusively upon the facts presented at the hearing.
- a) The Hearing Officer will prepare a written decision, outlining the reasons for deciding the case, and send a copy of the decision to the Project Owner, the complainant and PHCD's Grievance Coordinator. The written decision should include:
- (1) The names of the complainant, hearing officer, other participants, including complainant's counsel or representative, and witnesses;
  - (2) The date, time and location of the hearing;
  - (3) A summary of the grievance;
  - (4) The date on which the informal settlement discussion was held, who was present, and a summary of the results of the informal discussion;
  - (5) A summary of the evidence, argument and testimony presented at the hearing; and
  - (6) The reason(s) for the hearing decision, citing the policy or regulation that supports the decision made.
- b) The decision of the Hearing Officer will be binding on PHCD and the Project Owner, which will take all actions, or refrain from any actions, necessary to carry out the decision unless the decision of the Hearing Officer is contrary to applicable Federal, State or local law, HUD regulations, or requirements of the annual contributions contract between HUD and PHCD.
6. **Continuing Rights and Appeal:** A decision by the Hearing Officer in favor of PHCD, or which denies the relief requested by the complainant in whole or in part, shall not constitute a waiver of, or affect in any manner whatever, their rights. Nor shall the decision affect in any manner any rights the complainant may have to a trial or other review in any judicial proceeding which may thereafter be brought in a matter. In extenuating circumstances, upon the complainant's written request for review, PHCD's Director or designee may review and modify the decision of an informal hearing. However, the decision shall not abridge any other rights the applicants have under law.

## **32.7 Determining Contract Rent**

### **32.7.A. Initial Contract Rents [Notice PIH 2019-23]**

- A. RAD conversions are intended to be cost-neutral, and therefore, should not exceed current public housing funding as adjusted for unit size. Since public housing units do not currently have contract rents, HUD provides an estimate of current contract rents for each PHCD's public housing units based on current funding as adjusted by bedroom size. Current funding includes operating subsidy, tenant rents, capital funds, replacement housing factor funds (RHF), and demolition disposition transitional funding (DDTF). The funding may limit the

amount of initial rent for a property. A detailed explanation of the determination of current funding may be found in Attachment 1C of Notice PIH 2019-23. Once the current funding amount is calculated, the amount is adjusted by bedroom size to determine the current funding rent. HUD uses the same bedroom adjustment factors as in the metropolitan FMR schedules where the project is located.

- B. PHCDs may adjust subsidy (and contract rents) across multiple projects as long as PHCD does not exceed the aggregate subsidy for all of the projects PHCD has submitted for conversion under RAD.
- C. Notwithstanding HUD's calculation of the initial contract rent based on the project's subsidy under the public housing program and any modifications made to the initial contract rent, the initial rents are set at the lower of:
  - 1. An amount determined by PHCD, not to exceed 110 percent of the fair market rent (FMR) or PHCD's exception payment standard approved by HUD, or the alternate rent cap in a PHCD's MTW agreement minus any utility allowance
  - 2. The reasonable rent
  - 3. The rent requested by the owner

**32.7.B. Adjusting Contract Rents [Notice PIH 2019-23; PBV Quick Reference Guide 10/14]**

- A. Contract rents will be adjusted annually only by HUD's operating cost adjustment factor (OCAF) at each anniversary of the HAP contract, subject to the availability of appropriations for each year of the contract term. As such, section 8(o)(13)(l) of the 1937 Act, and 24 CFR §§ 983.301 and 983.302, concerning rent determinations, do not apply when adjusting rents. The rent to owner may at no time exceed the reasonable rent charged for comparable unassisted units in the private market, as determined by the contract administrator in accordance with 24 CFR § 983.303.
- B. Contract rents may not exceed the reasonable rent, with the exception that the contract rent for each unit may not be reduced below the initial contract rent under the initial HAP contract.
  - 1. However, the rent to owner may fall below the initial contract rent in the following situations:
    - a) To correct errors in calculations in accordance with HUD requirements
    - b) If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 24 CFR § 983.55 (prohibition of excess public assistance)
    - c) If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant
  - 2. The contract rent adjustment will be the lesser of:
    - a) The current contract rent increased by the operating cost adjustment factor (OCAF), which is published annually in the *Federal Register*; or
    - b) The reasonable rent
  - 3. The administering PHCD (or independent entity, if the project is PHCD-owned) is responsible for processing rent adjustments, at each contract anniversary date, in accordance with the prevailing OCAF.

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

C. Rent Decrease

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

**32.7.C. Utility Allowances [Notice PIH 2019-23; PBV Quick Reference Guide 10/14]**

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

**32.7.D. Reasonable Rent [24 CFR § 983.303]**

- A. At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by PHCD, except rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.
  1. How to Determine Reasonable Rent
    - a) The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, PHCD must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.
  2. Comparability Analysis
    - a) For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by PHCD. The comparability analysis may be performed by PHCD staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.
  3. PHCD-Owned Units
    - a) For PHCD-owned units, the amount of the reasonable rent must be determined by an independent entity approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for PHCD-owned units to PHCD and to the HUD field office where the project is located.

### **32.8 Payments to Owner**

#### **32.8.A. Housing Assistance Payments**

- A. During the term of the HAP contract, PHCD must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and PHCD agree on a later date.
- B. Except for discretionary vacancy payments, PHCD may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).
- C. The amount of the housing assistance payment by PHCD is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).
- D. In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

#### **32.8.B. Vacancy Payments [24 CFR § 983.352]**

- A. If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if PHCD determines that the vacancy is the owner's fault.
- B. If PHCD determines that the owner is responsible for a vacancy and as a result is not entitled to the keep the housing assistance payment, PHCD will notify the landlord of the amount of housing assistance payment that the owner must repay. PHCD will require the owner to repay the amount owed.
- C. At the discretion of PHCD, the HAP contract may provide for vacancy payments to the owner. PHCD may only make vacancy payments if:
  - 1. The owner gives PHCD prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
  - 2. The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
  - 3. The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
  - 4. The owner provides any additional information required and requested by PHCD to verify that the owner is entitled to the vacancy payment.
- D. The owner must submit a request for vacancy payments in the form and manner required by PHCD and must provide any information or evidentiary support required by PHCD to determine the amount of any vacancy payment.
- E. If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified PHCD of the vacancy in accordance with the policy in Section 18-V.G. regarding filling vacancies.

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

**32.8.C. Tenant Rent To Owner [24 CFR § 983.353; Notice PIH 2019-23]**

- A. The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by PHCD in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in PHCD notice to the family and owner.
- B. The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by PHCD is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by PHCD. The owner must immediately return any excess payment to the tenant.
- C. Initial Certifications [Notice PIH 2019-23]
  - 1. For the initial certification, PHCD will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate HAP and tenant rent for the PBV program. PHCD will use this amount until the effective date of the earlier of the family's first regular or interim recertification following the conversion. At that point, PHCD will use the family's TTP based on the recertification and the applicable utility allowance (HCV or RAD PBV site-based, as applicable) to determine PBV HAP and tenant rent. Any non-RAD PBV units located in the same project are subject to the same requirements.
- D. Tenant and PHCD Responsibilities
  - 1. The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by PHCD.
  - 2. Likewise, PHCD is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. PHCD is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. PHCD may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.
- E. Utility Reimbursements
  - 1. If the amount of the utility allowance exceeds the total tenant payment, PHCD must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.
  - 2. PHCD may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If PHCD chooses to pay the utility supplier directly, PHCD must notify the family of the amount paid to the utility supplier.

**32.8.D. Phase-In of Tenant Rent Increases [Notice PIH 2019-23]**

1. For in-place tenants, if the amount the tenant would pay for rent and utilities (TTP) would increase by more than the greater of 10 percent or \$25 purely as a result of conversion, the rent increase will be phased in over three years. To implement this provision, HUD is waiving section 3(a)(1) of the 1937 Act, as well as 24 CFR § 983.3 (definition of *total tenant payment (TTP)*) only to the extent necessary to allow for phase-in of tenant rent increases. For families who were on EID at the time of conversion to RAD PBV, upon the expiration of the EID, the rent adjustment is not subject to rent phase-in.
2. PHCD must communicate this policy in writing to affected residents.
3. PHCD will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate the family's tenant rent in PBV. PHCD will implement a three-year phase-in for in-place families whose TTP increases by more than the greater of 10 percent or \$25 purely as a result of the conversion as follows:
  - Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion: 33 percent of the difference between the most recently paid TTP and the calculated PBV TTP. (If the family was paying flat rent immediately prior to conversion, PHCD will use the flat rent amount to calculate phase-in for Year 1.)
  - Year 2: Year 2 annual recertification (AR) and any interim recertification (IR): 50 percent of the difference between the most recently paid TTP and the calculated PBV TTP
  - Year 3: Year 3 AR and all subsequent recertifications: Full calculated TTP
4. Once the standard TTP is equal to or less than the previous TTP, Phase-in ends and tenants will pay full TTP from that point forward.
5. PHCD will communicate PHCD's phase-in policy in writing to the family at the time PHCD first determines that the family qualifies for a rent phase-in. Any non-RAD PBV units located in the same project are also subject to rent phase-in requirements.
6. Upon implementation of HOTMA and HUD's applicable regulations and guideline, effective January 1, 2024, only families currently participating in EID may continue to receive benefits up to 2 years from this date.

**32.8.E. Other Fees and Charges [24 CFR § 983.354]**

A. Meals and Supportive Services

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

B. Other Charges by Owner

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

## Chapter 33. Emergency Housing Vouchers

### 33. Introduction

On March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (ARP) (P.L. 117-2). Section 3202 of the ARP appropriated \$5 billion for the creation, administration, and renewal of new incremental emergency housing vouchers (EHVs) and other eligible expenses related to COVID-19.

On May 5, 2021, HUD issued Notice PIH 2021-15, which described HUD's process for allocating approximately 70,000 EHVs to eligible PHAs and set forth the operating requirements for PHAs who administer them. Based on criteria outlined in the notice, HUD notified eligible PHAs of the number of EHVs allocated to their agency, and PHAs were able to accept or decline the invitation to participate in the program.

PHAs may not project-base EHVs; EHVs are exclusively tenant-based assistance.

All applicable nondiscrimination and equal opportunity requirements apply to the EHV program, including requirements that the PHA grant reasonable accommodations to persons with disabilities, effectively communicate with persons with disabilities, and ensure meaningful access for persons with limited English proficiency (LEP).

This chapter describes HUD regulations and PHA policies for administering EHVs. The policies outlined in this chapter are organized into seven sections, as follows:

Part I: Funding

Part II: Partnering Agencies

Part III: Waiting List Management

Part IV: Family Eligibility

Part V: Housing Search and Leasing

Part VI: Use of Funds, Reporting, and Financial Records

Except as addressed by this chapter and as required under federal statute and HUD requirements, the general requirements of the HCV program apply to EHVs.

## **Part I: Funding**

### **33.1 TPS-I.A. Funding Overview**

The American Rescue Plan Act of 2021 (ARP) provides administrative fees and funding for the costs of administering emergency housing vouchers (EHVs) and other eligible expenses defined in Notice PIH 2021-15. These fees may only be used for EHV administration and other eligible expenses and must not be used for or applied to other PHA programs or vouchers. The PHA must maintain separate financial records from its regular HCV funding for all EHV funding.

#### **33.1. A Housing Assistance Payments (HAP) Funding**

ARP funding obligated to the PHA as housing assistance payments (HAP) funding may only be used for eligible EHV HAP expenses (i.e., rental assistance payments). EHV HAP funding may not be used for EHV administrative expenses or for the eligible uses under the EHV services fee.

The initial funding term will expire December 31, 2022. HUD will provide renewal funding to the PHA for the EHVs on a calendar year (CY) basis commencing with CY 2023. The renewal funding allocation will be based on the PHA's actual EHV HAP costs in leasing, similar to the renewal process for the regular HCV program. EHV renewal funding is not part of the annual HCV renewal funding formula; EHVs are renewed separately from the regular HCV program. All renewal funding for the duration of the EHV program has been appropriated as part of the ARP funding.

#### **33.1 B Administrative Fee and Funding**

The following four types of fees and funding are allocated as part of the EHV program:

- **Preliminary fees** support immediate start-up costs that the PHA will incur in implementing alternative requirements under EHV, such as outreach and coordination with partnering agencies:
  - \$400 per EHV allocated to the PHA, once the consolidated annual contributions contract (CACC) is amended.
  - This fee may be used for any eligible administrative expenses related to EHVs.
  - The fee may also be used to pay for any eligible activities under EHV service fees (TPS-I.B).

- **Placement fees/expedited issuance reporting fees** will support initial lease-up costs and the added cost and effort required to expedite leasing of EHV's:
  - \$100 for each EHV initially leased, if the PHA reports the voucher issuance date in Public Housing Information Center–Next Generation (PIC–NG) system within 14 days of voucher issuance or the date the system becomes available for reporting.
  - Placement fees:
    - \$500 for each EHV family placed under a HAP contract effective within four months of the effective date of the ACC funding increment; or
    - \$250 for each EHV family placed under a HAP contract effective after four months but less than six months after the effective date of the ACC funding increment.
    - HUD will determine placement fees in the event of multiple EHV allocations and funding increment effective dates.
  - Placement/expedited issuance fees only apply to the initial leasing of the voucher; they are not paid for family moves or to turnover vouchers.
- **Ongoing administrative fees**, which are calculated in the same way as the standard HCV program:
  - PHAs are allocated administrative fees using the full column A administrative fee amount for each EHV under contract as of the first day of each month.
  - Ongoing EHV administrative fees may be subject to proration in future years, based on available EHV funding.
- **Services fees**, which are a one-time fee to support PHAs' efforts to implement and operate an effective EHV services program in its jurisdiction (TPS-I.B):
  - The fee is allocated once the PHA's CACC is amended to reflect EHV funding.
  - The amount allocated is \$3,500 for each EHV allocated.

### 33.1 C TPS-I.B. Service Fees

Services fee funding must be initially used for defined eligible uses and not for other administrative expenses of operating the EHV program. Service fees fall into four categories:

- Housing search assistance
- Security deposit/utility deposit/rental application/holding fee uses
- Owner-related uses
- Other eligible uses such as moving expenses or tenant-readiness services

The PHA must establish the eligible uses and the parameters and requirements for service fees in the PHA's administrative plan.

#### PHCD Policy

PHCD eligible use of service fees will include:

**Housing search assistance**, which may include activities such as, but not limited to, helping a family identify and visit potentially available units during their housing search, helping to find a unit that meets the household's disability-related needs, providing transportation and directions, assisting with the completion of rental applications and PHA forms, and helping to expedite the EHV leasing process for the family.

**Application fees/non-refundable administrative or processing fees/refundable application deposit assistance.** The PHA may choose to assist the family with some or all these expenses.

**Holding fees** are fees an owner request that are rolled into the security deposit after an application is accepted but before a lease is signed. PHCD may cover part or all the holding fee for units where the fee is required by the owner after a tenant's application has been accepted but before the lease signing. The owner will be allowed to keep the holding fee whether the unit passes or does not pass inspection. In general, owners need to accept responsibility for making needed repairs to a unit required by the initial housing quality standards (HQS) inspections and can only keep the holding fee if the client is at fault for not entering into a lease.

**Security deposit assistance.** The amount of the security deposit assistance may not exceed the lesser of two months' rent to owner, the maximum-security deposit allowed under applicable state and/or local law, or the actual security deposit required by the owner. The PHCD will pay the security deposit directly to the owner. PHCD will pay up to two month's rent in security deposit, if applicable.

Verification:

- Once a signed lease and HAP is received, the PHCD will pay up to two month's rent in security deposit to the owner with the first HAP check pursuant to the amount listed in the lease and required by the owner.

**Utility deposit assistance/utility arrears.** The PHA may provide utility deposit assistance for some or all of the family's utility deposit expenses. Assistance can be provided for deposits (including connection fees) required for the utilities to be supplied by the tenant under the lease. The PHA may pay the utility deposit assistance directly to the utility company or may pay the assistance to the family. If paid to the family, the PHA will require documentation the family paid the utility deposit. The PHA will require the utility supplier or family to return the utility deposit assistance to the PHA at such time the deposit is returned by the utility supplier (less any amounts retained by the utility supplier). In addition, some families may have large balances with gas, electric, water, sewer, or trash companies that will make it difficult if not impossible to establish services for tenant-supplied utilities. The PHA may also provide the family with assistance to help address these utility arrears to facilitate leasing. Utility deposit assistance returned to the PHA will be used for either services fee eligible uses or other EHV administrative costs, as required by HUD.

**Owner recruitment and outreach for EHV's.** The PHA may use the service fee funding to conduct owner recruitment and outreach specifically for EHV's. In addition to traditional owner recruitment and outreach, activities may include conducting pre-inspections or otherwise expediting the inspection process, providing enhanced customer service, and offering owner incentive and/or retention payments.

**Owner incentive and/or retention payments.** The PHA may make incentive or retention payments to owners that agree to initially lease their unit to an EHV family and/or renew the lease of an EHV family.

Payments will be made as a single payment at the beginning of the assisted lease term (or lease renewal if a retention payment). Owner incentive and retentions payments are not housing assistance payments, are not part of the rent to owner, and are not taken into consideration when determining whether the rent for the unit is reasonable. PHCD will pay a one-time \$100 EHV signing bonus to owners who enter into a HAP contract with and EHV participant.

#### Verification

- Once a signed lease and HAP is received, the PHCD will pay a "\$100 EHV signing bonus" with the first HAP check.

**Moving expenses (including move-in fees and deposits).** The PHA may provide assistance for some or all of the family’s reasonable moving expenses when they initially lease a unit with the EHV. The PHA will not provide moving expenses assistance for subsequent moves unless the family is required to move for reasons other than something the family did or failed to do (e.g., the PHA is terminating the HAP contract because the owner did not fulfill the owner responsibilities under the HAP contract or the owner is refusing to offer the family the opportunity to enter a new lease after the initial lease term, as opposed to the family choosing to terminate the tenancy in order to move to another unit), or a family has to move due to domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking.

**Essential household items may be included in moving expenses paid.** The PHA may use services fee funding to assist the family with some or all of the costs of acquiring essential household items such as tableware, cooking equipment, beds or bedding, and essential sanitary products such as soap and toiletries.

The PHCD will use the following guidelines to reimburse the family for a fixed amount in moving expenses as follows:

| State   | Voucher Size and Payment |      |      |       |       |       |       |       |
|---------|--------------------------|------|------|-------|-------|-------|-------|-------|
|         | 0 BR                     | 1 BR | 2 BR | 3 BR  | 4 BR  | 5 BR  | 6 BR  | 7BR   |
| Florida | 750                      | 900  | 1075 | 1,250 | 1,400 | 1,550 | 1,600 | 1,850 |

Verification

- Certification from the CoC that moving expenses are needed

**Tenant-readiness services.** The PHA may use fees to help create a customized plan to address or mitigate barriers that individual families may face in renting a unit with an EHV, such as negative credit, lack of credit, negative rental or utility history, or to connect the family to other community resources (including COVID-related resources) that can assist with rental arrears.

**Renter’s insurance if required by the lease.** The PHA may choose to assist the family with some or all this cost.

The PHCD will pay a maximum of \$3,500 per EHV family in service fees. Any services fee assistance that is returned to the PHA after its initial or subsequent use may only be applied to the eligible services fee uses defined in Notice PIH 2021-15 (or subsequent notice) or other EHV administrative costs. Any amounts not expended for these eligible uses when the PHA’s EHV program ends must be remitted to HUD.

## **Part II: Partnering Agencies**

### **33.2 TPS-II.A. Continuum of Care (CoC)**

PHAs that accept an allocation of EHV are required to enter into a Memorandum of Understanding (MOU) with the Continuum of Care (CoC) to establish a partnership for the administration of EHV.

#### **PHCD Policy**

The PHA has entered into an MOU with *The Miami-Dade Homeless Trust (CoC)*. See Exhibit TPS-1 for a copy of the MOU.

### **33.2 A TPS-II.B. Other Partnering Organizations**

The PHA may, but is not required to, partner with other organizations trusted by persons experiencing homelessness, such as victim services providers (VSPs) and other community partners. If the PHA chooses to partner with such agencies, the PHA must either enter into an MOU with the partnering agency or the partnering agency may be added to the MOU between the PHA and CoC.

#### **PHCD Policy**

The PHCD has not added additional partners to the MOU.

### **33.2 B TPS-II.C. Referrals**

#### **CoC and Partnering Agency Referrals**

The primary responsibility of the CoC under the MOU with the PHA is to make direct referrals of qualifying individuals and families to the PHA. The PHA must generally refer a family that is seeking EHV assistance directly from the PHA to the CoC or other referring agency for initial intake, assessment, and possible referral for EHV assistance. Partner CoCs are responsible for determining whether the family qualifies under one of the four eligibility categories for EHV. The CoC or other direct referral partner must provide supporting documentation to the PHA of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance.

### **PHCD Policy**

The CoC or partnering agency must establish and implement a system to identify EHV-eligible individuals and families within the agency's caseload and make referrals to the PHA. The CoC or other partnering agency must certify that the EHV applicants they refer to the PHA meet at least one of the four EHV eligibility criteria. The PHA will maintain a copy of the referral or certification from the CoC or other partnering agency in the participant's file along with other eligibility paperwork. Homeless service providers may, but are not required to, use the certification form found in Exhibit TPS-2 of this chapter. Victim services providers may, but are not required to, use the certification form found in Exhibit TPS-3 of this chapter when identifying eligible families who qualify as victims of human trafficking.

As part of the MOU, the PHA and CoC or other partnering agency will identify staff positions to serve as lead EHV liaisons. These positions will be responsible for transmission and acceptance of referrals. The CoC or partnering agency must commit sufficient staff and resources to ensure eligible individuals and families are identified and determined eligible in a timely manner.

The PHA liaison responsible for acceptance of referrals will contact the CoC or partnering agency liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than five business days from the date the CoC or partnering agency receives this notification, the CoC or partnering agency liaison will provide the PHA with a list of eligible referrals including the name, address, and contact phone number for each adult individual who is being referred; a completed release form for each adult family member; and a written certification for each referral indicating they are EHV-eligible.

### **33.2 C Offers of Assistance with CoC Referral**

The PHA may make an EHV available without a referral from the CoC or other partnering organization in order to facilitate an emergency transfer under VAWA in accordance with the PHA's Emergency Transfer Plan (ETP).

The PHA must also take direct referrals from outside the CoC if:

- The CoC does not have a sufficient number of eligible families to refer to the PHA; or
- The CoC does not identify families that may be eligible for EHV assistance because they are fleeing, or attempting to flee, domestic violence, economic abuse, technological abuse, dating violence, sexual assault, stalking or human trafficking.

If at any time the PHA is not receiving enough referrals or is not receiving referrals in a timely manner from the CoC or other partner referral agencies (or the PHA and CoC cannot identify any such alternative referral partner agencies), HUD may permit the PHA on a temporary or permanent basis to take EHV applications directly from applicants and admit eligible families to the EHV program in lieu of or in addition to direct referrals in those circumstances.

### **Part III: Waiting List Management**

#### **33.3 TPS-III. A. HCV Waiting List**

The regulation that requires the PHA to admit applicants as waiting list admissions or special admissions in accordance with admission policies in Chapter 2 does not apply to PHAs operating the EHV program. Direct referrals are not added to the PHA's HCV waiting list.

The PHA must inform families on the HCV waiting list of the availability of EHV's by, at a minimum, either by posting the information to their website or providing public notice in their respective communities in accordance with the requirements listed in Notice PIH 2021-15.

##### **PHCD Policy**

The PHA will post information about the EHV program for families on the PHA's HCV waiting list on their website. The notice will:

- Describe the eligible populations to which EHV's are limited.
- Clearly state that the availability of these EHV's is managed through a direct referral process.
- Advise the family to contact the CoC if the family believes they may be eligible for EHV assistance .

The PHA will ensure effective communication with persons with disabilities, including those with vision, hearing, and other communication-related disabilities in accordance with Chapter 2. The PHA will also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP) in accordance with Chapter 2.

#### **33.3 A TPS-III.B. EHV Waiting List**

The HCV regulations requiring the PHA to operate a single waiting list for admission to the HCV program do not apply to PHAs operating the EHV program. Instead, when the number of applicants referred by the CoC or partnering agency exceeds the EHV's available, the PHA must maintain a separate waiting list for EHV referrals, both at initial leasing and for any turnover vouchers that may be issued prior to September 30, 2023.

Further, the EHV waiting list is not subject to PHA policies in Chapter 2 regarding opening and closing the HCV waiting list. The PHA will work directly with its CoC and other referral agency partners to manage the number of referrals and the size of the EHV waiting list.

### **33.3 B TPS-III.C. Preferences**

#### **HCV Waiting List Preferences**

If local preferences are established by the PHA for HCV, they do not apply to EHVs. However, if the PHA has a homeless preference or a VAWA preference for the HCV waiting list, the PHA must adopt additional policies related to EHVs in accordance with Notice PIH 2021-15.

#### **PHCD Policy**

PHCD maintains its HCV tenant-based admission preference to address the risk of homelessness. PHCD may collaborate with the Homeless Trust on referrals of persons transitioning out of a shelter, transitional housing program, rapid re-housing program or permanent supportive housing.

## **Part IV: Family Eligibility**

### **33.4 TPS-IV.A. Overview**

The CoC or referring agency determines whether the individual or family meets any one of the four eligibility criteria described in Notice PIH 2021-15 and then refers the family to the PHA. The PHA determines that the family meets other eligibility criteria for the HCV program, as modified for the EHV program and outlined below.

### **33.4. A TPS-IV.B. Referring Agency Determination of Eligibility**

In order to be eligible for an EHV, an individual or family must meet one of four eligibility criteria:

- Homeless as defined in 24 CFR 578.3;
- At risk of homelessness as defined in 24 CFR 578.3;
- Fleeing, or attempting to flee, domestic violence, economic abuse, technological abuse, dating violence, sexual assault, stalking (as defined in Notice PIH 2021-15), or human trafficking (as defined in the 22 U.S.C. Section 7102); or
- Recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability as determined by the CoC or its designee in accordance with the definition in Notice PIH 2021-15.

As applicable, the CoC or referring agency must provide documentation to the PHA of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance. The PHA must retain this documentation as part of the family's file.

### **TPS-IV.C. PHA Screening Overview**

HUD waived 24 CFR 982.552 and 982.553 in part for the EHV applicants and established alternative requirement for mandatory and permissive prohibitions of admissions. Except where applicable, PHA policies regarding denials in the HCV Administrative Plan of this policy do not apply to screening individuals and families for eligibility for an EHV. Instead, the EHV alternative requirement listed in this section will apply to all EHV applicants.

The mandatory and permissive prohibitions listed in Notice PIH 2021-15 and in this chapter, however, apply only when screening the individual or family for eligibility for an EHV. When adding a family member after the family has been placed under a HAP contract with EHV assistance, the regulations at 24 CFR 982.551(h)(2) apply. Other than the birth, adoption, or court-awarded custody of a child, the PHA must approve additional family members and may apply its regular HCV screening criteria in the HCV Administrative Plan in doing so.

### **Mandatory Denials**

Under alternative requirements for the EHV program, mandatory denials for EHV applicants include:

- 24 CFR 982.553(a)(1)(ii)(C), which prohibits admission if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
- 24 CFR 982.553(a)(2)(i), which prohibits admission to the program if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

The PHA must deny admission to the program if any member of the family fails to sign and submit consent forms for obtaining information as required by 24 CFR 982.552(b)(3) but should notify the family of the limited EHV grounds for denial of admission first.

Miami-Dade PHCD Policy

While the PHA will deny admission to the program if any adult member (or head of household or spouse, regardless of age) fails to sign and submit consent forms, the PHA will first notify the family of the limited EHV grounds for denial of admission as part of the notice of denial that will be mailed to the family.

**Permissive Denial**

Notice PIH 2021-15 lists permissive prohibitions for which the PHA may, but is not required to, deny admission to EHV families. The notice also lists prohibitions that, while allowable under the HCV program, may not be used to deny assistance for EHV families.

If the PHA intends to establish permissive prohibition policies for EHV applicants, the PHA must first consult with its CoC partner to understand the impact that the proposed prohibitions may have on referrals and must take the CoC's recommendations into consideration.

PHCD Policy

In consultation with the CoC, the PHA will apply permissive prohibition to the screening of EHV applicants. Determinations using permissive prohibitions will be made based on an individualized assessment of relevant mitigating information in accordance with policies in Section 3-III.E.

The PHA will establish the following permissive prohibitions:

If the PHA determines that any household member is currently engaged in, or has engaged in within the previous 12 months:

Violent criminal activity

Other criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity

If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program within the previous 12 months.

If the family engaged in or threatened abusive or violent behavior toward PHA personnel within the previous 12 months.

The PHA will also deny assistance to household members already receiving assistance from another program in accordance with Section 9.h. of Notice PIH 2021-15.

Prohibitions based on criminal activity for the eligible EHV populations regarding drug possession will be considered apart from criminal activity against persons (i.e., violent criminal activity).

In compliance with PIH 2021-15, the PHA **will not** deny an EHV applicant admission regardless of whether:

Any member of the family has been evicted from federally assisted housing in the last five years;

A PHA has ever terminated assistance under the program for any member of the family;

The family currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act;

The family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease;

The family breached an agreement with the PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA;

The family would otherwise be prohibited admission under alcohol abuse standards established by the PHA in accordance with 24 CFR 982.553(a)(3);

The PHA determines that any household member is currently engaged in or has engaged in during a reasonable time before the admission, drug-related criminal activity.

#### **TPS-IV.D. Income Verification at Admission**

##### **Self-Certification at Admission**

The requirement to obtain third-party verification of income in accordance with Notice PIH 2018-18 does not apply to the EHV program applicants at admission, and alternatively, PHAs may consider self-certification the highest form of income verification at admission. As such, PHA policies related to the verification of income in Section 7-I.B. do not apply to EHV families at admission. Instead, applicants must submit an affidavit attesting to their reported income, assets, expenses, and other factors that would affect an income eligibility determination.

Additionally, applicants may provide third-party documentation that represents the applicant's income within the 60-day period prior to admission or voucher issuance but is not dated within 60 days of the PHA's request.

##### **PHCD Policy**

Any documents used for verification must be the original (not photocopies) and dated within the 60-day period prior to admission. The documents must not be damaged, altered, or in any way illegible.

Printouts from webpages are considered original documents.

Any family self-certifications must be made in a format acceptable to PHCD and must be signed by the family member whose information or status is being verified.

PHCD will incorporate additional procedures to remind families of the obligation to provide true and complete information in accordance with this Administrative Plan. PHCD will address any material discrepancies (i.e., unreported income or a substantial difference in reported income) that may arise later. PHCD may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, PHCD will terminate the family's assistance in accordance with the policies in this Administrative Plan.

### **Recently Conducted Income Determinations**

PHCD may accept income calculations and verifications from third-party providers or from an examination that PHCD conducted on behalf of the family for another subsidized housing program in lieu of conducting an initial examination of income as long as:

- The income was calculated in accordance with rules outlined at 24 CFR Part 5 and within the last six months; and
- The family certifies there has been no change in income or family composition in the interim.

#### **PHCD Policy**

PHCD will accept income calculations and verifications from third-party providers provided they meet the criteria outlined above.

The family certification must be made in a format acceptable to PHCD and must be signed by all adult family members whose information or status is being verified.

At the time of the family's annual reexamination the PHCD must conduct the annual reexamination of income as outlined at 24 CFR 982.516 and PHCD policies in this Administrative Plan.

### **EIV Income Validation**

Once HUD makes the EIV data available to PHAs under this waiver and alternative requirement, PHCD must:

- Review the EIV Income and Income Validation Tool (IVT) reports to confirm and validate family-reported income within 90 days of the PIC submission date;
- Print and maintain copies of the EIV Income and IVT Reports in the tenant file; and
- Resolve any income discrepancy with the family within 60 days of the EIV Income or IVT Report dates.

Prior to admission, PHAs must continue to use HUD's EIV system to search for all household members using the Existing Tenant Search in accordance with PHA policies in the HCV Administrative Plan.

If PHCD later determines that an ineligible family received assistance, PHCD must take steps to terminate that family from the program in accordance with this Administrative Plan.

### **TPS-IV.E. Social Security Number and Citizenship Status Verification**

For the EHV program, the PHA is not required to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the EHV program. Instead, PHAs may adopt policies to admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. As an alternative requirement, such individuals must provide the required documentation within 180 days of admission to be eligible for continued assistance, pending verification, unless the PHA provides an extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

**PHCD Policy**

PHCD will admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. These individuals must provide the required documentation in accordance with policies in this Administrative Plan within 180 days of admission. The PHA may provide an additional 60-day extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If PHCD determines that an ineligible family received assistance, PHCD will take steps to terminate that family from the program in accordance with policies in this administrative plan.

**TPS-IV.F. Age and Disability Verification**

PHCD may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available. If self-certification is used, the PHA must obtain a higher level of verification within 90 days of admission or verify the information in EIV.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

**PHCD Policy**

PHCD will accept self-certification of date of birth and disability status if a higher form of verification is not immediately available. The certification must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified. If self-certification is accepted, within 90 days of admission, the PHA will verify the information in EIV or through other third-party verification if the information is not available in EIV. The PHA will note the family's file that self-certification was used as initial verification and include an EIV printout or other third-party verification confirming the applicant's date of birth and/or disability status.

If the PHA determines that an ineligible family received assistance, the PHA will take steps to terminate that family from the program in accordance with policies in this Administrative Plan.

**TPS-IV.G. Income Targeting**

The PHA must determine income eligibility for EHV families in accordance with 24 CFR 982.201 and Miami-Dade PHCD Policy in the HCV Administrative Plan; however, income targeting requirements do not apply for EHV families. The PHA may still choose to include the admission of extremely low-income EHV families in its income targeting numbers for the fiscal year in which these families are admitted.

**PHCD Policy**

The PHA will not include the admission of extremely low-income EHV families in its income targeting numbers for the fiscal year in which these families are admitted.

## **Part V: Housing Search and Leasing**

### **TPS-V.A. Initial Voucher Term**

EHV vouchers must have an initial search term of at least 120 days. PHA policies on extensions as outlined in Section 5-II.E. will apply.

#### **PHCD Policy**

All EHV's will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the PHA grants an extension.

### **TPS-V.B. Housing Search Assistance**

The PHA must ensure housing search assistance is made available to EHV families during their initial housing search. The housing search assistance may be provided directly by the PHA or through the CoC or another partnering agency or entity.

At a minimum, housing search assistance must:

- Help individual families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low-poverty neighborhoods;
- Provide transportation assistance and directions to potential units;
- Conduct owner outreach;
- Assist with the completion of rental applications and PHA forms; and
- Help expedite the EHV leasing process for the family

### **PHCD Policy**

As identified in the MOU between the PHA and CoC, the following housing search assistance will be provided to each EHV family:

A. PHCD will:

- Conduct owner outreach in accordance with policies in this administrative plan.
- Provide directions to potential units as part of the EHV briefing packet.
- Expedite the EHV leasing process for the family to the extent practicable and in accordance with policies in this chapter.
- At least every 30 days, conduct proactive check-ins via email and telephone with families who are searching with an EHV and remind them of their voucher expiration date.
- Assign a dedicated landlord liaison for EHV voucher families.

B. The CoC will:

- Help families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low-poverty neighborhoods.
- Provide transportation assistance to potential units.
- Assist the family with the completion of rental applications and PHCD forms.

C. The four main components comprised of specific activities of the EHV services fee as described in Notice PIH 2023-23 and outline below:

1. Housing Search Assistance
2. Security Deposit/Utility Deposit/Rental Application/Holding Fee Uses /Arrears
  - Application fees/non-refundable administrative or processing fees /refundable application deposit assistance.
  - Holding fees.
  - Security deposit assistance.

Utility deposit assistance/utility arrears.

Rental arrears to private landlords for admission.

3. Owner-related uses
  - Owner recruitment and outreach.
  - Owner incentive and/or retention payments.
4. Other eligible uses
  - Moving expenses.
  - Pre-tenancy services and services that support EHV families in fulfilling their family obligations under the EHV program.
  - Essential household items as outlined in Notice PIH 2020-23.

### **TPS-V.C. HQS Pre-Inspections**

To expedite the leasing process, PHAs may pre-inspect available units that EHV families may be interested in leasing in order to maintain a pool of eligible units.

#### PHCD Policy

To expedite the leasing process, the PHA may pre-inspect available units that EHV families may be interested in leasing to maintain a pool of eligible units. If an EHV family selects a unit that passed a HQS pre-inspection (without intervening occupancy) within 45 days of the date of the Request for Tenancy Approval, the unit may be approved provided that it meets all other conditions under 24 CFR 982.305.

The family will be free to select his or her unit.

When a pre-inspected unit is not selected, the PHA will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for any required re-inspections.

### **TPS-V.D. Initial Lease Term**

Unlike in the standard the HCV program, EHV voucher holders may enter into an initial lease that is for less than 12 months, regardless of the PHCD Policy in Section 9-I.E., Term of Assisted Tenancy.

### **TPS-V.E. Portability**

The normal HCV portability procedures and requirements outlined in this Administrative Plan generally apply to EHV. Exceptions are addressed below.

#### **Nonresident Applicants**

Under EHV, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied, regardless of PHCD Policy in Section 10-II.B.

#### **Billing and Absorption**

A receiving PHA cannot refuse to assist an incoming EHV family, regardless of whether the PHA administers EHV under its own ACC.

- If the EHV family moves under portability to another PHA that administers EHV under its own ACC:
  - The receiving PHA may only absorb the incoming EHV family with an EHV (assuming it has an EHV voucher available to do so).
  - If the PHA does not have an EHV available to absorb the family, it must bill the initial PHA. The receiving PHA must allow the family to lease the unit with EHV assistance and may not absorb the family with a regular HCV when the family leases the unit.
  - Regardless of whether the receiving PHA absorbs or bills the initial PHA for the family's EHV assistance, the EHV administration of the voucher is in accordance with the receiving PHA's EHV policies.
- If the EHV family moves under portability to another PHA that does not administer EHV under its own ACC, the receiving PHA may absorb the family into its regular HCV program or may bill the initial PHA.

### **Family Briefing**

In addition to the applicable family briefing requirements at 24 CFR 982.301(a)(2) as to how portability works and how portability may affect the family's assistance, the initial PHA must inform the family how portability may impact the special EHV services and assistance that may be available to the family.

The initial PHA is required to help facilitate the family's portability move to the receiving PHA and inform the family of this requirement in writing, taking reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP).

#### **PHCD Policy**

In addition to following PHCD Policy on briefings in this Administrative Plan, as part of the briefing packet for EHV families, the PHA will include a written notice that the PHA will assist the family with moves under portability.

For limited English proficient (LEP) applicants, the PHA will provide interpretation services in accordance with the PHA's LEP plan (See Chapter 2).

### **Coordination of Services**

If the portability move is in connection with the EHV family's initial lease-up, the receiving PHA and the initial PHA must consult and coordinate on the EHV services and assistance that will be made available to the family.

#### **PHCD Policy**

For EHV families who are exercising portability, when the PHA contacts the receiving PHA in accordance with Section 10-II.B. Preapproval Contact with Receiving PHA, the PHA will consult and coordinate with the receiving PHA to ensure there is no duplication of EHV services and assistance, and ensure the receiving PHA is aware of the maximum amount of services fee funding that the initial PHA may provide to the receiving PHA on behalf of the family.

### **Services Fee**

Standard portability billing arrangements apply for HAP and ongoing administrative fees for EHV families.

For service fees funding, the amount of the service fee provided by the initial PHA may not exceed the lesser of the actual cost of the services and assistance provided to the family by the receiving PHA or \$1,750, unless the initial PHA and receiving PHA mutually agree to change the \$1,750 cap. Service fees are paid as follows:

- If the receiving PHA, in consultation and coordination with the initial PHA, will provide eligible services or assistance to the incoming EHV family, the receiving PHA may be compensated for those costs by the initial PHA, regardless of whether the receiving PHA bills or absorbs.
- If the receiving PHA administers EHV's, the receiving PHA may use its own services fee and may be reimbursed by the initial PHA, or the initial PHA may provide the services funding upfront to the receiving PHA for those fees and assistance.
- If the receiving PHA does not administer EHV's, the initial PHA must provide the services funding upfront to the receiving PHA. Any amounts provided to the receiving PHA that are not used for services or assistance on behalf of the EHV family must promptly be returned by the receiving PHA to the initial PHA.

### **Placement Fee/Issuance Reporting Fee**

If the portability lease-up qualifies for the placement fee/issuance reporting fee, the receiving PHA receives the full amount of the placement component of the placement fee/issuance reporting fee. The receiving PHA is eligible for the placement fee regardless of whether the receiving PHA bills the initial PHA or absorbs the family into its own program at initial lease-up. The initial PHA qualifies for the issuance reporting component of the placement fee/issuance reporting fee, as applicable.

### **TPS-V.F. Payment Standards**

#### **Payment Standard Schedule**

For the EHV program, HUD has waived the regulation requiring a single payment standard for each unit size. Instead, the PHA may, but is not required to, establish separate higher payment standards for EHV. Lower EHV payment standards are not permitted. If the PHA is increasing the regular HCV payment standard, the PHA must also increase the EHV payment standard if it would be otherwise lower than the new regular HCV payment standard. The separate EHV payment standard must comply with all other HCV requirements with the exception of the alternative requirements discussed below.

Further, if the PHA chooses to establish higher payments standards for EHV, HUD has provided other regulatory waivers:

- Defining the “basic range” for payment standards as between 90 and 120 percent of the published Fair Market Rent (FMR) for the unit size (rather than 90 to 110 percent).
- Allowing a PHA that is not in a designated Small Area FMR (SAFMR) area or has not opted to voluntarily implement SAFMRs to establish exception payment standards for a ZIP code area above the basic range for the metropolitan FMR based on the HUD published SAFMRs. The PHA may establish an exception payment standard up to 120 percent (as opposed to 110 percent) of the HUD published Small Area FMR for that ZIP code area. The exception payment standard must apply to the entire ZIP code area.
  - The PHA must notify HUD if it establishes an EHV exception payment standard based on the SAFMR.

#### PHCD Policy

PHD will not establish a higher payment standard amount for EHV. PHCD will use the same payment standards for HCV and EHV.

### **Rent Reasonableness**

All rent reasonableness requirements apply to EHV units, regardless of whether the PHA has established an alternative or exception EHV payment standard.

### **Increases in Payment Standards**

The requirement that the PHA apply increased payment standards at the family’s first regular recertification on or after the effective date of the increase does not apply to EHV. The PHA may, but is not required to, establish an alternative policy on when to apply the increased payment standard, provided the increased payment standard is used to calculate the HAP no later than the effective date of the family’s first regular reexamination following the change.

#### PHCD Policy

PHCD will not establish an alternative policy for increases in the payment standard. PHCD Policy in Section 11-III.B. governing increases in payment standards will apply to EHV.

**TPS-V.G. Termination of Vouchers**

After September 30, 2023, a PHA may not reissue EHV when assistance for an EHV-assisted family ends. This means that when an EHV participant (a family that is receiving rental assistance under a HAP contract) leaves the program for any reason, the PHA may not reissue that EHV to another family unless it does so no later than September 30, 2023.

If an applicant family that was issued the EHV is unsuccessful in finding a unit and the EHV expires after September 30, 2023, the EHV may not be reissued to another family.

All EHV under lease on or after October 1, 2023, may not under any circumstances be reissued to another family when the participant leaves the program for any reason.

An EHV that has never been issued to a family may be initially issued and leased after September 30, 2023, since this prohibition only applies to EHV that are being reissued upon turnover after assistance to a family has ended. However, HUD may direct PHAs administering EHV to cease leasing any unleased EHV if such action is determined necessary by HUD to ensure there will be sufficient funding available to continue to cover the HAP needs of currently assisted EHV families.

### **Part VI: Use of Funds, Reporting, And Financial Records**

EHV funds allocated to the PHA for HAP (both funding for the initial allocation and HAP renewal funding) may only be used for eligible EHV HAP purposes. EHV HAP funding obligated to the PHA may not be used for EHV administrative expenses or the other EHV eligible expenses under this notice. Likewise, EHV administrative fees and funding obligated to the PHA are to be used for those purposes and must not be used for HAP.

The appropriated funds for EHV are separate from the regular HCV program and may not be used for the regular HCV program but may only be expended for EHV eligible purposes. EHV HAP funds may not roll into the regular HCV restricted net position (RNP) and must be tracked and accounted for separately as EHV RNP. EHV administrative fees and funding for other eligible expenses permitted by Notice PIH 2021-15 may only be used in support of the EHV and cannot be used for regular HCVs. EHV funding may not be used for the repayment of debts or any amounts owed to HUD by HUD program participants including, but not limited to, those resulting from Office of Inspector General (OIG), Quality Assurance Division (QAD), or other monitoring review findings.

The PHA must comply with EHV reporting requirements in the Voucher Management System (VMS) and Financial Data Schedule (FDS) as outlined in Notice PIH 2021-15.

The PHA must maintain complete and accurate accounts and other records for the program and provide HUD and the Comptroller General of the United States full and free access to all accounts and records that are pertinent the administration of the EHV in accordance with the HCV program requirements at 24 CFR 982.158.

## ATTACHMENTS

|                      |  |
|----------------------|--|
| <b>ATTACHMENT A:</b> | <b>DEFINITIONS</b>   |
| <b>ATTACHMENT B:</b> | <b>EFFECTIVE COMMUNICATION POLICY</b>  |
| <b>ATTACHMENT C:</b> | <b>REASONABLE ACCOMMODATION POLICY AND PROCEDURES</b>  |
| <b>ATTACHMENT D:</b> | <b>EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING ATTACHMENT E: VIOLENCE, SEXUAL ASSAULT, OR STALKING FOR SECTION 8 PROGRAMS</b> |

***PUBLIC HOUSING and COMMUNITY  
DEVELOPMENT***

**DEFINITIONS**

**ATTACHMENT A**

**OF THE**

**SECTION 8 ADMINISTRATIVE PLAN**

Effective Date: \_\_\_\_\_

## **ATTACHMENT A. DEFINITIONS**

### **Adult**

A person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State or tribal law.

### **Actual and Imminent Threat (24 CFR §5.2003)**

A physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. 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, and the length of time before the potential harm would occur.

### **Affiliated Individual (24 CFR §5.2003)**

With respect to an individual, means a spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or any individual, tenant, or lawful occupant in the household of that individual.

### **Bifurcate (24 CFR §5.2003)**

To divide a lease as a matter of law, subject to permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants

### **Child/Minor**

A member of the family (other than the family head or spouse) who is under 18 years of age.

### **Covered Housing Program (24 CFR §5.2003)**

The following HUD programs must afford VAWA Protections:

- Section 202 Supportive Housing for the Elderly
- Section 811 Supportive Housing for Persons with Disabilities
- Housing Opportunities for Persons With AIDS (HOPWA)
- HOME Investment Partnerships (HOME)
- Homeless programs under title IV of the McKinney-Vento Homeless Assistance Act (including the Emergency Solutions Grants, the Continuum of Care, and the Rural Housing Stability Assistance
- Multifamily rental housing under section 221(d)(3) of the National Housing Act with a below-market interest rate (BMIR) pursuant to section 221(d)(5)
- Multifamily rental housing under section 236 of the National Housing Act
- Public Housing
- Section 8 Housing Choice Voucher
- Section 8 Project-Based Vouchers
- Section 8 Moderate Rehabilitation Single Room Occupancy
- The Housing Trust Fund

### **Covered Housing Provider (24 CFR §5.2003)**

The individual or entity under a covered housing program that has responsibility for the administration and/or oversight of VAWA protections and includes public housing agencies, sponsors, owners, mortgagors, managers, State and local governments or agencies thereof, nonprofit or for-profit organizations or entities.

**Criminal Records**

All criminal arrest records for persons 18 years of age or older, including but not limited to, sex offender records and registration records, and any court dispositions, including but not limited to, *nolo contendere*, *nolle prosequi*, withholds of adjudication and adjudications of guilt. The term “criminal records” does not include records unavailable to the PHCD by operation of law, including juvenile records, sealed or expunged records, exempt records under Florida’s Public Records Act, or other records unavailable to the PHCD under state and federal laws. PHCD will conduct such checks on household members who are younger than 18 years if they are being tried as adults for certain criminal offenses.

**Dating Violence (24 CFR §5.2003 and the Florida Statutes)**

The federal regulations defines “dating violence” as 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; and
- the frequency of interaction between persons involved in the relationship.

The Florida statutes define “dating violence” as violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:

- A dating relationship must have existed within the past six (6) months;
- The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
- The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.

The term does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context.

**Domestic Violence (VAWA 2022 and the Florida Statutes)**

The term ‘domestic violence’ includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding and, in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who—

- is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim;
- is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- shares a child in common with the victim; or
- commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.”

The Florida Statute defines “domestic violence” as “actual or threatened physical violence directed against one or more members of the applicant’s family by a spouse or other members of the applicant’s household.” The Florida law further defines “domestic violence” as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another who is or was residing in the same single dwelling unit.

Additionally, domestic violence includes violence against a domestic partner.

**Dependent**

A member of the family (excluding foster children, foster adults or live-in aides) other than the family head or spouse, who is under 18 years of age, is a person with disabilities, or is a Full-time student.

**Desegregative Housing Offer**

An offer of a unit that is vacant, appropriate for the household size and type, and meets applicable housing quality standards in a development where not more than 65 percent of the population is the same race as the household.

**Disability Assistance Expenses**

Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus. These allowances are given when calculating adjusted income for attendant care and auxiliary apparatus in excess of ten (10) percent of annual income.

**Disabled Family**

A family whose head, spouse, or sole member is a person with disabilities; or two (2) or more persons with disabilities living together; or one (1) or more persons with disabilities living with one or more live-in aides.

**Discriminatory Effect**

A practice has discriminatory effect where it actually or predictably results in a disparate impact on a group of persons or creates, increases, reinforces, or perpetuates segregated housing patterns because of race, national or ethnic origin, color, sex, religion, age, disability, familial status, marital status, status as a victim of domestic violence, dating violence, sexual assault or stalking, ancestry, actual or perceived sexual orientation, gender identity or gender expression, pregnancy or source of income.

**Displaced Family (24 CFR §5.403)**

Includes persons who can document that they have been displaced by a natural disaster declared by the President of the United States, displaced through no fault of their own, by governmental action, or displaced by domestic violence.

**Domestic Violence (24 CFR §5.2003 and the Florida Statutes)**

The federal regulations defines "domestic violence" to include felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim share a child in common, by a person who is cohabitating with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse or intimate partner of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. The term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

The Florida Statute defines "domestic violence" as the "actual or threatened physical violence directed against one or more members of the applicant's family by a spouse or other members of the applicant's household." The law further defines "domestic violence" as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another who is or was residing in the same single dwelling unit.

Additionally, domestic violence includes violence against a domestic partner.

**Drug-related Criminal Activity**

Illegal manufacture, sale, distribution or use of a drug, or possession of a drug, with the intent to manufacture, sell, distribute or use the drug pursuant to Florida State law.

**Economic Abuse**

The term 'economic abuse', in the context of domestic violence, dating violence, and abuse in later life, means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to—(A) restrict a person's access to money, assets, credit, or financial information; (B) unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage; or (C) exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.

**Elderly Family**

A family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one (1) or more live-in aides.

**Elderly Person**

A person 62 years of age or older.

**Family**

Family includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

(1) A single person, who may be:

(i) An elderly person, displaced person, disabled person, near-elderly person, or any other single person;

(ii) An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or

(2) A group of persons residing together, and such group includes, but is not limited to:

(i) A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);

(ii) An elderly family;

(iii) A near-elderly family;

(iv) A disabled family;

(v) A displaced family; and

(vi) The remaining member of a tenant family.

**Family Income**

Family Income means the annual earned and unearned income derived from all sources of the family members expected to reside in the dwelling unit and upon which rent is to be based.

**Earned Income**

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

**Unearned income**

Any annual income, as calculated under § 5.609, that is not earned income.

**Note** that HUD determined that Family Self- Sufficiency (FSS) escrow deposits are not considered as either earned or unearned income.

**Foster Adult**

A member of the household who is 18 years of age or older and meets the definition of a foster adult under State law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgement, decree or other order of any court of competent jurisdiction.

**Foster Child**

A member of the household who meets the definition of a foster child under State law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgement, decree or other order of any court of competent jurisdiction.

**Fraud**

Deceit or trickery deliberately practiced to gain some advantage dishonestly. Fraud is an intentional deception and is not committed accidentally.

**Full-Time Student**

A person registered for and carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended. An educational institution includes a vocational school with a diploma or certificate program, as well as an institution offering a college degree.

**Good Cause**

With respect to refusal of a housing offer, 'good cause' shall mean that an applicant or participant who are offered a unit can demonstrate through objective evidence that a move into the unit offered would result in a hardship related to the ability of the applicant, participant or a family member to retain his or her employment or retain particular day care or medical services uniquely suited to the affected individual's needs. In addition, a hardship may relate to the person's inability to conveniently use the facility because of his or her disability and a lack of the necessary accessibility features.

**Head of Household**

The family member who is 18 years or older and held responsible and accountable for the family, normally considered to be the official tenant of record on the lease.

**Health and Medical Care Expenses**

Health and medical care expenses are any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period of which annual income is computed. These allowances are given when calculating adjusted income for medical expenses in excess of ten (10) percent of annual income.

**HUD or USHUD**

United States Department of Housing and Urban Development

**Income Limits**

Income limits are those published by USHUD that determine a family's eligibility for the Housing Choice Voucher and Moderate Rehabilitation Programs.

**Independent contractor**

An individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done.

**Live-in Aide**

A person 18 years of age or older who resides with one (1) or more elderly persons, or near elderly persons, or persons with disabilities who:

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

The live-in aide's income is not counted when determining family income.

**Lower Income Family**

A family whose Annual Income does not exceed eighty percent (80%) of the median family Income for the area, as determined by USHUD with adjustments for smaller and larger families.

**Near-Elderly Family**

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

**Offer**

The term 'offer' is used in the context of project-based assistance and means an offer of a unit that is vacant, appropriate for the household in size and type and meets applicable housing quality standards.

**Non-Violent Criminal Activity**

Any criminal activity that is not a Violent Criminal Activity or a Drug-related Criminal Activity, as defined herewith, but that is such that it may threaten the health, safety or right to peaceful enjoyment of the premises by other residents. Non-violent criminal activities include but are not limited to fraud, bribery, vandalism, burglary, larceny, robbery, etc.

**Persons with Disabilities**

Under federal discrimination law, an individual is disabled if he/she has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment. This definition does not include any individual who is a drug addict and is currently using illegal drugs, or an alcoholic, who poses a direct threat to the health, safety and right to peaceful enjoyment of the premises by other residents.

**Reasonable Accommodation**

A reasonable accommodation is a change, modification, alteration or adaptation in a policy, procedure, practice, program facility or unit that provides a person with a disability the opportunity to participate in, or benefit from, a program (housing or non-housing), service or activity.

**Reexamination/Recertification Date**

The date on which the annual re-examination of eligibility for continued occupancy is due and which may or may not result in a rent change.

**Single Person**

A person living alone and who does not qualify as an elderly family, disabled family, displaced person, or as the remaining member of a tenant family.

**Sexual Assault**

Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

**Stalking (24 CFR §5.2003 and the Florida Statutes)**

The federal regulations defines “stalking” to following, pursuing, or repeatedly committing 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 (i) that person; (ii) a member of the immediate family of that person; or (iii) the spouse or intimate partner of that person.

The Florida Statute defines “stalking” as the willful malicious, and repeated following, harassing, or cyber stalking of another person, and/or the making of a credible threat with the intent to place that person in reasonable fear of death or bodily injury of the person, or the person's child, sibling, spouse, parent, or dependent.

**Technological Abuse**

The term ‘technological abuse’ means an act or pattern of behavior that occurs within domestic violence, sexual assault, dating violence or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology, including but not limited to: internet enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.

**Tenant Error**

Occurs when the tenant by action or by inaction breaches a lease, regulation or other program requirement because of a misunderstanding of rules. Tenant errors are considered unintentional program violations, as compared to fraud (see definition).

**Uniform Federal Accessibility Standards**

A dwelling unit that is designed, constructed, altered or adapted to comply with Uniform Federal Accessibility Standards (UFAS) and is located in accessible route.

**Units with Accessible Features**

A unit that has been altered in a manner that has some accessible features that assist persons with disabilities.

**Unrestricted Tenant-Based Benefits**

Tenant-based subsidies that have been designated by USHUD or Congress for use only for certain programs, such as:

- Veterans Assisted Supportive Housing (VASH);
- HOPE for Elderly Independence;
- HOPE VI;
- Family Unification Program (FUP);
- Continued assistance for previously assisted families;
- Any other award that USHUD sets aside for particular uses.

**Very Low Income Family**

A family whose Annual Income does not exceed fifty percent (50%) of the median family income for the area, as determined by USHUD, with adjustments for smaller and larger families.

**Violent Criminal Activity**

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 pursuant to Florida State law.

**Waiting List**

The list of applicants who are waiting to be verified eligible for admittance to housing programs administered by the PHCD and offered the benefit as it becomes available.



**PUBLIC HOUSING AND COMMUNITY  
DEVELOPMENT**

**ADMISSIONS AND CONTINUED  
OCCUPANCY POLICY  
(ACOP)**

**EFFECTIVE DATE:** \_\_\_\_\_

**BCC Adopted:** \_\_\_\_\_

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- I. Program Administration..... 6
  - A. Purpose of the Admissions and Continued Occupancy Policy (ACOP)..... 6
  - B. Public Housing and Community Development (PHCD) ..... 6
  - C. Ann Marie Adker Consent Decree, et al v Miami-Dade County and HUD (Adker Decree)..... 6
  - D. Voluntary Compliance Agreement ..... 7
  - E. Fraud and Crime Control Program ..... 7
  - F. Assistance to Limited English Proficiency (LEP) Persons..... 7
  - G. Mixed Finance Developments ..... 9
- II. Affirmative Marketing, Waiting List and Tenant Selection ..... 12
  - A. Affirmative Marketing ..... 12
  - B. Waiting List Management..... 13
  - C. Opening the Waiting List..... 13
  - D. Factors Affecting Selection from the Waiting List..... 17
  - E. Closing the Waiting List ..... 20
- III. Eligibility for Admission and Assignment Plan ..... 21
  - A. Requirements for Admission ..... 21
  - B. Assisted Living Facilities..... 31
  - C. Interviews and Verification Process ..... 32
  - D. Verification of Assets ..... 35
  - E. Limitation on Assets (24 CFR § 5.618)..... 36
  - F. Ability to Comply with Financial Obligations and Lease Requirements ..... 38
  - G. Denial of Assistance ..... 39
  - H. Occupancy Guidelines ..... 46
  - I. Making Housing Offers to Eligible Applicants ..... 47
  - J. Showing Units to Applicants Prior to Leasing ..... 47
  - K. Good Cause for Applicant Refusal of Unit Offer ..... 48
  - L. Recordkeeping Requirements for Applicants ..... 49
- IV. Leasing Policies ..... 50
  - A. General Leasing Policy ..... 50
  - B. Changes in the Household and Visitors ..... 50
  - C. Removals from the Family Composition..... 52
  - D. Unauthorized Occupants/Boarders: ..... 52
  - E. Requirements for Posting Policies, Rules and Regulations at Housing Developments .. 53
  - F. Repayment Agreement of Amounts Owed to PHCD by Current Residents ..... 53
- V. Transfer Policy..... 55

- A. General Transfer Policy ..... 55
- B. Types of Transfers: ..... 55
- C. Processing Transfers ..... 58
- VI. Eligibility for Continued Occupancy and Annual Reexaminations..... 62
  - A. Eligibility for Continued Occupancy ..... 62
  - B. Remaining Family Members..... 62
  - C. Annual Reexamination..... 63
  - D. Interim reexamination..... 64
  - E. Interim Rent Increases ..... 65
  - F. Interim Rent Decrease..... 65
  - G. Self-Employment Income ..... 65
  - H. Seasonal Employment..... 66
  - I. Temporary Assistance to Needy Families (TANF) ..... 66
  - J. Zero Income Families ..... 66
  - K. Over-Income Families ..... 67
  - L. Reexamination Procedures..... 68
  - M. Enterprise Income Verification (EIV) and Third-Party Verification..... 69
  - N. HUD Form 9886 (Consent Form to Access EIV)..... 71
  - O. Income Validation Tool (IVT)..... 72
  - P. Action Following Reexamination..... 72
  - Q. Risk Assessment ..... 73
- VII. Determining Income and Income-Based Rent..... 75
  - A. Annual Income..... 75
  - B. De Minimis Errors in Income Determinations..... 75
  - C. Annual Income (24 CFR §5.609 - verbatim) ..... 75
  - D. Adjusted Income ..... 81
  - E. Verification of Assets ..... 85
  - F. Limitation on Assets ..... 85
  - G. Computation of Rent..... 86
  - H. Earned Income Disallowance ..... 87
  - I. Rent Collection ..... 88
- VIII. Interim Rent Adjustments: Fixed Rent System ..... 89
  - A. Adjusting Rent between Regular Reexamination..... 89
- IX. Choice of Rent: Flat Rents..... 91
  - A. Development of Flat Rents ..... 91
  - B. Annual Update of Flat Rents..... 91

|       |   |     |
|-------|---|-----|
| C.    | Reexamination of Families on Flat Rents.....  | 91  |
| D.    | Hardship of Families Paying Flat Rents .....  | 92  |
| X.    | Lease Termination Procedures.....   | 93  |
| A.    | General Policy: Lease Termination .....   | 93  |
| B.    | Mitigating Circumstances .....  | 95  |
| C.    | Notice Requirements.....  | 96  |
| D.    | Recordkeeping Requirements for Residents .....  | 96  |
| XI.   | Grievance and Appeal Policy.....  | 97  |
| A.    | Applicant’s Informal Reviews .....  | 97  |
| B.    | Resident’s Grievance and Appeal.....  | 98  |
| C.    | Applicability (Availability) and Exclusions .....   | 98  |
| D.    | Definitions.....  | 99  |
| E.    | Hearing Officer or Hearing Panel.....   | 100 |
| F.    | Informal Settlement of a Grievance .....  | 101 |
| G.    | Procedures for Obtaining a Grievance Hearing .....  | 102 |
| H.    | Procedures for the Conduct of Grievance Hearings .....  | 102 |
| I.    | Decision of the Hearing Officer or Hearing Panel.....   | 104 |
| J.    | Eviction Actions.....   | 105 |
| XII.  | Utilities and Maintenance Charges .....   | 106 |
| A.    | Utilities.....  | 106 |
| B.    | Utilities Paid by the Resident.....   | 106 |
| C.    | Maintenance Charges.....  | 107 |
| XIII. | Fair Housing and Equal Opportunity.....   | 108 |
| A.    | Non-discrimination Policy .....   | 108 |
| B.    | Processing Non-Discrimination Complaints and Reasonable Accommodation Requests<br>.....               | 108 |
| C.    | Effective Communication Policy .....  | 109 |
| D.    | Emergency Evacuation Assistance Program Procedures.....   | 109 |
| E.    | Reasonable Accommodation Policy and Procedures.....   | 109 |
| XIV.  | Violence Against Women Act (VAWA) .....   | 110 |
| A.    | Overview .....  | 110 |
| B.    | Notification of Occupancy Rights under VAWA.....  | 110 |
| C.    | Protections Provided Under the VAWA.....  | 110 |
| D.    | Limitations of VAWA Protections .....   | 111 |
| E.    | Evidence Required as Proof of Domestic Violence, Dating Violence, Sexual Assault or<br>Stalking ..... | 111 |

F. Considerations for Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking ..... 113

G. Emergency Transfer Plan..... 113

H. Eligibility for Emergency Transfers ..... 114

I. Emergency Transfer Request Documentation ..... 114

J. Confidentiality ..... 114

K. Emergency Transfer Timing and Availability ..... 115

L. Safety and Security of Tenants ..... 115

M. Lease Bifurcation ..... 116

N. Reasonable Time to Establish Eligibility for Housing Assistance or to Find Alternative Housing..... 116

O. Assistance for Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking ..... 117

P. Non-discrimination ..... 117

**Appendices:**

Appendix I Definitions.....I-1

Appendix II Effective Communication.....II-1

Appendix III Emergency Evacuation Assistance Program.....III-1

Appendix IV Reasonable Accommodation Policy and Procedures.....IV-1

Appendix V Smoke-Free Policy .....V-1

## **I. Program Administration**

### **A. Purpose of the Admissions and Continued Occupancy Policy (ACOP)**

The Admissions and Continued Occupancy Policy (ACOP) establishes written policies used by the Miami-Dade County Public Housing and Community Development (PHCD) for all properties owned by Miami-Dade County. It is written in accordance with United States Department of Housing and Urban Development (HUD) regulations and addresses matters not covered under the HUD regulations that are instead left to local discretion for the Public Housing Program, as established by the United States Housing Act of 1937. The regulations that govern these programs are documented in Title 24 of the Code of Federal Regulations (CFR) Parts 5, 960, 966 and other applicable regulations promulgated by the HUD.

This ACOP is a supportive document to PHCD's Public Housing Agency (PHA) Plan. It shall be available for public review during regular office hours Monday through Friday at its main administrative office located at 701 NW 1st Court, 16<sup>th</sup> FL, and at the Public Housing Site Offices.

PHCD Director, on behalf of PHCD, can make any necessary revisions to this ACOP, Public Housing Dwelling Lease (Lease), and Community Policies as may be required by regulatory, statutory, court order or internal policy that occurs before or during approval of the next presentation of the Public Housing Agency (PHA) Plan, which occurs annually.

### **B. Public Housing and Community Development (PHCD)**

PHCD is a public housing agency as defined in Section 35(f) of the United States Housing Act of 1937, and is the local governmental entity responsible for establishing affordable housing programs in Miami-Dade County (County), a political subdivision of the State of Florida. These programs include federally assisted housing programs that are administered through PHCD's housing department, PHCD or its successor agency or department. Although PHCD has responsibility for all day-to-day operations of the Public Housing programs, revisions to this ACOP requires approval from the Miami-Dade Board of County Commissioners (the Board) and/or other authorized PHCD officials.

The administration of the Public Housing programs shall comply with all applicable Federal, State and local law, Public Housing regulations, handbooks, and policies promulgated by HUD, and other federal laws including: the United States Housing Act of 1937, as amended, the Fair Housing Act, as amended, the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, and Section 3 of the Housing and Urban Development Act of 1968, as amended.

For more information visit PHCD's website at [www.miamidade.gov/housing](http://www.miamidade.gov/housing)

### **C. Ann Marie Adker Consent Decree, et al v Miami-Dade County and HUD (Adker Decree).**

Notwithstanding the expiration of the Adker Decree on August 1, 2009, PHCD shall comply with the Board's Resolution No. R-1075-09 adopted on September 1, 2009.

Pursuant to that resolution, PHCD and all County departments that administer affordable housing programs shall:

- Ensure that the mandates of the Adker Decree of providing desegregative opportunities to all residents, participants and applicants of federally subsidized housing programs administered by PHCD are continued;
- Maintain the current Adker-related provisions in PHCD's Admissions and Continued Occupancy Policy and Section 8 Administrative Plan;
- The designated division within the Agency is responsible for ensuring compliance with the terms of Board's resolution; and
- Provide any reports required by the Board, the Mayor or the mayor's designee.

#### D. Voluntary Compliance Agreement

In March 2005, PHCD executed a Voluntary Compliance Agreement (VCA) with HUD that requires PHCD to construct or convert 478 public housing units and common areas to comply with the Uniform Accessibility Standards (UFAS), the Fair Housing Act and the Architecture Barriers Act. In January 2015, the VCA was amended to require PHCD to convert 459 units.

#### E. Fraud and Crime Control Program

PHCD investigates allegations of fraud and illegal activity committed by housing program applicants and residents, including family members on the Lease. Incidents of fraud or illegal activity may be reported to PHCD's fraud hotline telephone number at 786-469-4105 or 786-469-4152 for other violations. All calls are confidential and callers will remain anonymous.

Miami-Dade County's Office of Inspector General (OIG) works in conjunction with PHCD to prevent and eliminate fraud and other criminal activities in PHCD housing programs. PHCD may refer cases to Miami-Dade County's OIG, or local law enforcement agencies with jurisdiction to investigate housing fraud, criminal and fraud cases for legal prosecution and collection of debt, if applicable. Miami-Dade County's OIG representatives will attend grievance hearings as required, when PHCD proposes to deny admission or terminate tenancy regarding cases they have investigated or prosecuted.

In an effort to maintain crime control in PHCD's public housing developments, each site AMP administrator or designee shall obtain a "no trespass" listing of people who have been terminated from the program as a result of drug, violent and non-violent criminal activities, including domestic violence. Such list is issued by local law enforcement or state attorney's office and may be updated with additional names as required by court stipulations. The list must be included in PHCD's shared drive and be posted in conspicuous places in each development.

#### F. Assistance to Limited English Proficiency (LEP) Persons

Limited English Proficient (LEP) persons do not speak English as their primary language and have a limited ability to read, write, or understand English at a level that allows the person to communicate effectively when applying or receiving services or benefits from agencies that are recipients of federal funds.

In accordance with HUD's *Final Guidance to Federal Assistant Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* (Final Guidance), PHCD is committed to ensure direct access to its program and activities to all applicants and program participants, regardless of the primary language they speak.

#### Four (4) Factor Analysis

The LEP Final Guidance defines a self-assessment method to assist agencies receiving HUD funds in determining the extent of their obligations to LEP persons. PHCD has conducted the following four-factor self-assessment and concluded that Spanish and Creole are the most commonly spoken languages by the LEP population served by PHCD.

- a) The number or proportion of LEP person eligible to be served or likely to be encountered by the program or grantee (persons speaking a language other than English exceeds 5% or 1,000 persons, whichever is less);
- b) The frequency with which LEP persons come in contact with the program;
- c) The nature and importance of the program, activity, or service provided by the program to people's lives; and
- d) The resources available to PHCD and its costs.

#### Language Assistance Plan (LAP) and Safe Harbor

PHCD posts Spanish and Creole signs at its administrative and site management offices (public places) and on its website to inform LEP persons that free oral interpretation services and translation of vital PHCD's documents are available upon request. Additionally, applicants and program participants are informed of their ability to request an interpreter in all written PHCD's advertisements and notifications related to hearings, interviews, scheduled appointments, and adverse action notices.

##### a) Staff Training

PHCD employees are provided with training on the LEP policy requirements, their role in assisting LEP persons, and with information on the resources available for LEP persons and how to access these resources.

##### b) Oral Language Interpretation

PHCD utilizes bilingual staff members fluent in Spanish or Creole who provide oral language interpretation to LEP persons at face-to-face or telephone contacts, as needed. Also, oral language interpretation services may be provided for scheduled appointments, meetings, informal reviews, hearings and interviews, upon request five (5) business days in advance, from the Section 504/ADA Coordinator. The Section 504/ADA Coordinator secures oral translation services from approved vendors, according to PHCD's procurement procedures.

Language interpretation services are offered to LEP persons for activities including but not limited to the following:

- Eligibility Interview
- Voucher Briefing
- Rental Interview and Lease Signing
- Initial, Annual, and Interim Reexaminations
- Transfer and Resident Tenancy Application
- Reasonable Accommodation Requests
- Conferences, Informal Reviews and Hearings

PHCD staff is prohibited from requiring or asking LEP persons to bring their own interpreter. If a LEP person requests that an adult family member or friend (18 years of

age or older) provide interpretation, this practice is acceptable only if it is their choice. The LEP person will be advised by PHCD staff about the availability of free language services.

#### c) Written Language Translation of Vital Documents

HUD's Final Guidance defines vital documents as "those that are critical for ensuring meaningful access by beneficiaries or potential beneficiaries generally and LEP persons specifically." PHCD may use PHCD's translation services provided by the Community Information and Outreach (CIAO) Department, or a County vendor, to translate its vital documents and advertisements into Spanish and Creole.

PHCD has translated the following vital documents into Spanish and Creole. They are available in the shared drive, at H:\Compliance Reference Library\FORMS - Agency Master Folders and must be provided to LEP persons upon request.

- Consent and complaint forms
- Intake forms with the potential for important consequences
- Written notices of rights, denial, loss, or decreases in benefits or services, and hearings
- Notices of termination of assistance and eviction
- Notices and forms related to the Violence Against Women Act (VAWA)
- Notices of advising LEP persons of free language assistance
- Notices of public hearings, especially those that meet Community Planning and Development's citizen participation requirements
- Public Housing Lease and tenant rules, and/or
- Applications to participate in a recipient's program or activity or to receive recipient benefits or services.

#### Monitoring and Updating

PHCD will periodically review and assess its LEP policy, based on Miami-Dade County's demographics and changes in HUD regulations.

#### G. Mixed Finance Developments

From time to time, PHCD has and may continue to engage in mixed-finance development, which includes construction of new public housing and rehabilitation of existing County-owned public housing, as authorized by 24 CFR § 905.604, and other applicable laws and regulations. County-owned public housing properties may be leased to private developers through a long-term ground lease and other applicable mixed-finance agreements and documents.

The properties would then be managed by these private developers, or entities, rather than County. Notwithstanding any contrary provision within this ACOP, PHCD may delegate certain admissions and occupancy functions as discussed within the ACOP to entities and/or managers of those mixed-finance developments; provided, however, that such admissions and occupancy functions must be performed in accordance with this ACOP and applicable public housing requirements (including any deviations from the ACOP as permitted hereunder, as set forth in this section). Such delegation does not relieve PHCD from ultimate responsibility with respect to the foregoing.

PHCD acknowledges that such mixed-finance developments may be subject to federal Tax Credit Requirements. For purposes of this Policy, Tax Credit Requirements shall mean any and all matters required by Section 42 of the Internal Revenue Code of 1986 and regulations thereunder (Section 42), the rules promulgated by Florida Housing Finance Corporation (FHFC) or any agreement with a condition of receipt of tax credits, whether or not such requirement is explicitly stated in Section 42, or FHFC requirements.

Without limiting any other provision in this Subsection G, PHCD may also enter into one or more Memoranda of Understanding with the owner entities of such mixed-finance projects and/or third parties in order to comply with FHFC, HUD and PHCD requirements, and may adopt a limited preference for Special Needs Households (see Appendix I. – Definitions), as defined at Section 67-48.002(108) of the Florida Administrative Code (FAC), as may be amended from time to time, that may be referred by a Special Needs Household Referral Agency, as defined at in Section 67-48.002(109) of the FAC, such that 10% (which is subject to change in accordance with updated requirements) of the units of each mixed-finance development are occupied by such Special Needs Households to the extent required by FHFC, HUD and PHCD.

In order to facilitate compliance with Tax Credit Requirements, this ACOP shall be deemed amended with respect to any mixed finance development in order to conform to any provision herein to applicable Tax Credit Requirements, unless such policies are otherwise required by applicable public housing requirements. Examples of policies that may be different than what is set forth in the ACOP but that are nevertheless permissible under this section include, but are not limited to:

- the requirement for annual re-examinations (to the extent required by Tax Credit Requirements) and modifications to the tenant lease to conform with Tax Credit Requirements; and
- different income limits, income tiering requirements and rent limits consistent with what is permissible or required in accordance with Tax Credit Requirements.

Under this section, the entity will carry out screening and eligibility determinations with respect to such Tax Credit Requirements, including determinations related to transfers of new admissions from other public housing developments, new admissions and continued eligibility of existing residents. Notwithstanding anything herein to the contrary, any public housing resident who is eligible under applicable public housing requirements, but not eligible under Tax Credit Requirements shall be referred to PHCD by the Entity and will be re-housed by PHCD in accordance with the transfer provisions set forth in the ACOP.

PHCD further acknowledges that certain terms or requirements pertaining to the public housing units may be negotiated between PHCD and the entity of each mixed-finance development, such as income tiers and transformation remedies, and effectuated through the execution of the Declaration of Trust and Restrictive Covenants, the Regulatory and Operating Agreement, the Mixed Finance Annual Contributions Contract (ACC) Amendment and applicable management documents. Provided, however, that notwithstanding anything contained in those documents to the contrary, the applicable public housing requirements shall control.

As used herewith, the term “applicable public housing requirements” shall mean the following: the U.S. Housing Act of 1937, HUD regulations thereunder (and to the extent applicable, any HUD-approved waivers of regulatory requirements); any other federal laws, regulations, notices and Executive Orders pertaining to public housing; the ACC between

HUD and PHCD (as amended by Mixed-Finance Amendments), this ACOP, and applicable tax credit management plans and agreements as those requirements may be waived or amended from time to time.

## II. Affirmative Marketing, Waiting List and Tenant Selection

### A. Affirmative Marketing

PHCD's marketing plan ensures inclusion on its waiting list of all people without regard to race, national or ethnic origin, color, sex, religion, age, disability, familial status, marital status, ancestry, status as a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking, actual or perceived sexual orientation, gender identity or gender expression, pregnancy or source of income.

PHCD will give public notice in suitable media outlets including, but not limited to:

1. **The Miami Herald**, the largest paper of daily general circulation
2. **The Miami Times**, largest circulation among African-Americans
3. **Diario Las Americas**, a Spanish language publication
4. **The Haiti en March** or **Kiskeya Herald**, Haitian publications
5. Social media platforms and digital marketing (i.e., Facebook)
6. Radio broadcasts and other relevant media

The public notice will include, but will not be limited to, the following information:

1. The application process
2. Opening date
3. Closing date to receive applications, if any
4. Method for placement on the waiting list
5. Available preferences

### 1. Outreach to Very-Low Income Families

Efforts will be taken to ensure outreach to Miami-Dade County's eligible population providing information of all opportunities to apply for program assistance. In order to reach the widest eligible population, the agency may use special outreach in any of the following methods:

- Notice to churches, synagogues, and other places of worship;
- Notice to government offices including but not limited to Miami-Dade County regional libraries, Miami-Dade County Community Action Agency (CAA), Social Security Administration, State of Florida Department of Children and Families, Legal Services of Greater Miami, Inc., or other agencies designed to assist the low income community;
- Notice to agencies that assist the elderly or disabled;
- Announcement at public meetings; and
- Any other methods deemed appropriate to increase the scope of outreach for eligible applicants.

### Marketing Material

1. PHCD will use clear and easy to understand terms and distribute the notice in accordance with LEP requirements.
2. PHCD will contact agencies that serve potentially qualified applicants least likely to apply (e.g., the disabled) to ensure that accessible/504/ADA-adaptable units are offered to applicants who need these features.

3. PHCD will include a statement regarding its responsibility to provide a reasonable accommodation to persons with a disability.

## B. Waiting List Management

### 1. Public Housing

- a) PHCD maintains one (1) waiting list for its Public Housing Program, which includes Assisted Living Facility, and the Mixed Finance Developments. This waiting list is administered by the Applicant Leasing Center (ALC), which is a unit of the Asset Management Division (AM) responsible for the operations of the Public Housing Program.

### 2. Other Housing Programs

- a) The Section 8 Housing Choice Voucher Program and the Section 8 Moderate Rehabilitation Program will maintain separate waiting lists for each of the programs. These waiting lists are administered by the Intake Unit of the Section 8 and Housing Choice Voucher Division. The Section 8 Administrative Plan contains the rules and regulations applicable to these programs.
- b) The Section 8 New Construction developments are County owned and privately managed. The management agents will be responsible for managing their own waiting lists.
- c) Homeless Pilot Program: In an effort to address the risk of homelessness, PHCD will collaborate with the Homeless Trust by implementing a pilot program and waiting list for referrals of persons transitioning out of a shelter, transitional housing program, rapid re-housing program or permanent supportive housing. The program will initially be limited to a maximum availability of 25 Public Housing units that may be expanded if the program is successful.

The Homeless Trust will verify the individual's or family's homelessness before referring them as applicants to this program. Eligibility will be based on the admission criteria in Chapter III of this ACOP.

- d) Mixed Finance Developments (see Chapter I of this ACOP): PHCD and the owner have entered into a Memorandum of Understanding (MOU) with Miami-Dade County Homeless Trust to refer individuals to a waiting list for Special Needs Households. Pursuant to the MOU, if the Homeless Trust does not refer any individuals within 14 business days of notification of the availability of units, PHCD may select applicants from the Public Housing Waiting List.

## C. Opening the Waiting List

### 1. Timing

- a) PHCD, subject to the Board of County Commissioners' approval, may elect to open and dissolve the waiting list as needed.
- b) PHCD, subject to the Board of County Commissioners' approval, may elect to open the waiting list if there are insufficient applicants for a particular bedroom size, or unit type (e.g., general occupancy, elderly designated buildings, and accessible or non-accessible, or for one or more of the admission preferences).

- c) Some of these options may include an exclusive electronic open waiting list, where ranking is based on the date and time of application or any applicable factors that the agency may adopt, subject to approval by the Board.
- d) The beginning and ending dates of the waiting list's open registration period will be advertised in the local newspapers through a public notice, as described in Section A of this Chapter, for the purpose of reaching all segments of the community and providing advance notice.
- e) The registration period shall remain open for at least five (5) business days.

## 2. Submission of Applications

- a) People interested in applying for the programs offered by PHCD may do so during open registration periods.
- b) PHCD may limit the number of applications to be placed on the waiting list, based on PHCD's projection of ready units and other relevant data.
- c) Applications will be available on-line through the internet during the open registration period at [www.miamidade.gov/housing](http://www.miamidade.gov/housing). Assistance with the online submission of applications may be available at advertised locations.
- d) At the time of application, the head of household of the family must be 18 years of age or older, or have been emancipated by a court of competent jurisdiction.
- e) PHCD's application for admission may request the following information: family composition, income, social security numbers, immigration status, race, ethnicity, date of birth, if a wheelchair accessible unit is required, if family qualifies as a Special Needs Household, and other applicable information.
- f) Only one application is allowed per family, including head of household and family members. An application will be considered as long as it does not replicate the family composition in another application.
- g) Applications are nontransferable except under the following circumstances:
  - (1) In case of dissolution of marriage or family disputes, PHCD will abide the court's determination on whom shall assume the head of household on the application.
  - (2) If the head of household is deceased prior to or during the application process, one of the remaining adult family members on the application will automatically become the head of household, provided such person meets all eligibility requirements. In circumstances where there is more than one (1) surviving adult family member, the family shall determine which surviving family member should be head of household as long as they are part of the original application.
  - (3) If the head of household is deceased and the remaining family members are minors, the person granted legal custody of such children will become

the head of household and is entitled to the original date of application, provided such person meets all eligibility requirements.

- (4) In addition to the desires of the family, PHCD will consider the interest of disabled or elderly family members, victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking, and any instance of actual threatened physical violence.

### 3. Position on the Waiting List

- a) Applications accepted will be randomly sorted by an electronic system for assignment of a ranking number. This process is certified by an independent auditor.
- b) Placement on the waiting list does not indicate that the applicant is eligible for admission or that the applicant will receive a housing offer.

### 4. Movement on the Waiting List

- a) Each applicant moves up the waiting list in ranking number sequence and based on applicable admission preference and type and size of unit required.
- b) When an applicant reaches the top of the waiting list, the applicant's information will be verified, including applicable admission preference, to determine applicant's eligibility. An applicant failing to provide applicable verification of admission preference will not be eligible for that preference and will be restored to the general waiting list.

### 5. Removal from the waiting list

- a) The head of the household must have the capacity under state and local law to enter into a legally binding lease agreement, where the tenant is bound by the terms of the Lease, otherwise, the family will be removed from the waiting list.
- b) The applicant family requests to be removed from the waiting list.
- c) Reasonable efforts should be made to reach applicant families by phone whose mail is returned by the post office or email host domain.
- d) Applicant families withdrawn for returned mail may request an informal review in accordance with Chapter IX of this ACOP.
- e) If a family is removed from the waiting list for failure to respond, PHCD may reinstate the family if it is determined that (1) the lack of response was due to PHCD's error, or (2) for documented circumstances beyond the family's control.
- f) If an applicant is selected from the waiting list and does not respond to notices of scheduled appointments or to PHCD correspondence, the family will be removed from the waiting list and will be provided with a final notice of withdrawal and an opportunity to request an informal review, if requested, within 30 days of the notice.

- g) Applicant families determined ineligible for housing assistance will be notified in writing, including the reason for the determination. Ineligible applicants shall be provided with an opportunity for an informal review, if requested, within 30 days of the notice.
- h) If the applicant family fails to respond to a housing offer or refuses the housing offer, the applicant family will be removed from the waiting list, notified in writing, and provided an opportunity to request an informal review, if requested, within 30 days of the notice.
- i) If the applicant family accepts a housing offer and signs the *Public Housing Dwelling Lease*, the application will be removed from the waiting list.
- j) If the applicant family accepts the housing offer and does not attend or reschedule the appointment to sign the *Public Housing Dwelling Lease*, the AMP Administrator will notify the Applicant Leasing Center (ALC). As a result, the applicant family will be removed from the waiting list, notified in writing, and provided an opportunity to request an informal review within 30 days of the notice.
- k) Applicant families whose applications are withdrawn or rejected may reapply for housing when the waiting list is opened.
- l) All rejected applicants are entitled to a written explanation of the reason for their rejection and may request an informal review. At the informal review, rejected applicants may present reasons why they should be reinstated to the waiting list (See Chapter IX - Grievance and Appeal Policy, of this ACOP).
- m) All applicants determined ineligible for housing assistance or removed from the waiting list will receive HUD form 5380, *Notice of Occupancy Rights under the Violence against Women Act* form, and HUD form 5382, *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation* form, at the time the applicant is denied assistance. See Chapter XIV—Violence Against Women Act of this ACOP for additional details.

## 6. Reinstatement to the Waiting List

- a) **Reasonable Accommodations**  
Applicant families who refused the housing offer due to a disability may request a reasonable accommodation in accordance with the Reasonable Accommodation Policies and Procedures (Appendix IV of this ACOP). Upon approval of the reasonable accommodation request, the applicant family shall be returned to the applicant's former waiting list position.
- b) **Informal Reviews**  
If the Hearing Officer overturns the PHCD decision to remove the applicant family from the waiting list, the applicant family shall be returned to the applicant's former waiting list position.

#### D. Factors Affecting Selection from the Waiting List

Several factors may affect how applicants are selected. These factors are described below:

1. The need for units complying with the Uniform Federal Accessibility Standards (UFAS) or units with accessible features.
  - a) Transfers of residents with disabilities and placement of applicants with disabilities requiring units complying with UFAS or units with accessible features (as defined in Appendix I of this ACOP), will be approved in accordance with the Reasonable Accommodation Policies and Procedures (Appendix IV of this ACOP), through PHCD.
  - b) When an accessible unit becomes available, the unit will first be offered to a current resident with disabilities in the same development who requires the accessibility features of the vacant accessible unit and who is otherwise occupying a unit not having those features.
  - c) If there are no current residents in the same development who require the accessibility features, then the vacant accessible unit will be offered to a resident with disabilities from another development that requires the accessibility features.
  - d) If there are no current residents who require the accessibility features of the vacant accessible unit, then the vacant accessible unit will be offered to the next eligible qualified applicant with disabilities on the waiting list.
  - e) If there are no eligible qualified residents or applicants with disabilities on the waiting list who wish to reside in the available accessible unit, then the unit will be offered to an applicant on the waiting list who does not need the accessible features of the unit. The *Public Housing Dwelling Lease* requires residents to relocate to a vacant non-accessible unit within 30 days of date written on the notification from the AMP Administrator, if there is an eligible applicant or existing resident with disabilities who requires the accessibility features of the unit.
2. Resident Transfers (Refer to Chapter V-Transfer Policy)

PHCD will also offer units (including Public Housing units in mixed finance developments) to existing qualified residents on the transfer list. Emergencies, reasonable accommodation, extraordinary circumstances, and occupancy standards transfers are processed before new admissions, as detailed in Chapter V of this ACOP.

#### 3. Elderly Designated Housing

Elderly families (see definition in Appendix I) from the Public Housing waiting list receive priority for admission to units or buildings covered by HUD-approved Elderly Designated Housing Plan. When there are insufficient elderly families, PHCD may grant near-elderly families (see definition in Appendix I) priority for admission to these units or buildings or reopen the waiting list to receive applications for this type of elderly unit designation.

4. Mixed Population Projects

A mixed population project is a public housing development that was reserved for elderly and disabled families at its inception. Dwelling units with special accessibility features for handicapped people will first be offered to families with persons that require the accessibility features of such units.

5. Deconcentration of Income and Poverty

- a) PHCD may perform an income analysis of its general occupancy, family public housing developments to determine which developments covered by 24 CFR § 903.2(b) fall outside the Established Income Range (EIR). The EIR is 85% to 115% of the average family income of PHCD's covered developments, or 30% of the Area Median Income, whichever is greater.
- b) PHCD's policy includes making capital improvements in developments with an average income below the EIR to encourage applicants with family income above the EIR to accept units in those developments.

6. Admission Preferences

PHCD may adopt admission preferences for selection of families admitted to the public housing program based on admission housing needs and priorities as determined by PHCD. Admission preferences are subject to the specific admission preference being indicated in the housing application. Applicants requesting an admission preference should be properly coded in the waiting list.

PHCD will not hold its units vacant for applicants with an admission preference, nor will it relax eligibility or screening criteria to admit otherwise unqualified applicants with a preference.

a) Assisted Living Facilities (ALF)

PHCD provides an admission preference to applicants interested to be housed in an ALF over new admissions from the Public Housing waiting list. The applicant must meet the ALF Admissions Criteria at the time of eligibility screening (see Chapter III of this ACOP).

b) Veterans

- (1) PHCD, at its sole discretion, will provide an admission preference over new admissions to applicants whose head or co-head are eligible veterans.

A veteran is a person who:

- had at least 180 days of regular active duties and was honorably discharged or released; or
- had at least 90 days of active duty service, of which at least one (1) day of service was in a war conflict and was honorably discharged or released; or
- served in a war conflict and was awarded a Purple Heart or became disabled, regardless of completion of days of active duty.

The veteran status extends to spouses, widows, widowers and parents of the military killed during a time of war.

- (2) Applicants claiming a veteran's preference must provide a copy of military service record, proof of service, or the discharge documents (Form DD214) of the veteran for whom the preference is claimed.
- c) An admission preference for extremely low-income or special needs households to its Low-Income Housing Tax Credits (LIHTC) developments referred by the Miami-Dade County Homeless Trust pursuant to the executed memorandum of understanding.
- d) An admission preference for homeless families who have been referred by the Miami-Dade County Homeless Trust pursuant to the executed memorandum of understanding.
- e) Vulnerable Populations  
PHCD may establish further admission preferences to assist vulnerable populations, subject to resource availability and at its discretion. Examples of such population include families under the witness protection program, ex-offenders and felons that are part of a reentry program, and pregnant women or women with children where one or more members of the household have been diagnosed with the acquired immunodeficiency syndrome (AIDS).
- f) Special Housing Initiatives  
PHCD, subject to resource availability and at its discretion, may develop special housing initiatives that may receive an admission preference. These special housing initiatives may target specifically named families and may be based on PHCD and community priorities or HUD's request.
- g) Changes in Admission Preference Status:
  - (1) Occasionally, families on the waiting list who did not qualify for an admission preference at the time they applied for rental assistance will experience a change in circumstances that now qualifies them for a preference. In such instances:
    - (a) It is the family's responsibility to notify PHCD.
    - (b) The record will be updated for families certifying that they now qualify for an admission preference on the waiting list in accordance with their electronic randomly sorted ranking and their applicable preference(s).
  - (2) Applicants failing to provide verification of their admission preference status at initial eligibility screening will not be eligible for the admission preference and will be restored to the general waiting list for selection in accordance with the movement on the waiting list.
  - (3) Applicants determined ineligible for the requested admission preference will be notified of their ineligibility and shall be provided an opportunity for an informal review if requested within 30 days of the written notice.

## 7. Special Admissions

Applicants may be admitted to the Public Housing program even though they are not on the waiting list but meet one of the following conditions:

### a) Displacement

At the discretion of the PHCD Director, PHCD can assist displaced families due to national disasters. The definition for displaced families is included in Appendix I of the ACOP.

Displaced families may include families under the witness protection program provided supportive documentation from applicable authorities is provided.

### b) Referrals for Humanitarian Reasons

PHCD, at its sole discretion, may accept referrals for humanitarian reasons as mandated from HUD and/or from appropriate federal, state, and/or admission agencies.

## E. Closing the Waiting List

1. PHCD may elect to dissolve the waiting list periodically or as needed. Notwithstanding the dissolution of the waiting list, applicants who were selected from the waiting list and are pending a unit offer will continue to be processed by PHCD.
2. The applicant family will not be offered a unit under the dissolved waiting list under the following circumstances:
  - a) The applicant family that was selected and scheduled for initial interview, but did not attend.
  - b) The applicant family refused a housing offer without good cause (see Appendix I – Definitions of this ACOP).

### III. Eligibility for Admission and Assignment Plan

#### A. Requirements for Admission

1. An applicant is qualified if they meet all of the following criteria:

- a) Is a family, as defined in Appendix I of this ACOP;
- b) Meets HUD requirements on citizenship or immigration status;
- c) Is within HUD's established income limits;
- d) Provides documentation of Social Security numbers for all family members, except for those individuals who do not contend that they have eligible immigration status;
- e) Provides documentation validating identity of each adult or emancipated minor; and
- f) Meets the Applicant Selection Criteria.

2. Criminal History

PHCD does not inquire into an applicant's criminal history on an application and does not require applicants to disclose facts or details of conviction history or arrests. However, PHCD performs criminal background screening in its admission and continued occupancy processes.

3. Verification of Identity

- a) Required documentation validating the identity of each adult or emancipated minor:
  - State issued driver's license (current and unexpired), or
  - State issued identification card (issued within the last ten (10) years);
  - U.S. passport (current and unexpired);
  - US issued immigration verification documents that contain a picture of individual (issued within the last ten (10) years);
  - Military identification card; and
  - Other documents as may be required by HUD.
- b) Adult or emancipated minor applicants that have an ineligible immigration status will be required to confirm their identity providing any of the following documents:
  - Foreign passport
  - Foreign driver's license
  - Foreign birth certificate
  - Identification card issued in US
  - Foreign military identification card
  - Other documents as may be required by HUD

4. Changes to Family or Household Composition

Changes to the family or household composition shall be considered and documented at the time the changes below occur.

a) Addition to the Family

Requests for additions to the family composition must be made in writing by the head of household and are restricted to:

- (1) Spouses, co-heads, or domestic partners (see definition of Family in Appendix I of this ACOP), children born to, adopted, or otherwise granted custody by operation of law.
  - (a) PHCD will require documentation that the head of household has authorization to include a minor as part of the household.
  - (b) Documentation to add a minor can include but is not limited to court documents, pre-need guardian, school records, parent or custodian's written consent, other state and federal public assistance documentation, or power of attorney.
- (2) Immediate relatives (sons, daughters, brothers, sisters, parents, grandparents and grandchildren), may be added for humanitarian and extraordinary reasons, including reasonable accommodation for a family member on a case-by-case basis and approved by the division director or designee.

b) Removals from the Family Composition:

- (1) Any adult family member requesting to be removed from the family composition must provide a notarized statement agreeing to the removal, signed by the adult family member and the head of household.
  - (a) The notarized statement must be accompanied by two (2) pieces of supporting documentation from different sources showing that the family member is no longer residing in the subsidized unit. Supporting documentation to prove another residency may include, but is not limited to, a copy of the Lease agreement, utility bills, or official mail (from a Federal, State, County or City government agency) properly dated (no more than two (2) months old), showing the new address. PHCD may request additional documentation to verify the permanent relocation of the family member requesting removal.
  - (b) If the adult family member is unable to provide the notarized statement agreeing to removal from the family composition, the head of household must provide a written statement explaining the reason why the family member is unable to provide the statement and provide supporting documentation, if available (e.g., death certificate, jail order).
  - (c) For removal of minors, the head of household must provide a signed notarized statement accompanied by supporting documentation showing that the minor is no longer residing in the subsidized unit. Supporting documentation to prove another residency may include, but is not limited to, school records, custody records, etc. properly dated (no more than two months old), showing the new address.

- (2) As an alternative to the notarized statement, a written statement may be provided, which must be signed by the adult family member being removed upon identification, the head of household, and witnessed by the PHCD representative.
  - (3) Notwithstanding the foregoing, a notarized statement will not be required of an adult family member who has violated the terms of this ACOP, the Lease, and Community Policies and as a result must be removed from the household in lieu of evicting all members of the household. Examples include a member of the household who has engaged in domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking.
- c) Addition to the Household Composition
- (1) Foster Children and Foster Adults
    - (a) A foster child is a child that is in the legal guardianship or custody of a state, county, 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.
    - (b) A foster adult are usually persons with disabilities, unrelated to the tenant family, who is unable to live alone.
    - (c) Foster children and foster adults living with an applicant or resident are considered household members but not family members. The income of foster children and foster adults are not counted as part of the family's annual income and dependent deductions may not be claimed.
    - (d) PHCD will require documentation that the head of household has been granted legal guardianship or custody of a foster child or foster adult.
    - (e) Effective January 1, 2024, upon the implementation of Housing Opportunity through Modernization Act of 2016 (HOTMA) and applicable regulations and guidelines promulgated by HUD, foster children and foster adults will be considered part of the household (and therefore will be considered when determining appropriate unit size and utility allowance).
  - (2) Live-in Aides
    - (a) PHCD must approve a live-in aide (18 years of age or older), if needed as a reasonable accommodation request, to make the program accessible to and usable by the head of household or family member with a disability.
    - (b) Although a reasonable accommodation request can be made orally or in writing, it is usually helpful for both the resident and PHCD if the request is made in writing. This will prevent misunderstanding regarding what is being requested, or whether the request was made. To facilitate the processing and consideration of the request, residents or applicants may use the Live-in Aide Request and Verification forms, refer to Appendix IV of this ACOP, Reasonable Accommodation Policies and Procedures or equivalent format.
    - (c) A live-in aide is a household member, not a family member. The income of the live-in aide is not counted as part of the family's annual income.

- (d) Any individual selected by the family member with disability to be the live-in aide must comply with the following criteria:
- (i) A 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 also provide verification for a disability and the need for a live-in-aide.
  - (ii) The live-in aide must live in the unit solely to care for the disabled individual.
  - (iii) The live-in aide does not qualify for continued occupancy as a remaining family member and does not have any rights to the unit.
  - (iv) The live-in aide, head of household, and family members must maintain separate finances.
- (e) The live-in aide must provide proof of current residency.
- (f) The live-in aide must provide required documentation.
- (f) The head of household and the live-in aide must sign the *Live-in Aide Certification* initially and annually (as part of the annual reexamination of the family).
- (g) The head of household and live-in aide must sign a *Live-in Aide Agreement* which shall become part of the addendum to the resident's lease (for the *Live-in Aide Agreement* form, refer to Appendix IV of this ACOP, Reasonable Accommodation Policies and Procedures).
- (h) The live-in aide must agree to move-out of the unit should the disabled resident, no longer resides in the unit or passes away. In such circumstances, the AMP Administrator provides notice for live-in aide to vacate the premises within 14 days. Upon termination of the live-in aide's services for any other reason, the live-in aide shall vacate the unit within 24 hours.
- (i) Under extraordinary circumstances, upon approval of the division director, relatives satisfying the definition of a live-in aide wanting to have remaining family status may be added to the family composition as a family member and not as a live-in aide. In such case, the relative's income will be part of the family's annual income.
- (j) An eligible live-in aide may be granted up to one (1) additional bedroom in accordance with the occupancy guidelines or standards.
- (k) The live-in aide must provide the following documents as part of the admission process:
- Proof of identity
  - Verification of birth date
  - Social security number
  - Proof of current residency
  - Other documents as may be required by HUD

- (l) The live-in aide will be asked to sign forms which include but is not limited to the following:
- *Authorization to Check Information*
  - *Authorization to Obtain Criminal Background*
  - *Authorization for the Release of Information/ Privacy Act Notice* (Form HUD-9886)
  - *Debts Owed to Public Housing Agencies and Terminations* (Form HUD-5267)
  - *What You Should Know About EIV* (Form by HUD)
  - *Live-in Aide Certification*
  - *Live-in Aide Agreement* (completed upon approval of the live-in aide)
- (m) HUD maintains a record of current participants and of debts owed and adverse information of former participants, which is available to housing authorities through the Enterprise Income Verification (EIV) system. PHCD will verify information of the live-in aide through EIV for double subsidy, debt owed, and any record of a negative reason for their end of participation from another housing authority or program.
- (n) The live-in aide individual may be denied for the following reasons:
- Failed to provide or sign required documentation to complete the admission process and/or failed to sign the *Live-in Certification* or ***Live-in Aide Agreement*** forms.
  - Committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
  - Has been living in the subsidized unit as an unauthorized occupant/boarder.
  - Has engaged in criminal activity as detailed in Chapter III of this ACOP.
  - Owes rent or other amounts to the public housing agency (PHA) in connection with Section 8 or public housing assistance.

## 5. Mandatory Social Security Numbers

Effective January 31, 2010, all members of the household, **except those that do not contend eligible immigration status**, must provide appropriate documentation of their Social Security Number (SSN) before the household member is admitted into the program.

PHCD included in this ACOP the provisions published in the Final Rule of the Streamlining Administrative Regulations (Docket No. FR5743-F-03) effective April 7, 2016, regarding SSN.

### a) Disclosure requirement for applicants

- (1) At the time applicant's eligibility is determined, each applicant must submit: a) the complete and accurate SSN for each member of the applicant's household, and b) the required documentation to verify each SSN.
- (2) If at the time of eligibility, the documents to verify the SSN for each family member cannot be submitted and the applicant is otherwise eligible, the applicant may retain their place on the waiting list for the program, but cannot become a program

participant until the required document to confirm the SSN is provided, unless the following condition applies:

- i. If a child under the age of six (6) has not been assigned a SSN and is being added to the application within six (6) months of admission date, the applicant family may provide the complete and accurate SSN and required verification within 90 calendar days of the date of admission. PHCD must grant an extension of one additional 90-day period if PHCD determines that the resident's failure to comply was due to unforeseen circumstances or circumstances outside the control of the applicant.

b) Residents

- (1) Initial Disclosure: Each resident whose initial determination of eligibility began before January 31, 2010, except for those age 62 or older as of January 31, 2010, must submit a complete and accurate SSN and documentation to verify the SSN if the participant has:
  - (a) not previously disclosed a SSN;
  - (b) previously disclosed a SSN that HUD or the Social Security Administration (SSA) determined was invalid; or
  - (c) been issued a new SSN.
- (2) Subsequent Disclosure:
  - (a) The complete and accurate SSN and verification is required for a new adult member regardless of age that has an assigned SSN at the time of request, at the time of processing the addition to household, at the next interim or annual reexamination.
  - (b) If a child under the age of six (6) has not been assigned a SSN, the head of household will be required to provide the complete and accurate SSN and verification within 90 calendar days of the child being added to the household.

c) Verification of SSNs

One of the following documents must be submitted to confirm SSN:

- A valid SSN card issued by the SSA, or
- An original document from a federal or state government agency that contains the individual's name and SSN, along with identifying information for the individual (i.e. address, date of birth, etc.)

Referral sources for applicants and participants who need to request a SSN or information: Information regarding SSN cards is available at [www.socialsecurity.gov](http://www.socialsecurity.gov) or 1-800-772-1213.

d) Time frame to submit documents to confirm the SSN

- (1) Applicants: Applicants may be given up to 90 days, or 120 days for applicants 62 years or older, to submit documents confirming each household member's SSN.
- (2) Program Participants: Next annual or interim reexamination or within 90 days of request date, or 120 days for participants 62 years or older.

PHCD may grant additional time up to 90 days, only if there are unforeseen circumstances beyond the family's control that prevent the family from complying with the SSN requirements.

e) Resident's Penalties for failing to disclose and verify SSN

PHCD must terminate the assistance or the tenancy, or both, of the family if any member does not meet the applicable SSN disclosure, documentation and verification requirements. PHCD, at its sole discretion, may defer termination and provide resident with an additional 90 calendar days to disclose, document, and verify the SSN if the following applies (24 CFR § 5.218(c)(2)):

- (1) Resident did not meet the applicable SSN disclosure, documentation and verification requirements due to circumstances that could not have reasonably been foreseen and were outside the control of the resident; and
- (2) There is a reasonable likelihood that the resident will be able to disclose a SSN by the deadline.

Failure of the resident to disclose a SSN by the end date of the additional 90 calendar days, if provided, will result in termination of the assistance or tenancy, or both, of the participant and the participant's household.

6. Citizenship or Eligible Immigration Status

In order to determine each family's eligibility for full assistance or prorated assistance, PHCD is required to verify the citizenship and/or immigration status of each individual family member, unless they state they do not contend that they have eligible immigration status. Details of the requirements are described below.

- a) There are four (4) categories of citizenship/immigration status:
  - (1) Eligible citizen
  - (2) Eligible noncitizen
  - (3) Ineligible noncitizen
  - (4) Pending Verification
  
- b) The *Declaration of Citizenship or Eligible Immigration Status Certification and Verification Consent, Acknowledgement Receipt of Notice of Section 214 Requirements* form must be signed by all family members (or by parent or guardian if family member is a minor). Documents to verify citizenship or immigration status may be required as indicated below.
  - (1) A citizen/national may submit one of the following documents:
    - U.S. Passport
    - U.S. Birth Certificate
    - Puerto Rican Birth Certificate (will only be accepted if issued after July 1, 2010)
    - Certificate of Citizenship
    - Naturalization Certificate
    - Voter's Registration
    - Other documents as may be required by HUD

(2) A noncitizen eligible immigrant must have permanent residence, refugee or asylee status to be eligible for full assistance. Acceptable document of eligible immigration status for noncitizens is one of the following documents:

- (a) Permanent residents: Permanent Resident Card (Form I-551), also known as the “Green Card”.
- (b) Asylees: Asylum Approval Notice, Employment Authorization Document (EAD), or Arrival-Departure Record (Form I-94), along with government-issued ID card with photo.
- (c) Refugees: Refugee Approval Notice or Employment Authorization Document (EAD).
- (d) For non-citizens 62 years of age and older receiving assistance under a covered program on September 30, 1996 or applying for assistance after that date, a signed declaration of eligible immigration status and proof of age is required.

(3) A victim under the Violence Against Women Act (VAWA) may claim a “satisfactory immigration status” when applying for assistance or continued assistance (PIH Notice 2017-02). Evidence that an individual is a self-petitioner includes one of the following:

- INS Form I-360 VAWA self-petition
- INS Form I-130 family-based visa petition
- INS Form I-360 self-indicating
- INS Form I-797 Notice of Action indicating (a) receipt of the I-130 or I-360 petition by DHS, (b) a prima facie determination, or (c) approval of the I-360 or I-130 petition by DHS

(4) Documents must be current and unexpired.

(5) Declaration of Ineligible Immigration Status: An individual may admit to having an ineligible immigration status. The family must identify in writing which family member does not contend to have eligible immigration status.

c) Mixed Families

PHCD has included in this ACOP the required changes published in the Final Rule of the Streamlining Administrative Regulations (Docket No. FR5743-F-03) effective April 7, 2016, regarding calculation of prorated rent for mixed families ((24 CFR § 5.520(d)).

A mixed family is composed of both eligible and ineligible members and must be provided prorated assistance per 24 CFR § 5.520(d) effective April 7, 2016, unless eligible for continued assistance or temporary deferral of termination of assistance (described below).

(1) Continued Assistance

A mixed family may receive full housing assistance if they meet all of the following conditions:

- i. The family was receiving assistance under a Section 214 covered program on June 19, 1995, which is when the Noncitizens rule became effective.
- ii. The head of household, the spouse, or co-head has eligible immigration status (24 CFR § 5.506).
- iii. The family does not include any person without eligible immigration status other than the Head of Household, spouse, co-head, and parents or children of the Head, spouse, or co-head.

A family granted continued assistance before November 29, 1996 is entitled to receive non-prorated assistance. A family granted assistance after November 29, 1996 must receive prorated assistance (24 CFR § 5.520(d)).

## (2) Temporary Deferral of Termination of Assistance

If a mixed family qualifies for prorated assistance (and does not qualify for continued assistance), but decides not to accept prorated assistance, or if a family has no members with eligible immigration status, the family may be eligible for temporary deferral of termination of assistance if necessary to permit the family additional time for the orderly transition of those family members with ineligible status, and any other family members involved, to other affordable housing (see 24 CFR § 5.218(b)).

- d) Documentation proving citizenship or eligible immigration status must be provided to PHCD within ten (10) business days. PHCD may extend the submission period, which shall not exceed 30 days.
- e) Family members that are ineligible noncitizens are required to submit evidence of changes in immigration status, while receiving prorated assistance under the program.
- f) PHCD shall verify with United States Department of Homeland Security (DHS) through primary, and if necessary, secondary verifications of the immigration status for each family member as follows:
  - (1) Primary Verification: The DHS Systematic Alien Verification for Entitlements (SAVE) system provides automated immigration status. This must be done as part of the applicant eligibility process or additions to households.
  - (2) Secondary Verification: If primary verification is unsuccessful and the family member has disclosed eligible immigration status and presents valid immigration documents, a secondary verification must immediately be done. This consists of mailing a DHS form with copies of the immigration documents.
- g) Pending Verification of immigration status: When the primary or secondary verification of immigration status that was timely submitted has not been received. Also, when an appeal by the individual with DHS is pending.

- h) Once the applicant or participant has provided the immigration documents, PHCD may not deny, delay or terminate assistance solely on the basis that the primary or secondary verification of the immigration status has not been completed.
- i) In circumstances where DHS has not verified eligibility, the family will be provided with a written notice that shall include:
  - (1) That the family has a right to request an appeal to DHS of the results of the verification of immigration status;
  - (2) That the family has the right to request an informal hearing with PHCD upon completion of the DHS appeal. Such a hearing shall be held in accordance with the Grievance and Appeal Policy in Chapter IX of this ACOP;
  - (3) That housing assistance may not be denied or terminated until the conclusion of the DHS or PHCD appeal process; and
  - (4) Notification of the type of assistance for which the family may be eligible (continued assistance, temporary deferral of assistance or pro-ration of assistance).

## 7. Income Limit and Income Targeting Requirements

### a) Income Limit Requirements

PHCD has included in this ACOP the required changes published in the Final Rule of the Streamlining Administrative Regulations (Docket No. FR5743-F-03) effective April 7, 2016, regarding the definition of extremely low income.

HUD annually publishes income limits, adjusted according to family size, to determine the eligibility of applicant families for admission into the Public Housing program, as summarized below:

- **Extremely Low-Income family** is defined “as a very low income family” whose annual income does not exceed the higher of the poverty guidelines established by the Department of Health and Human Services (HHS) or thirty (30) percent of the median family income for Miami-Dade County. The poverty guidelines are established by HHS on an annual basis.
- **Very low-income families** are defined as families whose incomes do not exceed 50 percent of the median family income for Miami-Dade County.
- **Low-income families** are defined as families whose incomes do not exceed 80 percent of the median family income for Miami-Dade County.

### b) Income Targeting Requirements

- (1) PHCD is required by HUD to meet income targeting provisions (24 CFR § 960.202) to guarantee a share of available public housing units for extremely low-income applicant families. HUD income targeting requirements for the Public Housing Program as indicated below, or as may be amended by HUD:
  - (a) Extremely low income families: This group must constitute at least 40% of all new admissions from the waiting list in any year.
  - (b) Families with incomes between 31% and 80% of area median income: The remaining Public Housing new admissions (no more than 60%) can be up to the low-income level (up to 80% of the area median income).

- (c) To attain the annual extremely low-income targeting requirement of 40%, PHCD may reach out to applicants on the waiting list who are at that income level.
- (2) The following categories are not counted towards the income targeting requirements:
  - (a) Resident transfers
  - (b) New admissions that includes the following:
    - Families “continuously assisted” in Public, Indian, Section 23 or Section 8 Housing Programs
    - Families physically displaced by rental rehabilitation
    - Non-purchasing tenants of certain homeownership programs
    - Tenants displaced from certain Section 221 and 236 projects
    - Low income families residing in certain HUD-owned projects (these families are eligible for a Certificate only)

## B. Assisted Living Facilities

PHCD administers a Public Housing facility as an Assisted Living Facility (ALF) of zero (0) and one (1) bedroom units, which provides programs and services for low-income elderly families. ALFs are regulated by Chapter 429, Part I, Florida Statutes, and Florida Administrative Code 58A-5. Admission and continued occupancy of PHCD’s ALFs are subject to the following requirements:

### 1. Applicants

- a) Public Housing Program’s applicants that demonstrate interest in the ALF and qualify in accordance with the ALF Admission Criteria detailed in Section 2 below.
- b) ALF qualified applicants will be selected for zero (0) or one (1) bedroom units, in the ranking order obtained by an electronic random sorting of such list. The waiting list Management provisions contained in Section C of this Chapter, apply to ALFs’ applicants.
- c) The ALF units are included in PHCD Elderly Designation Plan. Either the head, spouse, or co-head of the family must be elderly (62 years of age or older). Once the elderly population of the waiting list is exhausted, PHCD may select Near Elderly families (50 to 62 years of age) for admission into Elderly designated units.

### 2. ALF Admission Criteria

The eligible family members must:

- a) be Medicaid and Medicare eligible;
- b) agree to pay the cost of ALF services and rent not to exceed the family’s monthly income. If the family members receive Optional State Supplement (OSS) income, the OSS check must be endorsed to the facility and a personal needs allowance (PNA) will be provided on a monthly basis;

- c) be able to perform the activities of daily living with supervision or assistance, if necessary;
- d) be at risk of being prematurely placed in a nursing home;
- e) not require 24-hour nursing supervision or mental healthcare;
- f) not be bedridden;
- g) not have a history of violent behavior that poses a risk to the health and safety of others; and
- h) be free from communicable disease. The term “communicable disease” does not include Acquired Immune Deficiency Syndrome (AIDS), human immunodeficiency virus or any other communicable diseases, which are considered a disability. People with said disabilities are afforded protection from discrimination under State, Federal, and local anti-discrimination Laws.

Notwithstanding the before-mentioned restrictions, PHCD will provide reasonable accommodations consistent with the procedures outlined in this ACOP.

### 3. Referrals to ALF

The ALF admission criteria may often cause limitations in filling ALF units, as there may not be sufficient qualified applicants in the waiting list. As such, referrals may be accepted, should the waiting list be exhausted of ALF qualified applicants.

### 4. Transfers to ALFs

Requests of transfers to the ALF of existing interested and qualified residents of Public Housing developments are subject to the provisions under Chapter V – Transfer Policy - of this ACOP and the ALF Admission Criteria detailed in subsection (2) above. Residents requesting transfers to an ALF will receive priority over applicants requesting to reside in an ALF.

### 5. ALF Discharge and Public Housing Assistance Termination

ALF residents may be discharged if they no longer meet the ALF criteria per Florida Statute, Chapter 429 and Florida Administrative Code 58A-5, or because they violate the terms of the ALF contract. Additionally, the resident may be recommended for termination of housing assistance for violation of the *Public Housing Dwelling Lease*.

## C. Interviews and Verification Process

- 1. As applicants approach the top of the waiting list, they will be contacted by mail and scheduled for an eligibility interview to commence their screening. If required, the applicant may be contacted to update information. Applications will be withdrawn if an applicant fails to attend a scheduled interview. PHCD will make an exception for those people with a disability requiring a reasonable accommodation as described in PHCD’s Reasonable Accommodation Policy and Procedures, Appendix IV of this ACOP.

2. The following items will be verified to determine qualification for admission to the Public Housing program prior to obtaining written consent authorizing a criminal background check:
  - Identity of each adult or emancipated minor household member
  - Family composition and type (Elderly/Disabled/near elderly /non-elderly)
  - Annual Income
  - Assets and Asset Income:
  - Deductions from Income
  - Admission preferences
  - Social security numbers of all family members
  - Applicant Screening Information
  - Citizenship or eligible immigration status
  - Current landlord references
  - Debts owed to a public housing authority and termination of assisted housing through HUD's Enterprise Income Verification (EIV) system
  - Housing assistance (avoiding double subsidy) by a public housing authority through HUD's Enterprise Income Verification (EIV) system
  - Public Records (eviction history)
3. The following item will be verified to complete the eligibility verification process after PHCD has first determined that the applicant and all other household members are eligible and qualified to rent under all other applicable requirements:
  - Criminal Background check as detailed in Section E of this Chapter.
4. Enterprise Income Verification (EIV) At Time of Admission

PHCD will verify information of each household member through EIV for:

a) Double Subsidy

If during the eligibility process, EIV shows that a family or any household member is receiving subsidy from another housing authority (i.e., shown as residing in another housing authority or program), the family or household member must show documentation of intent to vacate from the other housing authority or program before approval for admission. PHCD may provide up to 30 days for the family or household member to show proof of intent to vacate from the other housing or program.

Assistance will be denied if the applicant or participant does not provide proof that they have moved from another housing authority or program before the expiration of the 30 days. A 30-day extension to show intent to vacate or termination of tenancy documentation may be provided in extenuating circumstances and upon good cause (see Appendix I – Definitions of this ACOP).

b) Debt Owed

If the EIV information shows that a family or household member was a former PHCD tenant, left a debt after moving from another housing authority or program,

or was terminated for adverse reason(s), the family will be responsible for clearing the debt or termination information within 45 calendar days. Assistance will be denied if the family cannot or does not provide proof of debt cancellation or reversal of the termination prior to the expiration of the 45 calendar days.

PHCD will verify through EIV whether the applicant is receiving or will potentially receive a double subsidy, owes a debt to another housing authority or program, or whether a prior termination has not been cleared. The family has the right to dispute information obtained from EIV.

5. Applicants reporting zero (0) income will be asked to complete the *Monthly Family Expense* and *Income Contribution* forms to document how much they spend on: food, transportation, health care, childcare, debts, household items, etc. They will also be asked to provide the source of income for these expenses. The *Income Contribution* form is a certification signed by the person who provides the income contribution and must be notarized or witnessed by the PHCD representative upon identification of contributor.

#### 6. Applicant Interview Process

Each eligibility interview appointment letter must include a list of all the documents required by PHCD at the interview and the *Personal Declaration* form, or any other approved form for the same purpose.

- a) To the greatest extent possible, eligibility interviews are conducted in privacy. Reasonable accommodations will be provided for people with disabilities who may require special services.
- b) Original documents such as birth certificates, social security numbers, pay stubs, and receipts will be reviewed, photocopied, and included in the applicant's file.
- c) During the applicant's interview, the eligibility interviewer will compare information received with past information stated on the application. If any discrepancy occurs, the applicant will be questioned and may be asked to submit additional documentation.
- d) Applicants failing to submit (1) required documents at the time of the interview or (2) being requested to provide additional documentation will be given a checklist of missing or needed documents to provide them within three (3) business days of the interview. Additional time may be provided if the applicant failed to submit documentation for good cause (see Appendix I – Definitions of this ACOP) or if approved by PHCD Director or designee.
- e) The applicant family must complete all applicable information spaces on the *Personal Declaration* form. Effective January 1, 2024, upon implementation of HOTMA, and subject to applicable HUD guidance, PHCD will compare current information received with past information stated on the waiting list application and query the applicant regarding any discrepancies that may affect eligibility and/or require additional documentation. PHCD will estimate annual income for the upcoming 12-month period [24 CFR §5.609 (c)(1)].
- f) Misrepresentation of income, family composition or any other information affecting eligibility and selection criteria will result in the family being declared ineligible. In

the event fraud is discovered after admission, the family may be subsequently evicted, even if the family meets current eligibility requirements at the time.

- g) After PHCD has reviewed all information with the applicant at the time of eligibility interview, all adult family members (see definition in Appendix I of this ACOP), are required to sign the necessary forms such as the *Authorization to Release Information*, prior to conducting background checks.

#### 7. Personal Declaration Form

The Personal Declaration is a personal statement of information required to evaluate the eligibility for selection of the applicant. Information required on the Personal Declaration form relates to the following:

- Household composition
- Admission preferences (if applicable)
- Emergency contacts
- Previous landlord references
- Background references
- Care of unit
- Family income
- Family assets
- Child-care expenses
- Disability assistance expenses
- Medical expenses

#### 8. Third Party Verifications - Refer to Chapter VI(M)

#### 9. Declaration of Income

In support of the applicant/tenant's declaration of income, PHCD may review original documents, authenticated copies, and/or electronic documents (unaltered) provided by the applicant or resident. All income related documents must be dated less than 60 days preceding the determination date (eligibility interview) and continues to be valid an additional 60 days following the request date. If income related documents expire, the applicant or resident will have to provide new documents. A photocopy will be placed in the file. Acceptable applicant or resident provided documents include:

- Consecutive and unaltered pay stubs;
- Social Security Administration award letter;
- Bank statements;
- Pension benefit statements;
- TANF award letter;
- Other official and authentic documents from a Federal, State or local agency.

#### D. Verification of Assets

(This section D shall become effective January 1, 2024, upon the implementation of Housing Opportunity through Modernization Act of 2016 (HOTMA) and applicable regulations and guidelines promulgated by HUD).

##### 1. The following asset policies apply:

- a) For net family assets under \$50,000 [24 CFR § 5.609 (b)(1)]:

- PHCD may accept self-certification (adjusted annually for inflation) for new admissions from the family that the assets are under that amount, and no further documentation is required to be collected.
- PHCD by allowing self-certification for net family assets under \$50,000 during new admission will fully verify the net family assets under \$50,000 every three (3) years using the applicable verification hierarchy (refer to Chapter VI(M)).

b) For net family assets totaling \$50,000 or greater [24 CFR § 5.609 (a)(2)]:

- PHCD will verify the value and income from assets using the applicable verification hierarchy.

See the section on Limitations on Assets below under which an applicant household may be disqualified from admission.

E. Limitation on Assets (24 CFR § 5.618)

(This section E shall become effective January 1, 2024, upon the implementation of Housing Opportunity through Modernization Act of 2016 (HOTMA) and applicable regulations and guidelines promulgated by HUD).

Upon implementation of the HOTMA Final Rule and subject to applicable HUD guidance, assistance under the Public Housing program may not be provided upon reexamination of family income if:

1. The family's net assets (as defined in 24 CFR § 5.618) exceed \$100,000, or as determined by HUD (adjusted annually for inflation) and/or
2. The family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell real property (based on laws of the state or locality in which the property is located) that is suitable for occupancy by the family as a residence.
3. A property will be considered suitable for occupancy unless the family demonstrates that the property:
  - (a) Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation);
  - (b) Is not sufficient for the size of the family;
  - (c) Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by PHCD or owner);
  - (d) Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
  - (e) Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.
4. This real property restriction does not apply to:
  - (a) Any property for which the family is receiving assistance under 24 CFR 982.620 or under the Homeownership Option in 24 CFR Part 982;

- (b) Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
  - (c) Any person who is a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking as defined in 24 CFR 5, Subpart L; or
  - (d) Any family that is offering such property for sale.
5. PHCD may establish exceptions to this policy according to family type and/or circumstance and in accordance with the Final Rule and any related guidance. These exceptions may be based on different factors, such as age, disability, income, the ability of the family to find suitable alternative housing, and whether supportive services are being provided.

Further, PHCD may delay the initiation of termination proceedings of a family based on noncompliance under this provision, unless it conflicts with other provisions of law, for a period not to exceed six (6) months.

## 2. ABLE Accounts

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. The eligible individual is the owner and designated beneficiary of the ABLE account. An eligible individual may establish an ABLE account provided that the individual is blind or disabled by a condition that began before the individual's 26th birthday.

Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. In determining a family's income, HUD will exclude amounts in the individual's ABLE account and the entire value of the individual's ABLE account will be excluded from the household's assets (Notice PIH 2019-09). This means actual or imputed interest on the ABLE account balance will not be counted as income. Distributions from the ABLE account also are not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

- 3. If third party income verification is not otherwise available, a copy of the most recent federal income tax return shall be submitted, including any W-2 information, or at least two (2) consecutive pay stubs or earnings statements. As stated above, notarized statements, written statements witnessed by PHCD representative or affidavits are the least desirable forms of verifications and shall be accepted only when all other types of verification attempts have failed.
- 4. PHCD will conduct criminal background checks and sex offender registration checks on all household members (excluding juvenile records).
- 5. If PHCD discovers the family has a history of failure to comply with lease terms under previous landlords or fails the background check, such shall result in removal from the waiting list, withdrawal of an offer, or termination of assistance.

6. A family's intentional misrepresentation of information related to eligibility, preference for admission, housing history, allowances, family composition, income or rent would result in rejection. Unintentional mistakes that do not confer any advantage to the applicant will not be considered misrepresentations.

Uncollected child support will not be counted as income so long as the family provides document(s) demonstrating that the debt uncollectible for at least three months. However, effective January 1, 2024, upon the implementation of Housing Opportunity through Modernization Act of 2016 (HOTMA) and applicable regulations and guidelines promulgated by HUD, PHCD will only process a full interim reexamination if the family's adjusted income is estimated to have decreased by ten (10) percent or more, the standard threshold set by HUD.

7. **For new admissions**, PHCD must estimate the family income for the upcoming 12-month period, subtract the allowable deductions, from the gross annual income to determine the adjusted income. (This requirement shall become effective January 1, 2024, upon the implementation of Housing Opportunity through Modernization Act of 2016 (HOTMA) and applicable regulations and guidelines promulgated by HUD).
8. Income from seasonal employment (i.e., school board employees, teachers, etc.) may be calculated using one of the following methods:
  - a) PHCD currently recommends using the following method: Calculate average income based on anticipated changes for the upcoming year using verified historical evidence of past income fluctuations. This second method would not require an interim re-examination at the time income decreases since such decreases would already be averaged into the anticipated annual amount.
  - b) As an alternate method, PHCD may annualize income by projecting the current monthly income for 12 months even if the current income is not expected to last the entire 12 months. Under this method, the family has the right to come in for an interim re-examination once the income decreases.

F. Ability to Comply with Financial Obligations and Lease Requirements

1. Each applicant must confirm their ability and willingness to comply with the essential Lease requirements. Applicant screening shall assess the conduct in present or prior housing of the applicant and other family members listed on the application.
2. In verifying the applicant's ability to meet financial obligations, especially rent (for subsidized housing), and to comply with the Lease terms, PHCD may perform verifications with at least one prior landlord.
3. At the interview, applicants must provide current and prior addresses, as well as contact information for current and prior landlords.
4. An applicant's history of conduct and behavior must demonstrate that the applicant family can reasonably be expected to:
  - a) Not interfere with other residents in such a manner as to diminish their peaceful enjoyment of the premises by adversely affecting their health, safety, or welfare;

- b) Not adversely affect the physical environment or financial stability of the project; and
  - c) Comply with the terms and conditions of the Lease.
5. PHCD may verify applicants' record of disturbance of neighbors, destruction of property or living and housekeeping habits at prior residences that may adversely affect the health, safety or welfare of other tenants or cause damage to the unit or development.
  6. Payment of funds owed to PHCD or any other housing authority is part of the screening evaluation.
  7. PHCD's examination of relevant information respecting past and current habits or practices will include, but is not limited to, an assessment of the applicant and each family member with respect to:
    - a) Past performance in meeting financial obligations, especially rent and utility bills. If the applicant had difficulty meeting financial obligations, PHCD may consider any mitigating circumstances for failing to meet these obligations.
    - b) Record of disturbing neighbors (sufficient to warrant a police call), destruction of property, or living or housekeeping habits that may adversely affect the health, safety, or welfare of other tenants or neighbors.
    - c) History of criminal activity on the part of any applicant family member involving crimes of physical violence to people or property, or other criminal acts including drug-related criminal activity that would adversely affect the health, safety, or welfare of other residents or staff or cause damage to the unit or development.
    - d) A record of eviction of any household member from subsidized housing or involuntary termination from residential assistance programs (taking into account date and circumstances) for a period of five (5) years from end of participation.
    - e) An applicant's ability and willingness to comply with the terms of the *Public Housing Dwelling Lease*, including but not limited to the community service requirement.
    - f) Amounts owed to PHCD by current or former residents -PHCD's current or former residents admitted to other programs such as the Section 8 Housing Choice Voucher, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation Single Room Occupancy, Section 8 New Construction, Section 8 Substantial Rehabilitation, Shelter Plus Care, and Section 8 Project-Based programs managed by PHCD or to another housing authority must repay outstanding balances owed. In such cases, repayment agreements are not authorized under these circumstances.

#### G. Denial of Assistance

PHCD acknowledges that a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under PHCD's policies. Therefore, if an applicant is denied assistance, PHCD will provide them with its notice of denial the *Notice of Occupancy Rights under the Violence Against Women Act* form (HUD form 5380) and the *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation* form

(HUD form 5382). See Chapter XIV—Violence Against Women Act of this ACOP for additional details.

PHCD will use local and national databases to perform criminal background checks (not including juvenile records) and sex offender registration checks for applicants and additions to households who are 18 years of age and older. PHCD will conduct such checks on household members who are younger than 18 years only if they are being tried as adults for certain criminal offenses.

- A nationwide criminal background check and sex offender registration check will be performed. The nationwide sex offender registration check will be conducted online using a database available at [www.nsopw.gov](http://www.nsopw.gov) (PIH Notice 2012-28).
- Prior to conducting any criminal and sex offender registration background checks, household members 18 years of age and older (including the live-in aide) must sign the consent form named *Authorization to Obtain Criminal Background Records*. The custodial parent may sign the required form on behalf of a minor. PHCD will conduct criminal and sex offender checks on household members who are younger than 18 years only if they are being tried as adults for certain criminal offenses.

PHCD may deny assistance on the following grounds:

1. Eviction or Termination from Federally Assisted Housing

PHCD shall deny assistance if any household member has been evicted from subsidized housing or experienced involuntary termination from residential assistance programs (taking into account date and circumstances) for a period of five (5) years from end of participation.

2. Failure to Meet Financial Obligations

Assistance may be denied for a period of five (5) years for failing financial obligations in subsidized housing (e.g., monies owed, paying rent and utilities) or in the following circumstances unless the family can provide proof of debt cancellation or reversal of the adverse termination within up to 45 calendar days of notice.

- a) If an applicant or any member of the applicant family currently owes rent or other amounts to PHCD or any other housing agency in connection with Section 8 or public housing assistance under the United States Housing Act and applicable federal regulations, or if any applicant who previously lived in public housing or an assisted unit vacated leaving an unpaid balance, then the applicant will not be offered assistance until the outstanding balance is paid in full.
- b) If the applicant or any member of the applicant family has not reimbursed any housing authority for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the Lease.
- c) If the applicant or any member of the applicant family breaches an agreement with any housing agency to pay amounts owed to the housing agency, or amounts paid to an owner by the housing agency.

3. Abusive Behavior

If within five (5) years of eligibility determination an applicant or any member of the applicant family has engaged in physical or verbal abuse, or threatened abusive or violent behavior that may include the use, attempted use, or threatened use of physical force, toward PHCD personnel or any County personnel or official, then the application may be denied. Applicants denied housing due to abusive behavior must be reviewed and approved by PHCD Director or designee.

4. Criminal Activity

PHCD's goal is to assist ex-offenders in gaining access to one of the most fundamental building blocks of a stable life, a place to live. However, criminal background checks are performed at admission and annual re-examinations.

PHCD is committed to seek a balance between allowing ex-offenders to reunite with their families that live in public housing, and at the same time, ensuring the safety of all residents of its programs.

- a) PHCD may deny admission or terminate assistance when the screening process shows a conviction (see Appendix I. – Definitions of this ACOP) for engaging in criminal activity and history of inability to comply with the terms of previous leases, as verified by previous landlords or other entities. However, PHCD may consider mitigating circumstances.
- b) In its decision to deny or terminate assistance, and prior to sending the denial notice, PHCD shall conduct an individualized assessment considering the following:
  - the seriousness of the case, especially as it affects the health and safety of other residents;
  - the effect of denial or termination of assistance on other family members who were not involved in the action or failure to act;
  - the level of violence, if any, of the criminal activity for which the applicant or resident was convicted;
  - the length of time since the conviction;
  - the number of convictions that appears on the applicant or resident's criminal history;
  - the possibility of the applicant or resident being rendered homeless; and
  - the rehabilitation efforts taken by applicant or resident after conviction or released from prison.

PHCD, if it admits such a family to the program, may impose as a condition of assistance, the requirement that family members (other than the head of household) who participated in or were culpable for the action or failure to act will not be part of the applicant family or reside in the assisted unit, upon approval of PHCD or hearing officer or hearing panel.

- c) Pursuant to PIH Notice 2015-19, an arrest is not evidence of criminal activity that can support an adverse admission, termination or eviction decision. As such, an arrest where the disposition of the criminal charges are voided, invalidated, rendered inoperative, dropped, nolle prossed, dismissed pursuant to successfully completion of a diversion or a deferral of judgment program, no action, or other resolution that

does not involve an admission of guilt or where the applicant is found not guilty or acquitted, may not result in denied or terminated assistance.

- d) However, PHCD may deny or terminate assistance based on the conduct underlying arrests, only if the conduct indicates the individual is not suitable for tenancy, in which case PHCD may gather sufficient evidence to support an adverse admission, termination, or eviction decision.
- (1) Such evidence may consist of the police report associated with the arrest and consider the reported circumstances of the arrest. PHCD may also consider any statements made by witnesses, not included in the police report and any other evidence relevant to determining whether or not the applicant or tenant engaged in disqualifying activity.
- e) PHCD may permanently deny or terminate assistance for convictions related to the following:
- (1) Methamphetamine manufacturers on premises of federally assisted housing.
- (2) Sex offenders subject to a lifetime registration under a state sex offender registration program. In searching for sex offenders, PHCD will perform background checks nationwide. The nationwide sex offender registration check will be conducted online using a database available at [www.nsopw.gov](http://www.nsopw.gov) (PIH Notice 2012-28).
- (3) Felonious violent criminal activities, including but not limited to murder, arson, aggravated felony battery and sex-related crimes not subject to lifetime registration under a state sex offender registration program.
- f) Except for methamphetamine manufacturing, sex-related crimes, felonious violent criminal activities (e.g., murder, arson, aggravated felony battery) and those convictions for criminal activities described in Miami-Dade County Ordinance 15-47, PHCD shall consider:
- Criminal felony convictions that have occurred within the last five (5) years from the date of conviction; and
  - Criminal misdemeanor convictions that have occurred within the last three (3) years from the date of conviction.
- The lookback period starts from the date the application is accepted by PHCD, when formal eligibility screening commences.
- g) PHCD may not deny or terminate housing due to misdemeanors considered civil violations according to County Ordinance 15-47, listed below:
- Litter
  - Illegal Use of Dairy Cases, Egg Baskets, Poultry Boxes, or Bakery Containers
  - Trespass on Property Other than Structure or Conveyance Retail Theft by Removal of a Shopping Cart
  - Loitering or Prowling
  - Possession of Cannabis in an amount of 20 grams or less
  - Possession of Drug Paraphernalia

- h) After conducting an individualized assessment, PHCD may deny or terminate assistance, if the applicant or resident has been convicted for the following criminal activities:
- (1) Drug-related activities, including, but not limited to, eviction or termination from federally assisted housing due to drug activity. Drug-related activities mean 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.
  - (2) Violent criminal activities which shall include any criminal activity that has as one (1) of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, non-trivial bodily injury or property damage.
  - (3) Non-violent criminal activities that may threaten the health, safety or right to peaceful enjoyment of the premises by other residents. Examples are crimes that involve disturbing the peace, crimes against property such as burglary, larceny and robbery, and crimes that impose a financial cost such as vandalism, bribery, and fraud, including fraud in connection with federally assisted housing.
  - (4) Alcohol abuse or pattern of abuse, if PHCD has reasonable cause to believe that the person's abuse or pattern of abuse of alcohol may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.
- i) In determining denial or termination of assistance related to drug or alcohol abuse, PHCD must take into consideration: Evidence of drug or alcohol rehabilitation, as indicated under Mitigating Circumstances below, and if the drug or alcohol abuse is related to a disability, as determined by PHCD's ADA Coordinator.
- j) PHCD shall not consider any additional restrictions for eligibility of housing assistance due to criminal activities not required by federal law, regulations, and this policy.

5. Other Non-Criminal Activities

Assistance will be denied or terminated for a period of five (5) years for inability to comply with the lease terms (e.g., record of disturbance of neighbors, destruction of property, living and housekeeping habits) that may adversely affect the health, safety or welfare of other tenants or cause damage to the unit or development.

6. Notification of Proposed Rejection

PHCD must notify the household of the proposed rejection, the reason for the denial of admission or termination, and provide an opportunity to dispute the accuracy and relevance of the record. If the denial is because of criminal background, PHCD must provide the household member with copy of the criminal records.

Criminal records (not including juvenile records) for minors convicted as adults available to PHCD by operation of law will be released to the head of household, parent or legal guardian of the minor, upon request. Refer to Chapter IX of this ACOP.

The HUD form 5380, *Notice of Occupancy Rights under the Violence Against Women Act* form, and the HUD form 5382, *Certification of Domestic Violence, Dating Violence, Sexual*

*Assault, or Stalking, and Alternate Documentation* form, will be provided at the time the household is denied assistance.

## 2. Mitigating Circumstances for Applicants and Residents

1. Mitigating circumstances are facts relating to negative rental history or behavior, that, when verified, indicate that the reason for the unsuitable rental history or behavior is no longer in effect or is under control, justifying admission or continued occupancy. Mitigating circumstances would overcome or outweigh information gathered in the screening process.
2. The factors below will be taken into consideration when reviewing the conviction(s) for engaging in criminal activities. These factors are not the only allowable mitigating circumstances. PHCD may consider other mitigating circumstances as appropriate. Providing documentation of mitigating circumstances as described below is the responsibility of the family. It is incumbent upon the family to provide documentation, evidence and any and all other third-party proof at any time, including but not limited, to the investigation interviews, appointments with PHCD staff, at the time of the informal review or within the time limit set by the hearing officer to provide substantiating information challenging the recommendation to deny assistance.

### a) Removal of Family Member

The applicant or resident may request removal of the offending family member from the family composition and the family member may not remain on the application nor reside in the Public Housing unit in order for the family to be assisted in the program.

If the offending family member(s) is not removed, then the entire family shall be recommended for denial of assistance from the Program. In circumstances where the offending family member is the head of household, the entire family shall be recommended for denial of assistance from the Program.

Depending on the seriousness of the offense, PHCD may consider to reinstate the removed offender family member, if they are able to establish that they have been rehabilitated (i.e., drug or alcohol rehabilitation program).

### b) Violation of Peaceful Enjoyment

PHCD may consider all circumstances relevant to a particular case, such as the seriousness of the offending action, the extent of participation by the head of household or household member(s) in the offending activity and the extent to which the head of household or household member(s) has shown personal responsibility to prevent or mitigate the offending action. Upon determination by the hearing officer or PHCD may require a family to exclude a household member in order to receive housing assistance, where that household member has participated in or been culpable for the action or failure to act that warrants denial or termination of assistance.

### c) Substance Abuse Rehabilitation

Upon determination by PHCD, hearing officer, hearing panel whether to recommend denial or termination of assistance for illegal drug use or a pattern of illegal drug use by a household member who is no longer engaging in such use, or for abuse or a

pattern of abuse of alcohol by a household member who is no longer engaging in such abuse, may consider whether such household member was remanded by the court and is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully. For this purpose, PHCD shall require the applicant or resident 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.

d) Domestic Violence

Upon request, other documents may be submitted in lieu of the HUD form 5382, *Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking and Alternate Documentation* form. See Chapter XIV– Violence Against Women Act and Appendix I - Definitions of this ACOP for additional details.

3. Examples of mitigating circumstances may include:
  - a) If the unit is not ready for move-in, the applicant or resident may refuse the unit and receive another housing offer based on availability;
  - b) Evidence of successful rehabilitation. The household member who engaged in criminal activity successfully completed a diversion or deferral of judgment program; or has successfully completed a supervised drug or alcohol rehabilitation program verified by PHCD;
  - c) Circumstances leading to the eviction or criminal activity no longer exist (for example, the criminal household member has died or is imprisoned);
  - d) Evidence of the family's participation in social service or other appropriate counseling service; or
  - e) Evidence of successful and sustained modification of previous disqualifying behavior.
4. Consideration of mitigating circumstances does not guarantee that the family will qualify for admission or continued occupancy. PHCD will consider such circumstances in light of:
  - a) the ability to provide documentation/evidence to verify the mitigating circumstances and prospects for improved future behavior;
  - b) the overall performance with respect to all the screening requirements; and
  - c) the nature and seriousness of the criminal activity, especially drug related and criminal activity that appears in the applicant's or resident's record.
5. If negative information is received about an applicant or resident, PHCD shall consider the time, nature, and extent of the conduct and factors that may indicate a reasonable probability of favorable future conduct. To be considered, mitigating circumstances must be verifiable.
6. If the applicant or resident asserts that mitigating circumstances relate to a change in disability, medical condition or treatment, PHCD shall evaluate the evidence and verify

the mitigating circumstance. PHCD shall also have the right to request further information to verify the mitigating circumstance. Such inquiries will be limited to the information necessary to verify the mitigating circumstances or, in the case of a person with disabilities, to verify a reasonable accommodation (see PHCD’s Reasonable Accommodation Policy and Procedures document under Appendix IV of this ACOP), which will be used by PHCD as the source document to process reasonable accommodation requests for people with disabilities.

H. Occupancy Guidelines

Units shall be occupied by families of the appropriate size. This policy maintains the usefulness of the units, while preserving them from excessive wear and tear and under-utilization.

**Minimum and Maximum-Number-of-Persons-Per Unit Standard**

| Number of Bedrooms | Minimum Persons per Unit | Maximum Persons per Unit |
|--------------------|--------------------------|--------------------------|
| 0                  | 1                        | 1                        |
| 1                  | 1                        | 2                        |
| 2                  | 2                        | 4                        |
| 3                  | 3                        | 6                        |
| 4                  | 4                        | 8                        |
| 5                  | 5                        | 10                       |
| 6                  | 6                        | 12                       |

1. Occupancy standards are applied at the initial certification, annual reexamination, or during authorization for transfer. For occupancy standards an adult is a person 18 years or older.
2. The unit standard must be applied consistently for all families of like size and composition.
3. The dwelling unit must have at least one (1) bedroom or living/sleeping room for each two (2) persons.
4. A one (1) person family shall be allocated a zero (0) or one (1) bedroom unit, and spousal/domestic partners shall be allocated a one (1) bedroom sized unit.
5. A one (1) person family who has been awarded with joint custody of a minor will be granted a one (1) bedroom unit.
6. PHCD will count a minor in the occupancy standard who is temporarily away from home because the minor has been placed in foster care, kinship care, or is away at school.
7. Effective January 1, 2024, upon the implementation of Housing Opportunity through Modernization Act of 2016 (HOTMA), PHCD will count foster children and foster adults in the occupancy standard. (Foster children and foster adults will be considered part of the household and therefore will be considered when determining appropriate unit size and utility allowance).
8. As shown in the above table, a maximum of two (2) persons per bedroom is the standard for the smallest unit a family may be offered, **except** in the following cases:

- a) Children of opposite sex, over the age of six (6), may not be required to occupy the same bedroom or living/sleeping room;
- b) A family that consists solely of a pregnant woman (with no other members) shall only be allocated a maximum of a one (1) bedroom unit.
- c) A single head of household parent shall not be required to share a bedroom with a child over the age of six (6), although they may do so at the request of the family;
- d) As a reasonable accommodation, an applicant or program participant family may be allowed a larger bedroom unit to accommodate a family member who requires certain medical equipment (i.e., hospital bed) or for other verifiable reasons. A live-in aide may be assigned up to one (1) bedroom if approved as a reasonable accommodation. No additional bedrooms will be provided to accommodate the live-in aide's family members.

8. Actual Unit Size Offered

- a) The largest unit size that a family may be offered would provide no more than one (1) bedroom per family member, taking into account family size and composition.
- b) If a family opts for a smaller unit size than designated and does not exceed the maximum amount of people per bedroom size (two (2) persons per bedroom) and local codes, the family will be required to sign a statement agreeing to occupy the smaller unit assigned. They may not request a transfer within two (2) years after admission, unless they have a change in family composition or because of a reasonable accommodation.

I. Making Housing Offers to Eligible Applicants

- 1. PHCD makes public housing unit offers throughout PHCD. Such an offer does not guarantee the availability of the unit.
- 2. To ensure equal opportunity and nondiscrimination on grounds of race, national or ethnic origin, color, sex, religion, age, disability, ancestry, status as a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking, actual or perceived sexual orientation, gender identity or gender expression, pregnancy or source of income, the following procedures will be used to make unit offers:
  - a) In the selection of a family for a UFAS unit or a unit with accessible features, PHCD will give preference to current residents and then to applicant families that include a person with disabilities who can benefit from the unit features.
  - b) Eligible applicants will receive three (3) written housing offers; these housing offers must be accepted or refused within three (3) business days. The acceptance or refusal of the housing offer must be brought in person to the Applicant Leasing Center.

J. Showing Units to Applicants Prior to Leasing

- 1. Upon receipt of a housing offer letter, an applicant can contact the AMP administrator or designee to schedule an appointment to view the offered unit.

2. The applicant must accept or refuse the offered unit after it has being shown and must notify the Applicant Leasing Center (ALC) in person within the timeframe specified in the housing offer letter.
3. If the applicant accepts the offered unit, ALC will complete the process of eligibility screening and forward documentation to the AMP Administrator or designee. Once the AMP Administrator or designee receives the documentation from ALC, the AMP administrator or designee will execute a lease with the applicant. If the applicant refuses the unit, the applicant must provide a signed statement explaining the reason for the refusal. ALC is then responsible for making the “good cause” determination (see Section J below).

K. Good Cause for Applicant Refusal of Unit Offer

If an applicant or resident does not accept the unit and presents clear evidence that acceptance of the offer of a suitable vacancy will result in undue hardship (see examples below) not related to federal, state, and local antidiscrimination laws regarding fair housing, the applicant will be entitled to another offer.

1. Examples of good cause for refusal of an offer of housing are:
  - a) The unit being offered to the applicant family is not ready for occupancy.
  - b) Hardship in retaining employment or attending specialty education, job training, or educational program for children with disabilities due to a lack of transportation, so that accepting the unit offer would require the adult family member to quit a job, drop out of an educational institution or job training program, or take a child out of an educational program for children with disabilities.
  - c) The family demonstrates that accepting the offer will place a family member’s life, health or safety in jeopardy. The family must provide specific and compelling documentation such as restraining orders, other court orders, or risk assessments from a law enforcement agency. Reasons offered must be specific to the family.
  - d) A victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking does not believe the unit is safe pursuant to 24 CFR §5.2005(e)(1)(iii). See Chapter XIV—Violence Against Women Act of this ACOP for additional details.
  - e) A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (each as listed on final application) or live-in aide necessary to the care of the principal household member.
  - f) The unit is inappropriate for the applicant’s disability, or the family does not need the accessible features in the unit offered and does not want to be subject to the 30-day notice to move.
  - g) An elderly or disabled family makes the decision not to occupy or accept occupancy in designated housing.

2. If good cause is verified, the refusal of the offer shall not require the applicant to be removed from the waiting list or otherwise affect the family's position on the waiting list. The applicant will receive another housing offer upon unit availability.

L. Recordkeeping Requirements for Applicants

In accordance to State of Florida records retention schedule, PHCD will maintain records of the eligibility screening results and circumstances of each dwelling unit offered to an applicant, including the location of the unit, the offer date, and whether the offer was rejected or accepted. The resident's application for admission will be kept in the resident's file. PHCD may maintain records electronically.

1. Criminal records obtained by PHCD must be:
  - a) Maintained confidentially;
  - b) Not misused or improperly disseminated; and
  - c) Destroyed, once the purpose(s) for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action.
2. Criminal penalty: The improper release of criminal records may result in conviction for a misdemeanor and imposition of a penalty of not more than \$5,000. Criminal penalty may be assessed to:
  - a) Any person, including an officer, employee, or authorized representative of PHCD or of any project owner, who knowingly and willfully requests or obtains any information concerning an applicant for, or tenant of, covered housing assistance under the authority of this section under false pretenses; or
  - b) Any person, including an officer, employee, or authorized representative of any PHA or a project owner, who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive the information.
3. Civil Liability: In addition to criminal penalties, PHCD may be held civilly liable to any applicant or tenant affected by either of the following:
  - a) A negligent or knowing disclosure of criminal records information obtained under the authority of this section about such person by an officer, employee, or authorized representative of PHCD, if the disclosure is not authorized by HUD's regulations; or
  - b) Any other negligent or knowing action that is inconsistent with HUD's regulations.

## IV. Leasing Policies

### A. General Leasing Policy

1. All units must be occupied pursuant to the PHCD-approved dwelling lease that complies with HUD's regulations.
2. Prior to admission, the Lease shall be signed by the head of household, spouse, domestic partner, co-head, and all other adult members of the household and by the AMP administrator or other authorized representative of PHCD.
3. If a resident transfers from one PHCD unit to another, a new lease must be executed by the head of household and adult family members for the new dwelling unit.
4. If at any time during the life of the Lease agreement, a change in the resident's status results in the need for changing or amending any provision of the Lease, either:
  - a) A new lease agreement will be executed, or
  - b) A Notice of Rent Adjustment will be executed, or
  - c) An appropriate rider will be prepared and made a part of the existing lease.
5. All copies of such riders or insertions are to be dated and signed by the resident and by the AMP administrator or other authorized representative of PHCD.
6. Residents must advise PHCD if they will be absent from the unit for more than seven (7) consecutive days. Residents shall notify the AMP administrator or designee in writing, secure the unit, and provide a means for PHCD to contact them in an emergency. Failure to comply is grounds for termination of the Lease. See section below for maximum number of days visitors can stay in the unit.

### B. Changes in the Household and Visitors

1. Only those people listed on the most recent certification form and lease shall be permitted to occupy a dwelling unit:
  - a) Any family seeking to add a new member to the household composition must notify the AMP Administrator. The family must obtain written approval before the new member moves in, except for natural births to a family member or when a family member adopts or receives custody of children by the courts or other operations of law. (Family members being added to the family composition must meet the criteria under Chapter III and the definition of Family under Appendix I of this ACOP);
  - b) When a resident requests approval to add a new person to the Lease, PHCD will conduct pre-admission screening, including criminal background (excluding juvenile records), eligible immigration status, and sex offender registration checks, of any proposed new member 18 years of age and over, to determine whether PHCD will grant such approval. PHCD will conduct such checks on household members who are younger than 18 years if they are being tried as adults for certain criminal offenses. Minor children for whom juvenile justice records are not made available or added through a formal custody award or kinship care

arrangement are exempt from the pre-admission screening process, although the resident needs prior approval from PHCD to add children other than those born to, adopted by, or awarded by the court to the family;

- c) All persons listed on the most recent certification form and the Lease must use the dwelling unit as their sole residence. In cases of joint custody, where the families have 50-50 custody, the child shall live with both families as required by the court; however, the families must decide amongst themselves, and notify PHCD, as to under which family's Lease the child shall be listed for reporting purposes.
2. Examples of situations where the addition of a family or household member is subject to pre-admission screening are:
    - a) Residents requesting to add their spouse, domestic partner, or a new family member to the Lease;
    - b) Residents requesting to add a household member (e.g., live-in aide, foster adult, or take in a foster child(ren)); or  

Note that effective January 1, 2024, in accordance with HOTMA, foster children and foster adults will be considered part of the household and therefore will be considered when determining appropriate unit size and utility allowance.
    - c) A unit is occupied by a remaining family member(s) under age 18, who is not an emancipated minor, or an adult, not a part of the original household, requests permission to take over as the head of the household.
  3. Visitors may be permitted in a dwelling unit so long as they have no previous history of unacceptable or negative behavior on PHCD premises that would be a lease violation.
    - a) Visits of more than 14 days per year, whether consecutive or not, are not permitted, unless the resident obtains the advance written consent of the Asset Management Director or designee.
    - b) Visitors remaining beyond 14 days shall be considered unauthorized occupants and the head of the household shall be guilty of a breach of the Lease.
    - c) Only the persons listed in Article III of the Lease are authorized to use the unit's address in their driver's license, identification card, or as their mailing address [24 CFR §966.4 (f)(3)].
  4. Unauthorized occupants, boarders, roomers and lodgers shall not be permitted to move in with any family [24 CFR §966.4 (f) (2)]. Violation of this provision is ground for termination of the Lease.
  5. Residents will not permit a former resident of PHCD who has been terminated to occupy the unit for any period of time. Violation of this requirement is grounds for termination of the Lease. If the resident requests that the former resident be allowed to return, PHCD may consider this request based on mitigating circumstances.

C. Removals from the Family Composition

1. Residents (continuous assistance):

- a) Any adult family member requesting to be removed from the family composition must provide a notarized statement or a written statement witnessed by a PHCD representative agreeing to the removal, signed by the adult family member being removed upon identification and the head of household.
- b) The notarized statement must be accompanied by two (2) pieces of supporting documentation from different sources showing that the family member is no longer residing in the subsidized unit. Supporting documentation to prove another residency may include, but is not limited to, a copy of the dwelling lease agreement, utility bills, or official mail (from a Federal, State, County or City government agency) properly dated (no more than two (2) months old), showing the new address. PHCD may request additional documentation to verify the permanent relocation of the family member requesting removal.
- c) If the adult family member is unable to provide the notarized statement agreeing to removal from the family composition, the head of household must provide a written statement explaining the reason why the family member is unable to provide the statement and the supporting documentation (e.g. death certificate, jail order).
- d) For removal of minors, the head of household must provide a signed notarized statement accompanied by supporting documentation showing that the minor is no longer residing in the subsidized unit. Supporting documentation to prove another residency may include, but is not limited to, school records, custody records, etc. properly dated (no more than two (2) months old), showing the new address.
- e) As an alternative to the notarized statement, a written statement may be provided, which must be signed by the adult family member being removed upon identification, the head of household, and witnessed by PHCD representative.
- f) Notwithstanding the foregoing, a notarized statement will not be required of an adult family member who has violated the terms of this ACOP, the Lease, and Community Policies and as a result must be removed from the household in lieu of evicting all members of the household. Examples include a member of the household who has engaged in domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking.

D. Unauthorized Occupants/Boarders:

1. Only authorized residents are permitted to use the unit as their private dwelling and shall not use it for any other purpose [24 CFR § 966.4 (f)(2) and (3)].
  - a) In cases where PHCD obtains sufficient evidence of unauthorized occupants/boarders (see Appendix I- Definitions) or users of the subsidized unit's address (e.g. in their driver's license, identification card or as a mailing address), if the finding is denied by the head of household, then the head of household will be required to provide a written statement accompanied by two (2) pieces of supporting documentation from different sources showing the residential address of the unauthorized occupant/boarder or user.

- b) Supporting documentation to prove another residency may include a copy of the dwelling lease agreement, utility bills, or official mail (from a Federal, State, County or City government agency) properly dated (no more than two (2) months old), showing another address. The unauthorized person's driver's license or identification card may not be used as valid proof of residential address.
2. Family members over the age 17 or emancipated minors who move from the dwelling unit to establish new households shall be removed from the Lease.
3. The resident shall report the move-out within ten (10) calendar days of its occurrence.
4. Family members over the age of 17 or emancipated minors may not be readmitted to the unit and must apply as new applicant households for placement on the waiting list.
5. Residents who fail to notify PHCD of additions to the household, or who permit people to join the household without undergoing screening, are in violation of the Lease. People added without PHCD approval will be considered unauthorized occupants and the entire household will be subject to eviction.

#### E. Requirements for Posting Policies, Rules and Regulations at Housing Developments

The following documents shall be available in the waiting area of every housing development management office, and/or posted on a large bulletin board:

- Admission and Continued Occupancy Policies (ACOP)
- Tenant Selection and Assignment Plan (included in ACOP)
- Directory of all housing developments including names, perimeter streets, number of units by bedroom size, number of units specifically designed for the elderly, addresses of management offices and office hours
- Income limits
- Utility allowances
- *Public Housing Dwelling Lease* form
- Community Policies
- Current schedule of routine maintenance and other charges (included in Community Policies)
- Grievance and Appeal Policy (included in ACOP and Community Policies)
- Fair Housing poster
- "Equal Opportunity in Employment is the Law" poster
- Resident oriented notices
- Emergency telephone numbers for after hours and weekends
- Reasonable Accommodation Policies and Procedures document
- *PHA Plan*

#### F. Repayment Agreement of Amounts Owed to PHCD by Current Residents

If it is in the best interest of PHCD, PHCD has the discretion to enter into repayment agreements with residents for amounts owed to PHCD. If the resident intentionally incurred debt (i.e., rent back charge due to unreported income), the repayment agreement may be considered only under special circumstances upon approval of division director or designee. All repayment agreements must comply with the following requirements:

1. Standards for Repayment: If a repayment agreement is offered to a resident in lieu of full payment, it will be in writing and will be within the following guidelines:

- a) **If the total moneys owed is \$2,500 or less**, an initial payment of at least 50% must be paid at the time of signing the repayment agreement by money order or cashier's check. The remaining balance must be paid on a maximum of six (6) consecutive monthly payments starting 30 days from the date the initial payment is made.
- b) **If the total moneys owed is at least \$2,501 and no more than \$5,000**, an initial payment of at least 25% must be paid at the time of signing the repayment agreement by money order or cashier's check. The remaining balance must be paid on a maximum of 12 consecutive monthly payments starting 30 days from the date the initial payment is made.
- c) **If the total moneys owed is at least \$5,001 and no more than \$10,000**, an initial payment of at least 20% must be paid at the time of signing the repayment agreement by money order or cashier's check. The remaining balance must be paid on a maximum of 18 consecutive monthly payments starting 30 days from the date the initial payment is made.
- d) **If the total moneys owe is \$10,001 or more**, an initial payment of at least 15% must be paid at the time of signing the repayment agreement by money order or cashier's check. The remaining balance must be paid on a maximum of 24 consecutive monthly payments starting 30 days from the date the initial payment is made.

2. Exceptions:

- a) Any terms allowing more time for repayment or for a lower initial payment must be approved by division director or designee.
- b) Strict adherence to the terms of the repayment agreement by the participant is necessary; otherwise, benefits may be terminated in accordance with this ACOP.
- c) If the resident has not met the conditions of a repayment agreement within the last two years, the resident shall not be provided with another repayment agreement, unless approved by PHCD Director or designee.

PHCD's residents admitted to other programs such as the Section 8 Housing Choice Voucher, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation Single Room Occupancy, Section 8 New Construction, Section 8 Substantial Rehabilitation, Shelter Plus Care, and Section 8 Project-Based programs managed by PHCD or to another housing authority must repay outstanding balances owed. In such cases, repayment agreements are not authorized.

## **V. Transfer Policy**

### **A. General Transfer Policy**

PHCD may encounter situations where it is necessary to transfer a resident to another unit. A transfer between public housing developments is not considered a move-out.

1. Transfers will be made without regard to race, color, national or ethnic origin, sex, religion, age, marital status, familial status, status as a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking, ancestry, disability, actual or perceived sexual orientation, gender identity or gender expression, pregnancy or source of income.
2. Under certain circumstances, residents may be transferred to accommodate a disability.
3. Residents will not be transferred to a dwelling unit of equal size, except to alleviate hardship or other undesirable conditions, as determined by the division director or designee.
4. Whenever feasible, transfers will be made within the resident's development or the resident's area.
5. If a family, at admission, chooses to accept a smaller unit size than would normally be assigned under the Occupancy Guideline's largest unit size, the family will be eligible for a transfer two (2) years after admission, unless they have a change in family size or composition.
6. Residents must be in good standing.
7. Residents have the right to request a hearing (refer to PHCD Grievance and Appeal Policy, (Chapter IX of this ACOP) if they are refused the right to transfer.
8. Resident's transfer requests will not be granted during the first year of tenancy, unless approved as a reasonable accommodation or emergency transfer or accepts a unit in the Assisted Living Facility.

### **B. Types of Transfers:**

#### **1. Management Initiated Transfers**

- a) **Emergency Transfers:** These transfers are required when conditions pose an immediate threat to life, health or safety of a family or one of its members. Such situations may involve, but are not limited to, unit or building defects or law enforcement concerns, including special circumstances such as hate crimes, violence or victimization, and witness protection program, or other circumstances which may warrant a transfer.
  - Emergency transfers shall take priority over new admissions.
  - Transfers for special circumstances shall be documented (i.e. police reports, support letters from law enforcement, restraining orders, etc.) and shall be

required for the immediate safety and welfare of the family. A special circumstance transfer shall be given the next available vacancy. The resident may advise management of the need of an emergency transfer by providing required documentation.

- b) Extraordinary Circumstances Transfers: PHCD, at its sole discretion, may offer and/or grant a temporary or permanent transfer to families under the following conditions:
  - (1) A permanent transfer to families experiencing hardship in retaining employment or in attending specialty education due to a lack of transportation.
  - (2) A temporary or permanent transfer due to planned redevelopment, demolition, new construction, rehabilitation and/or repairs to their assigned unit.
- c) Occupancy Standards Transfers: These transfers are necessary to correct under housed or over housed conditions and must be recommended by the AMP administrator or designee upon annual or interim re-examinations, as required by changes in the family composition, in accordance with the Occupancy Guidelines found in Chapter III.

These transfers shall take priority over new admissions and are limited to be made when:

- The under housed (overcrowded) condition is such that the household members over the age of six (6) equal more than two (2) persons per bedroom.
- The over housed condition is such that the family size includes fewer people than the number of bedrooms in the unit.

## 2. Resident Initiated Transfers

- a) Emergency Transfer: A victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking regardless of sex, gender identity, gender expression, or actual or perceived sexual orientation may be granted a transfer in accordance with the Emergency Transfer Plan detailed in Chapter XIV—Violence Against Women Act of this ACOP.
- b) Reasonable Accommodation Transfers: Under certain circumstances, a resident's transfer request may be granted to accommodate a disability. The Reasonable Accommodation Policies and Procedures, Appendix IV of this ACOP, includes the request and verification forms required for this type of transfer.
  - (1) All Reasonable Accommodation transfers shall take priority over new admissions.
  - (2) Prior to this type of transfer, every effort shall be made to accommodate the needs of disabled residents, including but not limited to, making necessary modifications to the existing unit and providing other alternative forms of reasonable accommodation as detailed in the Reasonable Accommodation Policies.

3. Assisted Living Facility (ALF) Transfers

- a) These are transfers of interested and qualified residents of Public Housing developments to an ALF, either recommended by the AMP administrator or designee or requested by the resident.
- b) Transfers to ALFs shall take priority over new admissions to ALFs.
- c) Residents requesting ALF transfers must qualify according to the ALF Admission Criteria stated in Chapter III, Section F, and are subject to the ranking established in Chapter II of this ACOP.

4. Good Standing Requirement for Transfers

- a) Residents will be considered for transfers if the head of household and any other family members:
  - (1) have not engaged in criminal activity that threatens the health and safety of residents and staff;
  - (2) do not owe back rent or other charges, or evidence a pattern of late payment;
  - (3) meet reasonable housekeeping standards and have no housekeeping lease violations; and
  - (4) able to connect utilities in the name of an adult family member (applicable only to properties with tenant-paid utilities).
- a) Requests for exceptions to these requirements based on disability will be considered by PHCD's 504/ADA Coordinator on a case-by-case basis. An exception to these requirements may be granted by PHCD Director if the type of transfer is due to an emergency or due to planned redevelopment, demolition, new construction, rehabilitation and/or repairs to their assigned unit.
- b) Victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking that are granted the housing protections under the Violence Against Women Act (VAWA) are exempt from these requirements.
- c) Unless there is a determination of an exception, the following policy applies to transfers:
  - (1) If back rent is owed, the resident will not be transferred until a payment plan is established or, if prior payment plans have failed, the back rent is paid in full.
  - (2) A resident with housekeeping standards violations will not be transferred until they pass a follow-up housekeeping inspection.
  - (3) The resident must be in good standing and in compliance with the Lease and Community Policies.

### C. Processing Transfers

1. All transfers must be approved by the division director or designee, before the Applicant Leasing Center (ALC) admits them into the transfer waiting list.
2. Transfers to provide reasonable accommodation recommended for denial by the division director or designee must be reviewed by the 504/ADA Coordinator in accordance with PHCD's Reasonable Accommodation Policies and Procedures document (Appendix IV of this ACOP).
3. Transfers will be made in the following order of priority:
  - 1st. Emergency
  - 2nd. Reasonable Accommodation
  - 3rd. Extraordinary Circumstances
  - 4th. Occupancy Standards
4. Transfers to Uniform Federal Accessibility Standard (UFAS) Units
  - a) Transfers of residents with disabilities and placement of applicants with disabilities requiring UFAS -Accessible Units, or units with accessible features (as defined in Appendix I of this ACOP), will be centrally coordinated through the 504/ADA Coordinator's Office with the assistance of PHCD.
  - b) When an accessible unit becomes available, the unit will first be offered to a current resident with disabilities in the same development who requires the accessibility features of the vacant, accessible unit and occupying a unit not having those features.
  - c) If there is no current resident in the same development who requires the accessibility features of the vacant, accessible unit, then the unit will be offered to a resident with disabilities residing in another development that requires the accessibility features of the unit.
  - d) If there is no current resident who requires the accessibility features of the vacant, accessible unit, then the unit will be offered to an eligible, qualified applicant with disabilities on the waiting list who can benefit from the accessible features of the unit.
  - e) If there is not an eligible, qualified resident or applicant with disabilities on the waiting list who wishes to reside in the available, accessible unit, then it will be offered to an applicant on the waiting list who does not need the accessible features of the unit. See 24 CFR § 8.27. PHCD's *Public Housing Dwelling Lease* requires residents to relocate to a vacant, non-accessible unit within 30 days of notice by PHCD if there is an eligible applicant or existing resident with disabilities who requires the accessibility features of the unit.
5. When a head of a household, originally housed in a bedroom alone, has adopted or has plans to adopt a child, the family will not be approved for a transfer until the child is six (6) years of age. Exceptions: spouse, co-head, or partner returns to the unit, marriage takes place, or family decides to remain in the unit and the unit is large enough (using the smallest-unit standard) to accommodate the number of people now in the household.
6. Split-family transfers are not permitted. Separation of households will be processed as follows:

- a) Resident-Initiated Separation of Households: Families that decide to separate because of divorce or inability to live under the same roof must identify the family member(s) who are willing to establish a new household. Such person may submit an application to be placed on the waiting list during open registration periods. The household member(s) who will be leaving the unit must do so within 30 days of notification by PHCD. The remaining family member(s) may also be required to transfer to a smaller unit if the unit becomes under-occupied after one household moves out and there exist families on the waiting list for that size unit. Whenever a family cannot agree on which family member(s) shall remain in the unit, PHCD will rely on other forms of documentation, i.e. in cases of divorce case PHCD will rely on the court decree, if available.
  - b) If upon reexamination, PHCD finds that a family composition has grown beyond the maximum bedroom size unit available in PHCD, whether the family was transferred or not to the maximum sized bedroom unit, the family must identify member(s) who are willing to establish a new household. Such party may submit an application for housing assistance during the open registration period. The household member(s) who are leaving the unit must do so within 30 days of notification by PHCD. The remaining family members may also be required to transfer to a smaller unit if the unit becomes under-occupied after one (1) household moves out and there exist families on the waiting list for that size unit.
  - c) PHCD may transfer a family to a larger unit in order to accommodate the addition of family members by birth. However, in order to maximize the use of scarce affordable housing and in consideration of applicants on the waiting list, transfers of families to separate units are not allowed.
7. Although a reasonable accommodation request can be made orally or in writing, it is usually helpful for both the family and PHCD if the request is made in writing. This will prevent misunderstanding regarding what is being requested, or whether the request was made. To facilitate the processing and consideration of the request, the residents should initiate a Reasonable Accommodation transfer with the *Authorization to Release Information, Reasonable Accommodation Request, and Reasonable Accommodation Verification*, forms in accordance with the Reasonable Accommodation Policies and Procedures (Appendix IV of this ACOP) or equivalent format.
  8. When a resident is allowed to transfer, the resident's name is placed on the transfer waiting list and will be given written notice to this effect.
  9. All exceptions and considerations of mitigating circumstances must be approved by PHCD Director or designee.
  10. Residents will bear the cost of transfers to correct occupancy standards. However, where there is a hardship due to health or other factors, the AMP administrator or designee may recommend that families be reimbursed for out-of-pocket expenses for an occupancy standards transfer in an amount not to exceed a reasonable moving allowance established by PHCD. Residents who seek reimbursement must provide proof of their out-of-pocket expenses to PHCD, i.e. receipts. The division director or designee must approve the expense.

11. Costs associated with transfers that are mandated by PHCD (except occupancy standards) and transfers for reasonable accommodation will be paid in accordance with the Reasonable Accommodation Policies and Procedures (Appendix IV of this ACOP).

#### Administrative Requirements for Transfer Offer

- a) A family who has been approved for a transfer will receive three written housing offers that they must accept or refuse within three (3) business days.
- b) The acceptance or refusal of the housing offer must be hand-delivered to the Applicant Leasing Center (ALC). If the family rejects the offer, a second offer can be made only for good cause (see Chapter III). If the resident fails to respond, they will be removed from the transfer list and notified in writing.
- c) Upon signing the new Lease, the resident is required to move within 15 calendar days, or may face eviction proceedings in accordance to PHCD's Lease.

#### Relocation of Residents

1. Temporary Relocation: Residents who are required to temporarily relocate to permit rehabilitation of their units must be provided with:
  - a) A written notice of the dates and duration of the temporary relocation at least 30 days prior to the relocation taking place;
  - b) Information on alternative housing available; and
  - c) Reimbursement for all reasonable out-of-pocket expenses, including the cost of moving to and from the temporary housing and any increase in monthly rent/utilities costs, upon presentation of acceptable receipts.

Refer to the Public Housing Policies and Procedures Manual, *Relocation of Residents Due to Modernization* for detailed procedures.

2. Permanent Relocation: Residents living in public housing units that are dilapidated, unsafe, and/or in substantial disrepair as determined by PHCD for which there are no immediate reconstruction plans, may be relocated to comparable vacant public housing units of their choice, and based on availability. The impacted residents will not be considered part of the public housing transfer waiting list and will be provided with:
  - a) Applicable meeting(s) to inform of available or potentially available alternative housing which may include new acquisition(s) of public housing units.
  - b) Written Information on alternative housing which may include new acquisition(s) of public housing units that may be under HUD-approval process.
  - c) Written notice of the date of relocation and other requirements in accordance with the Uniform Relocation Act (URA), if applicable.
  - d) Reimbursement of reasonable out-of-pocket expenses, including moving expenses, upon presentation of acceptable receipts.
  - e) At PHCD Director's discretion, residents may return to the area at a new development.

- f) After all affected residents have been permanently relocated, any remaining vacant units in a new acquisition development may be filled from the transfer list or waiting list.

## **VI. Eligibility for Continued Occupancy and Annual Reexaminations**

### **A. Eligibility for Continued Occupancy**

Residents who meet the following criteria will be eligible for continued occupancy.

1. Qualify as a “Family” as defined in Appendix I of this ACOP.
  - a) Are in full compliance with the resident obligations and responsibilities as described in the dwelling lease.
  - b) Whose family members of all ages, each have Social Security numbers or have certifications on file indicating they have no Social Security number.
  - c) Who meet HUD standards on citizenship or immigration status or are paying a pro-rated rent.
  - d) Who are in compliance with PHCD’s eight (8) hour per month community service requirements.
  - e) Family’s annual income does not exceed HUD’s low-income limit for the family size or considered over-income according to parameters established by PHCD (see Section K below).

Residents not in compliance with these criteria are subject to lease termination and eviction.

### **2. Family Composition Changes**

- a) The family is required to report all changes in household composition in writing to PHCD within 10 days of the change:
  - (1) A family member is added by birth, adoption or court-awarded custody, with or without increased income;
  - (2) The family wants permission to add a member by any method other than birth, adoption or court-awarded custody, i.e., marriage, inter-dependent relationship, foster child, foster adult and/or live-in aide; and/or.
  - (3) The family removes a member.
- b) When a change in household composition is processed as an interim recertification, PHCD will update household composition; however, the rent, because of an increase in income, will not be adjusted until the next regular recertification.

### **B. Remaining Family Members**

1. To be considered the remaining member of a family, any person(s) remaining must meet all eligibility requirements.
2. Remaining family members age 18 years or older will be held responsible for any overdue amount incurred by the former head, co-head, or spouse. PHCD will not hold remaining family members (other than the head, co-head, or spouse) responsible for any portion of the overdue amount incurred before the remaining member attained age 18.

3. Remaining family members under age 18 shall not be held responsible for the overdue rent incurred by the former head of household.
4. A live-in aide or foster child/adult, by definition, is not a member of the family and will not be qualified for continued occupancy as a remaining family member.
5. In order for (a) minor child(ren) to continue receiving assistance as (a) remaining member(s), one of the following must occur:
  - a) The court has awarded emancipated minor status to the minor;
  - b) PHCD has verified that social services and/or the juvenile court has arranged for another adult to be brought into the assisted unit to care for the child(ren); or
  - c) PHCD may allow for another adult to be a temporary head of household until such time as legal guardianship is granted or a minor, at least 17 years of age, is emancipated or reaches age 18.

A reexamination will be conducted and appropriate changes to the bedroom size may be made at that time.

#### C. Annual Reexamination

(This section C shall become effective January 1, 2024, upon the implementation of HOTMA and applicable regulations and guidelines promulgated by HUD)

Due to PHCD's large portfolio of public housing units, the reexamination schedule is determined by where the resident lives, rather than by the move-in anniversary date. After the initial move-in certification, some residents may be re-certified within the first year of tenancy due to the reexamination schedule established for the building where they live. In order to have the information available to adjust the rent, the initial request for re-examination will be started at least 120 days before the scheduled effective re-examination date.

PHCD shall, at least once a year, re-examine the family composition (including the eligibility of the live-in aide, if applicable) and incomes of all resident families. Families paying Flat Rent shall have their incomes reexamined every three (3) years, but shall still be subject to annual reexamination of the family composition and the community service requirement. Criminal background checks may be included as part of the reexamination.

1. For annual reexaminations, PHCD must:
  - Determine the family income for the previous 12-months and any interim processed [24 CFR §5.609 (c)(2)] except when using a streamlined income determination.
  - Consider any redetermination from an interim reexamination during that period.
  - Adjust current income if there was a change during that period.
  - Subtract the allowable deductions, from the gross annual income to determine the adjusted income.
2. Earned Income means:
  - income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment.
3. The following are considered unearned income:
  - Any pension or annuity
  - Transfer payments —payments or income received where no goods or services were offered

- Welfare
- Social Security
- Government subsidies for certain benefits
- Any cash or in-kind benefits

4. Special Reexamination:

When it is not possible to estimate family income accurately, a temporary determination will be made with respect to income and a special reexamination will be scheduled every 90 days until a reasonably accurate estimate of income can be made.

D. Interim reexamination

(This section D shall become effective January 1, 2024, upon the implementation of HOTMA and applicable regulations and guidelines promulgated by HUD)

PHCD must estimate the family income for the upcoming 12-month period, subtract the allowable deductions, from the gross annual income to determine the adjusted income.

Rent is re-determined between annual recertifications when a family undergoes a change in family composition or a decrease in income of ten (10) percent or more. The family must report such changes in writing to PHCD within ten (10) days of occurrence. No increases in annual income will result in an interim unless the family reported zero income or a decrease in income. However, PHCD will chose not to conduct an interim reexamination for an increase in the last three months of an annual reexamination period.

EIV is no longer required to verify tenant's employment and income information during an interim recertification.

1. Interim Reexamination

- a) Any approved addition to the family composition will be processed as an interim recertification. PHCD will only update the family composition information unless the family meets one of the conditions described under "Interim Rent Increases" or "Interim Rent Decreases" described below.
- b) No increases in annual income will result in an interim reexamination unless the family reported zero income or a decrease in income within the same annual or biennial reexamination cycle (Refer to "Interim Rent Increases").
- c) EIV is no longer required to verify tenant's employment and income information during an interim recertification.
- d) The total family income increases or decreases must last longer than one-month (30 days); the tenant must report such change in writing to the management office within ten (10) days of occurrence.
- e) PHCD will not conduct an interim reexamination for an increase in the last three months of an annual reexamination period. Should a credit be owed to the resident, it will be retroactively credited together with the annual reexamination.
- f) If the monthly rental payment decreases by ten (10) percent or more as a result of the rent adjustment, the adjusted rent will become effective the first day of the month following the date the information is reported to PHCD. If the rent should increase by ten (10)

percent or more based on the family income, the adjustment will become effective the first day of the second month following the month in which the change is reported or 30 days, whichever is greater, after proper verification is completed.

- g) If it is found that the family failed to timely report any changes in income or family composition within ten (10) days or if such family provided inaccurate or incomplete information, PHCD may consider such failure to report fraud, any of the following may occur:
- (1) Any increase in rent which would have occurred had changes been reported in a timely manner will be made retroactive to the effective date of the change in circumstances and the family agrees to reimburse PHCD for the difference between the rent they should have paid and the rent they were charged.
  - (2) Any decrease in rent that would have occurred had changes been reported in a timely manner will be made effective the first day of the month following the date the change is reported to PHCD and will not apply retroactively.

#### E. Interim Rent Increases

1. Families are required to report to PHCD all increases in earned income that occurred between regularly scheduled annual re-examinations. Any increase of the family's adjusted earned income by ten (10) percent or more must be processed if the family reported a decrease in income within the same annual reexamination cycle (24 CFR §960.257(b)(3)(i)).
2. Families are required to report to PHCD all increases in unearned income that occurred between regularly scheduled annual re-examinations. Any increase of the family's adjusted unearned income by ten (10) percent or more must be processed if the family reported zero income.

#### F. Interim Rent Decrease

1. PHCD must conduct a full interim reexamination if the family's adjusted unearned income is estimated to have decreased by ten (10) percent or more, the standard threshold set by HUD.
2. PHCD must conduct a full interim reexamination for all decreases in adjusted income upon the permanent removal of a family member from the assisted unit.
3. PHCD may conduct a full interim reexamination for child support non-payment if the family shows court document or proof of non-payment for at least three (3) months resulting in a decrease of ten (10) percent or more in income. Proper verification is needed.

#### G. Self-Employment Income

Effective January 1, 2024, upon implementation of the HOTMA Final Rule and subject to applicable HUD guidance, an independent contractor is an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done.

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

- 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 IRS regulations; and
- Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

#### H. Seasonal Employment

- a) Effective January 1, 2024, upon implementation of the HOTMA Final Rule and subject to applicable HUD guidance, a seasonal worker is an individual who is hired into a short-term position and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for a specific employer or industry.
- b) Income from seasonal employment (i.e., school board employees, teachers, etc.) may be calculated using one of the following methods:
  - (1) Annualize income by projecting the current monthly income for 12 months even if the current income is not expected to last the entire 12 months. Under this method, the family has the right to come in for an interim re-examination once the income decreases by ten (10) percent or more.
  - (2) Calculate average income based on anticipated changes for the upcoming year using verified historical evidence of past income fluctuations. This second method would not require an interim re-examination at the time income decreases by ten (10) percent or more since such decreases would already be averaged into the anticipated annual amount.

#### I. Temporary Assistance to Needy Families (TANF)

Rent will not be adjusted as a result of a family's income decreasing because of a reduction in Temporary Assistance to Needy Families (TANF) due to sanctioning by the welfare agency, State of Florida Department of Children and Families. The family is entitled to a hearing, should it wish to appeal such decision by PHCD not to reduce the tenant portion of the rent.

#### J. Zero Income Families

- a) Unless the family has income that is excluded for rent computation, families reporting zero income will have their circumstances examined every 90 days until they have a stable income. Monetary or non-monetary contributions from people not residing in the dwelling unit for any purpose other than the payment or reimbursement of medical expenses shall be considered income. Families claiming zero (0) income must complete the Monthly Expense Report listing their monthly expenses and the source of funds to pay for those expenses.
- b) Families that reported zero income are required to report all increases in unearned income of ten (10) percent or more that occur between regularly scheduled annual re-examinations.

- c) Families claiming income from contribution must provide a notarized *Income from Contribution* form signed by the person providing the contribution or the *Contribution* form may be witnessed by PHCD representative, upon identification of contributor.

#### K. Over-Income Families

(24 CFR §960.102) (This section K shall become effective January 1, 2024, upon the implementation of HOTMA and applicable regulations and guidelines promulgated by HUD)

The Housing Opportunity Through Modernization Act (HOTMA) of 2016 placed an income limitation on public housing tenancies. The over-income requirement states that after a family's income has exceeded 120% of the area median income (AMI) for two (2) consecutive years, the family will be notified in writing that they have six (6) months to find alternative housing. At the end of the six (6) months, the family will be issued a 30-Day Notice of Lease Termination if they have not vacated the unit.

Once PHCD determines through an annual reexamination or an interim reexamination that a family's income exceeds the applicable over-income limit, PHCD must notify the family and make a note in the tenant file to calculate the family's income again 12 months later to see if the family remains over-income. PHCD is required to begin tracking the 24 consecutive month grace period once a family's income exceeds the applicable over-income limit.

After the initial over-income determination is made, the PHCD must conduct an income reexamination 12 months later to determine if the family remains over-income even if the family is paying the flat rent (24 CFR §960.253) and/or the date no longer coincides with the family's original annual reexamination date.

##### a) Income Decrease Option

- If at any time during the 24-month grace period, an over-income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with PHCD's policy. If, as a result, the previously over-income family is now below the over-income limit, the family is no longer subject to over-income provisions as of the effective date of the recertification.
- The PHA will notify the family in writing that over-income policies no longer apply. If the family's income later exceeds the over-income limit again, the family is entitled to a new two-year grace period. PHCD will begin tracking over-income families once these policies have been adopted. PHCD may terminate tenancy for families whose income exceeds the limit for the program eligibility as described at 24 CFR §960.261.

##### b) Notification Process for Over-Income Families

- (1) At initial determination of a family being over-income, the family will be advised in writing of the following:
  - An initial notification of *Over-Income Family Initial Notification* advising the resident of their rights, including their right to request a grievance hearing.
- (2) After 12 months of initial determination, the family will undergo a family and income reexamination. If the family remains in over-income status, they will receive a *12 Month Notification* advising the family that this is their 12-month

(second) notice. This letter also advises the resident of their rights to request a grievance hearing.

- (3) At the conclusion of the consecutive 24-month period, the family will receive a *24 Month Notification* (third) notice advising them that they no longer qualify for assistance under the public housing program. The letter will advise the family of their right to request a grievance hearing.

Note that because you are no longer eligible for assistance under the public housing program no changes to the family income after you receive this notice will make you eligible to remain as a participant in the program.

- (4) A written notice is provided to the family to vacate the public housing unit within six months, as specified in notice.
- (5) If the over-income family does not find alternative housing and vacate the unit within the 6-month period, they will be issued a *30-Day Notice of Lease Termination*.

#### L. Reexamination Procedures

1. At the time of reexamination, all adult members of the household will be required to sign an application for continued occupancy, the community service certification, if applicable, and other forms required by HUD and PHCD. If an adult family member is temporarily away from the household and not available to sign the forms at the time of the reexamination, their status must be verified and they must sign and notarize the required documents within 30 days. Additionally, the live-in aide and head of household must sign the Live-in Aide Certification form, if applicable.
2. Income, allowances, Social Security numbers, and such other data as is deemed necessary will be verified, and all verified findings will be filed in the resident's file.
3. Verified information will be analyzed and a determination made with respect to:
  - a) Eligibility of the resident as a family or as the remaining member of a family;
  - b) Eligibility of the live-in aide, if applicable;
  - c) Unit size required for the family (per Chapter III);
  - d) Rent the family should pay;
  - e) Compliance with the Community Service Requirements (Public Housing residents only);
4. PHCD will access criminal justice records, including sex offender registration checks, (excluding juvenile records) of all adult members with the purpose of determining continued assistance under the program, at regular reexamination and at any other time PHCD deems it necessary. PHCD will conduct such checks on all members who are younger than 18 years if they are being tried as adults for certain criminal offenses.
5. Residents with seasonal or part-time employment of a cyclical nature will be asked for third party documentation of their employment including start and ending dates.
6. Income shall be computed in accordance with the definitions and procedures set forth in federal regulations and this ACOP.

7. Families failing to respond to the initial annual reexamination appointment will be issued a second and final reexamination appointment. Failure to respond to the final request will result in the family being issued a notice of lease violation.
8. Reexamination procedures also apply in the event residents are under the eviction or termination process. The reexamination is not an offer of extension of the lease agreement and does not constitute a waiver of such eviction or termination proceeding.
9. Failure to Comply in Timely Manner or Non-Compliance.
  - a) A family’s failure to comply with reexamination requirements in providing all required documentation and signatures on forms is grounds for termination of assistance.
  - b) If it is found that the resident failed to timely report any changes in income or family composition or provided inaccurate, or incomplete information:
    - The rent adjustment will be made retroactive as of date the change occurred; and
    - The resident will reimburse PHCD for the difference in rent.

M. Enterprise Income Verification (EIV) and Third-Party Verification

PHCD will comply with the most recent HUD guidance on verification requirements. PHCD will utilize the verification guidelines under PIH Notice 2018-18 (issued October 26, 2018), Verification Guidance, and PIH 2018-24 (issued November 27, 2018), Verification of Social Security and Supplemental Security Income benefits, as applicable, and any subsequent guidelines and regulations issued by HUD.

Effective January 1, 2024, upon implementation of HOTMA and subject to applicable HUD regulations and guidelines, PHCD is required to use HUD’s Enterprise Income Verification (EIV) system and the Income Validation Tool (IVT) in its entirety as a third-party source to verify employment and income information for annual reexamination, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR § 5.233(a)(2)(i)].

PHCD will follow the verification hierarchy described in PIH Notice 2018-18:

| Level | Verification Technique   | Ranking  |
|-------|--|--|
| 6     | <b>Upfront Income Verification (UIV)</b> , using HUD’s Enterprise Income Verification (EIV) system and the Income Validation Tool (IVT) (not available for income verifications of new applicants) | Highest (Mandatory)<br>(not available for applicants)  |
| 5     | Upfront Income Verification (UIV) using non-HUD system   | Highest (Optional)   |
| 4     | Written Third-Party Verification   | High (Mandatory to supplement EIV reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV-reported employment and income information and is unable |

| Level | Verification Technique                | Ranking   |
|-------|---------------------------------------|---|
|       |                                       | to provide acceptable documentation to support dispute.)  |
| 3     | Written Third-Party Verification Form | Medium-Low (Mandatory if written third-party verification documents are not available or rejected by the PHA; and when the applicant or tenant is unable to provide acceptable documentation) |
| 2     | Oral Third-Party Verification         | Low (Mandatory if written third-party verification is not available) Low (Mandatory if written third-party verification is not available)   |
| 1     | Tenant Declaration                    | Low (Use as a last resort when unable to obtain any type of third-party verification)   |

- **Level 6:** (Highest Ranking) Upfront Income Verification (UIV) and the Income Validation Tool (IVT) using HUD's EIV System which is mandatory for residents but not available for applicants;
  - **Level 5:** UIV using non-HUD system: (Optional);
  - **Level 4:** (High) Written Third-Party is mandatory to supplement EIV reported income and when EIV has no data available (required for applicants). Also mandatory if residents dispute EIV reported income and is unable to provide acceptable documentation. This does include documents issued by a third party and may be hand delivered by the applicant or resident;
  - **Level 3:** (Medium-Low) Form-generated Third-Party is mandatory if written third party verification documents are not available or rejected by PHCD and when the applicant or resident is unable to provide acceptable documentation;
  - **Level 2:** (Low) Oral Third Party Verification is Mandatory if written third party verification is not available;
  - **Level 1:** (Lowest Ranking) When unable to obtain any type of third party verification, a self-certification of income from an applicant or resident will be accepted as a last resort.
1. Double Subsidy: If during tenancy, or at any time after admission, the EIV system shows that a family or any household member is receiving assistance from (or is residing in) another housing authority or program, the family or household member must provide proof of termination of tenancy from the other housing agency or program for continuation of assistance. PHCD may provide up to 30 days for the family or household member to provide proof of termination. If after the 30 days, the participant does not provide proof of termination, the family or household member must be terminated from PHCD tenancy.
  2. If the EIV information matches income provided by the resident, or if it is not substantially different, then third-party verification is not necessary. Currently, a substantial difference requiring third party verification is defined as being greater than \$200 per month (\$2,400 per year), unless amended by PHCD.
  3. If the EIV system is not available or if the information is substantially different to the resident-provided information, then written verification from third parties is the next most desirable form of verification.

- Tenants have the right to dispute information obtained through EIV; however, such information will only be provided to the tenant if requested. Tenant income information derived from the EIV system is confidential and cannot be released to outside parties or unauthorized staff. This information is exempt from the Florida Sunshine Law and is required by HUD to be kept private under penalty of Federal law. Any EIV derived information is required to be kept guarded under lock and key and must be shredded and destroyed when no longer needed. Copies are not to be kept in tenant files to avoid risking the release of such information to anyone other than the client and authorized PHCD staff. Unauthorized disclosure or inspection of EIV data can result in a felony conviction punishable by a fine up to \$5,000 and/or five (5) years imprisonment, as well as civil penalties. (Privacy Act of 1974 as amended, 5 U.S.C § 552(a)).
4. In cases where EIV income data is substantially different than tenant-reported income, PHCD will utilize the following guidelines:
    - a) Request written third party verification from the income source in question. For EIV Social Security Administration (SSA) benefit discrepancies, PHCD shall require the tenant to obtain a current unaltered SSA benefit letter within ten (10) business days of the interview date.
    - b) Review historical income data for patterns of employment, paid benefits, and/or receipt of other income, when PHCD cannot readily anticipate income, such as unstable working hours, and suspected fraud. For calculating income in cases of seasonal employment (i.e. school board employees, teachers, etc.), see Chapter XII, Section A.
    - c) Analyze all data (EIV data, third party verification and other documents/information provided by the family) and attempt to resolve the income discrepancy.
    - d) Use the most current verified income data (and historical income data if appropriate) to calculate anticipated annual income.
  5. PHCD may recommend terminating assistance for fraud as opposed to tenant error (see definition in Appendix I of this ACOP). Fraud includes but is not limited to forgery and pattern of unreported or under reported income. In verified differences of \$10,000 or more and when fraud has occurred, upon division director or designee's approval, PHCD may refer the case to OIG or any other law enforcement organization with jurisdiction to investigate and prosecute fraud in assisted housing, prior to commencement of the eviction process.
  6. In verified instances of greater than \$200 per month (\$2,400 per year), PHCD will require payment in full or may allow the family to enter into a repayment agreement for the balance owed using the standards listed under Chapter IV or require payment in full. Should the family refuse to enter in a repayment agreement or to fulfill its obligations under its repayment agreement, PHCD shall recommend termination of assistance. This will start the eviction process.

N. HUD Form 9886 (Consent Form to Access EIV)

The EIV information cannot be accessed unless a current (unexpired) Authorization to Release Information (HUD Form 9886) is on file. HUD Form 9886 also authorizes disclosure of information for routine uses such as to Federal, State, and local agencies for law enforcement

purposes, employment suitability, and for the purpose of determining housing assistance. Although the current HUD Form 9886 expires in 15 months and must be signed annually, HUD will issue a new version of Form HUD-9886 on or after January 1, 2024, that only needs to be signed once by each adult family member. Thereafter, the HUD Form-9886, will need to be signed and submitted when:

- Anyone 18 years or older becomes a member of the family,
- When a member of the family turns 18 years old, or
- As required by HUD or by PHCD administrative instructions.

Families have the right to revoke the HUD Form 9886 (consent form) to PHCD; however, revoking this consent form and refusing to sign a new consent form (HUD Form 9886) can result in termination or denial of assistance in accordance with Chapter X(A)(8) of this ACOP.

#### O. Income Validation Tool (IVT)

(This Section O effective January 1, 2024, upon implementation of HOTMA, and subject to applicable HUD regulations).

The IVT report facilitates and enhances identification of unreported or under-reported income during regular reexaminations. The IVT also provides income and wage, unemployment compensation and SSA benefit information. Additionally, the IVT report provides income information for heads of household and family members where there may be discrepancies in family reported income and employer reported information.

At each regular reexamination of income and family composition and/or as needed, PHCD will:

- Review the EIV Income and IVT reports to confirm/validate tenant-reported income;
- Print and maintain the EIV Income and IVT Reports in the tenant file;
- Obtain current acceptable tenant-provided documentation to supplement EIV information (where applicable); and
- Use current tenant-provided documentation and/or third-party verification to calculate annual income.

Additionally, at each regular reexamination of income and family composition, and/or as needed, using the IVT, PHCD will:

- Identify any reported discrepancies in family reported income and employer reported information;
- Request the tenant to provide any documentation to confirm or dispute the income discrepancy;
- If applicable, determine the tenant rent using the correct and updated income;
- Determine the degree of tenant underreporting or misreporting of income information; and
- Take action in accordance with PHCD policy to resolve the identified discrepancies.

#### P. Action Following Reexamination

1. If there is any change in rent, a Notice of Rent Adjustment will be sent to the resident notifying the amount and the effective date of the new rent. If there is a change in the family composition, a lease addendum is executed by the head of household and the new family members.

- a) For annual reexaminations, the family is provided 30 days advanced notice of the new rent taking effect.

- b) For interim reexaminations, if the monthly rental payment decreases by ten (10) percent or more as a result of the rent adjustment, the adjusted rent will become effective the first day of the month following the date the information is reported to PHCD. If the rent should increase by ten (10) percent or more based on the family income, the adjustment will become effective the first day of the second month following the month in which the change is reported or 30 days, whichever is greater, after proper verification is completed.
- c) Applicable to Annual or Interim Reexaminations
- d) If it is found that the family failed to timely report any changes in income or family composition at the scheduled annual reexamination appointment or within ten (10) days of change occurring, or provided inaccurate or incomplete information at reexamination, it may be considered fraud and any of the following may occur:
  - Any increase in rent which would have occurred had changes been reported in a timely manner will be made retroactive to the effective date of the change in circumstances and the family agrees to reimburse PHCD for the difference between the rent they should have paid and the rent they were charged.
  - Any decrease in rent that would have occurred had changes been reported in a timely manner will be made effective the first day of the month following the date the change is reported to PHCD and will not apply retroactively.

If any change in the unit size is required, the resident will be placed on a transfer list in accordance with the transfer criteria described on Chapter V of this ACOP and moved to an appropriate unit when one becomes available, subject to the requirements stipulated in the transfer policy section and approved by the division director or designee, where required.

#### Q. Risk Assessment

PHCD may refer at risk residents for an individualized risk assessment to identify and address resident needs in cases where tenancy would constitute a direct threat to the health or safety of the resident and/or other individuals, or result in substantial physical damage to the property. The individualized risk assessment will rely on objective evidence (e.g. current record, or a recent history of facts).

By identifying issues and targeting resident needs and related risks to the resident, community, property, safety or security, PHCD will reduce the propensity of criminal activity, violent or destructive behavior, housekeeping and living safety issues, potential fire hazard issues, unsafe living conditions, individual and communal disturbances, self-neglect, damage to living areas, crisis/emergency incidents, medical emergencies and/or public risk concerns. This individualized risk assessment will focus on areas in which a housing property may be able to help residents better manage their needs and maintain their ability to live safely in their unit and community. As such, reasonable accommodations will be discussed with residents as an option, if applicable.

By identifying critical issues through an individualized risk assessment, PHCD can accommodate and support residency through a better targeted array of services designed to support residents' self-determination which ultimately:

1. Enhance the ability of residents to uphold their lease obligations, taking proper care of the unit, and insuring quiet enjoyment of the property for all residents and surrounding neighbors.

2. Better work with residents with identified disabilities relating to the health and safety of themselves and within the community.
3. Improve the quality of life within the community.
4. Foster inclusion and tolerance by and for all residents and staff.

## **VII. Determining Income and Income-Based Rent**

### **A. Annual Income**

#### **1. Calculating Annual Income**

[24 CFR §5.609 (c)] (This section A shall become effective January 1, 2024, upon the implementation of HOTMA and applicable regulations and guidelines promulgated by HUD)

- a) When calculating annual income for a household at the time of a regular reexamination, PHCD will review and calculate the family's income from the preceding 12-month period, taking into consideration any interims or changes that have taken place during that period. If PHCD determines that the family's prior-year income does not reflect the family's current income, it may adjust the calculation of annual income as needed.

For annual reexaminations, PHCD must:

- Determine the family income for the previous 12-months and any interim processed [24 CFR §5.609 (c)(2)] except when using a streamlined income determination.
- Consider any redetermination from an interim reexamination during that period.
- Adjust current income if there was a change during that period.
- Subtract the allowable deductions, from the gross annual income to determine the adjusted.

PHCD may determine the family's income prior to the application of any deductions based on income determinations made within the previous 12-month period from Low-Income Housing Tax Credit (LIHTC), Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and other means-tested forms of public assistance.

### **B. De Minimis Errors in Income Determinations**

(This section B shall become effective January 1, 2024, upon the implementation of Housing Opportunity through Modernization Act of 2016 (HOTMA) and applicable regulations and guidelines promulgated by HUD)

PHCD will not be considered out of compliance with the requirements in this paragraph solely due to de minimis errors in calculating family income. A de minimis error is an error where PHCD determination of family income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income) per family.

PHCD will take any corrective action necessary to credit or repay a family if the family has been overcharged for their rent or family share as a result of the de minimis error in the income determination retroactive to the effective date of the action the error was made, regardless of the dollar amount associated with the error. However, families will not be required to repay the PHCD in instances where PHCD or owner has miscalculated income resulting in a family being undercharged for rent or family share.

### **C. Annual Income (24 CFR §5.609 - verbatim)**

(This section C shall become effective January 1, 2024, upon the implementation of Housing Opportunity through Modernization Act of 2016 (HOTMA) and applicable regulations and guidelines promulgated by HUD)

- (a) Annual income includes, with respect to the family [24 CFR §609(a)]:

- (1) All amounts, not specifically excluded in section (b) D, received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and
- b) When the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

(b) Annual income does not include the following:

- (1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.
- (2) The following types of trust distributions:
  - (i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under 24 CFR § 5.603(b):
    - (A) Distributions of the principal or corpus of the trust; and
    - (B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.
  - (ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.
- (3) Earned income from the employment of children (including foster children) under the age of 18 years.
- (4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.
- (5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.
- (6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member.
- (7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.

- (8) Income of a live-in aide, foster child, or foster adult as defined in 24 CFR §§ 5.403 and 5.603, respectively;
- (9) i. Any assistance that section 479B of the Higher Education Act of 1965, as amended, requires to be excluded from a family's income including Bureau of Indian Affairs/ Education student assistance programs;

ii. Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from

- (1) The federal government;
- (2) A state, tribal, or local government;
- (3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- (4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- (5) An institution of higher education.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

- (1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;
- (2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section);
- (3) Gifts, including gifts from family or friends; or
- (4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii)(E) of this section.

(C) Student financial assistance for purposes of this paragraph (b)(9)(ii) must be:

- (1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;
- (2) Expressly to assist a student with the costs of higher education; or
- (3) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

- (D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).
- (E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:
- (1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).
  - (2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:
    - (i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or
    - (ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.
- (10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, *baby bond* accounts created, authorized, or funded by Federal, State, or local government.
- (11) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- (12)
  - (i) 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);
  - (ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
  - (iii) Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development.

- (iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.
- (13) Reparation payments paid by foreign governments pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.
  - (14) Earned income of dependent fulltime students in excess of the amount of the deduction for a dependent in 24 CFR § 5.611.
  - (15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in 24 CFR § 5.611.
  - (16) Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.
  - (17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.
  - (18) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.
  - (19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.
  - (20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).
  - (21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.

- (22) Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.
- (23) Replacement housing “gap” payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing “gap” payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing “gap” payments.
- (24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:
  - i. Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.
  - ii. Direct Federal or State payments intended for economic stimulus or recovery.
  - iii. Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.
  - iv. Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.
  - v. Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).
  - vi. Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.
  - vii. Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.
- (25) Civil rights settlements or judgments, including settlements or judgments for back pay.
- (26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed

individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

- (27) Income earned on amounts placed in a family's Family Self Sufficiency Account.
- (28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:
  - i. 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; and
  - ii. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

D. Adjusted Income

(This section D shall become effective January 1, 2024, upon the implementation of HOTMA and applicable regulations and guidelines promulgated by HUD)

- 1. Annual income does not include the following deductions and exemptions:
  - a) **Child Care Expenses** - A deduction of amounts anticipated to be paid by the family for the care of children under 13 years of age for the period for which Annual Income is computed, but only when such care is necessary to enable a family member to be gainfully employed, or to further their education. Amounts deducted must be unreimbursed expenses and shall not exceed: (1) the amount of income earned by the family member released to work; or (2) an amount determined to be reasonable by PHCD when the expense is incurred to permit education or to seek employment [(24 CFR §5.611 (4)].
    - (1) **Hardship Exemption for Child Care Expenses**  
A family whose eligibility for the childcare expense deduction is ending may request a financial hardship exemption to continue the deduction if eligible.
    - (2) **Hardship Exemption Eligibility**  
PHCD will follow the verification hierarchy described in PIH Notice 2018-18. The family must demonstrate that:
      - Provide verification that they are unable to pay their rent without the deduction for childcare.
      - Provide verification that the childcare expense is still necessary even though the family member is no longer employed or furthering education.

If exemption is granted, the childcare deduction will remain in place for up to 90 days. It may be extended at PHCD's discretion, for additional 90-day periods on family circumstances.

| Hardship Categories   | 90-Day Period | Additional 90-Day Period  |
|---|---------------|---|
| <p><b>Hardship Category 1</b><br/> <u>To qualify:</u> Provide verification that they are unable to pay their rent without the deduction for childcare.</p>  | 90-Day Period | Families may request an additional 90-day period if they can demonstrate hardship, subject to PHCD’s approval |
| <p><b>Hardship Category 2</b><br/> <u>To qualify:</u> Provide verification that the childcare expense is still necessary even though the family member is no longer employed or furthering education.</p> |               |   |

- b) Elderly or Persons with Disabilities Allowance: \$525 per family for families whose head or spouse/partner is 62 or over or a person with disabilities and subject to applicable HUD guidance, this amount will be increased to \$525 and will be adjusted annually by HUD in accordance with CPI for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25.
- c) Dependent Deduction - A deduction is taken for each qualifying dependent.
  - The amount of the deduction is currently \$480. Upon implementation of HOTMA and subject to applicable HUD guidance, this amount will be adjusted annually by HUD in accordance with Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25.
  - A dependent is defined as any family 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.
- d) **Health and Medical Care and Reasonable Attendant Care and Auxiliary Apparatus Expense Deduction-**

Unreimbursed health and medical care expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed the HUD-established percentage of annual income threshold.

The threshold is currently set at three (3) percent of annual income. Effective January 1, 2024, upon implementation of HOTMA and subject to applicable HUD regulations and guidance, this amount will be increased to ten (10) percent of annual income.

Health and medical care expense deductions are permitted only for families in which the head, spouse, or co-head is elderly or disabled. If a family is eligible for a health and medical care expense deduction, the medical expenses of all family members are counted. To be considered by PHCD for the purpose of determining a deduction from income, the expenses claimed must be verifiable.

- (1) Medical expenses include unreimbursed expenses for:

- Any costs incurred in the diagnosis, cure, mitigation, treatment or prevention of disease; Payment for treatments affecting any structure or function of the body; and
- Medical insurance and long-term care premiums that are paid or are anticipated to be paid for the applicable period.

(2) Medical Expense Deduction - A deduction of unreimbursed medical expenses, including insurance premiums, anticipated for the period for which annual income is computed. Medical expenses include but are not limited to:

- Services of physicians and other health care professionals
- Services of health care facilities
- Health insurance premiums (including the cost of Medicare)
- Prescription and non-prescription medicines
- Transportation to and from treatment
- Dental expenses
- Eyeglasses
- Hearing aids and batteries
- Attendant care (unrelated to employment of family members),
- Payments on accumulated medical bills.
- Effective June 1, 2004 and while in effect, for residents who have the Medicare Prescription Drug Discount Card, consider the market (pre-discount) price of eligible drugs, not the discounted price.
- Enrollment fee (up to \$30) of the Medicare Prescription Drug Discount Card program, if not paid by Medicare. (PIH Notice 2004-11).

(3) Work-related Disability Expenses – A deduction of unreimbursed amounts paid for attendant care or auxiliary apparatus expenses for family members with disabilities where such expenses are necessary to permit a family member(s), including the disabled member, to be employed. In no event may the amount of the deduction exceed the employment income earned by the family member(s) able to work.

(4) Equipment and auxiliary apparatus may include but are not limited to:

- Wheelchairs
- Lifts
- Reading devices for the visually impaired
- Equipment added to cars and vans to permit their use by the disabled family member.
- Included would be the annualized cost differential between a car and the cost of a van required by the family member with disabilities.
- For non-elderly families and elderly or disabled families without medical expenses: the amount of the deduction equals the cost of all unreimbursed expenses for work-related disability expense less the HUD established percentage (see above) of annual income, provided the amount so calculated does not exceed the employment income earned.
- For elderly or disabled families with medical expenses: the amount of the deduction equals the cost of all unreimbursed expenses for work-related disability expense less the HUD established percentage (see above) of annual income (provided the amount so calculated does not exceed the employment income earned) plus medical expenses as defined below.

- e) Hardship exemptions for unreimbursed health and medical care and reasonable attendant care and auxiliary apparatus expenses are now defined in 24 CFR § 5.611(c).

There will be two types of hardship to the new ten (10) percent threshold for unreimbursed health and medical care expenses (for elderly and disabled families) and reasonable attendant care and auxiliary apparatus expenses (for families that include a person with disabilities).

- (1) The first category, defined in 24 CFR § 5.611(c)(1), is for families eligible for and taking the unreimbursed health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses deduction in effect prior to this final rule.
- (2) The second category, defined in 24 CFR § 5.611(c)(2), is for families that can demonstrate that the family’s health and medical care expenses or reasonable attendant care and auxiliary apparatus expenses increased, or the family’s financial hardship is a result of change in circumstances that would not otherwise trigger an interim reexamination.

HUD is adding this second category in the final rule in recognition that the change from the three (3) percent threshold to the new ten (10) percent threshold for unreimbursed health and medical care expenses and/or reasonable attendant care and auxiliary apparatus expenses may result in financial hardship for families, including those families who were not receiving the deduction or may not even have been receiving housing assistance at the time this rule went into effect.

If eligible for this hardship relief, the family would receive a deduction for the eligible expense that exceeds five (5) percent of the annual income. The family’s hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or the 90-day period ends. PHCD may, at its discretion, extend the relief for one (1) or more additional 90-day periods.

| Hardship Category 1  | 2024 Recertification | 2025 Recertification | 2026 Recertification |
|--|----------------------|----------------------|----------------------|
| <b>To qualify</b> family must already be receiving a medical expense deduction of 3% of Gross Income<br>May request hardship 2 at any time | 5% Of Gross Income   | 7.5% Of Gross Income | 10% Of Gross Income  |

| Hardship Category 2  | 90-Day Period   | Additional 90-Day Periods   |
|--|---|---|
| <b>To qualify</b> families must demonstrate a financial hardship | 5% of Gross income ends when there is no need for hardship or the 90-day period end | Families may request an additional 90-day period if they can demonstrate a financial hardship, subject to PHCD’s approval |

E. Verification of Assets

(This section E shall become effective January 1, 2024, upon the implementation of HOTMA and applicable regulations and guidelines promulgated by HUD)

Upon implementation of HOTMA, and subject to applicable HUD guidance, the following asset policies will apply to participants in the public housing program:

For net family assets under \$50,000:

- Applicants with assets less than fifty thousand dollars (\$50,000) will require third-party verifications from financial institutions of all family assets upon admission; upon becoming residents of public housing third-party verification will be required again at least every three (3) years thereafter. In between, PHCD will accept self-certification that must include any anticipated income earned from the assets (actual returns only).
- Note that at PHCD's discretion third-party verification of assets from resident may be requested instead of a self-certification.

For net family assets totaling \$50,000 or greater:

- PHCD will verify the value and income from assets using the applicable verification hierarchy (Refer to Chapter VI(M)).
- Where the family has net family assets more than fifty thousand dollars (\$50,000) the PHA will use the greater of:
  - Actual income from all net family assets, or
  - Imputed asset income, which is the cash value of listed assets multiplied by HUD-determined local passbook interest rate.

See the section on **Limitations on Assets, below**, under which a household may be disqualified from admission or continued occupancy.

F. Limitation on Assets

a) Upon implementation of the HOTMA Final Rule and subject to applicable HUD guidance, assistance under the Public Housing program may not be provided upon reexamination of family income if:

- (1) The family's net assets (as defined in 24 CFR § 5.618) exceed \$100,000, or as determined by HUD (adjusted annually for inflation) and/or
- (2) The family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell real property (based on laws of the state or locality in which the property is located) that is suitable for occupancy by the family as a residence.

b) A property will be considered suitable for occupancy unless the family demonstrates that the property:

- (1) Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation);
- (2) Is not sufficient for the size of the family;

- (3) Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by PHCD or owner);
  - (4) Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
  - (5) Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.
- c) This real property restriction does not apply to:
- (1) Any property for which the family is receiving assistance under 24 CFR 982.620 or under the Homeownership Option in 24 CFR Part 982;
  - (2) Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
  - (3) Any person who is a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking as defined in 24 CFR 5, Subpart L; or
  - (4) Any family that is offering such property for sale.
- d) PHCD may establish exceptions to this policy according to family type and/or circumstance and in accordance with the Final Rule and any related guidance. These exceptions may be based on different factors, such as age, disability, income, the ability of the family to find suitable alternative housing, and whether supportive services are being provided.
- e) Further, PHCD may delay the initiation of termination proceedings of a family based on noncompliance under this provision, unless it conflicts with other provisions of law, for a period not to exceed six (6) months.

3. Exclusions from Assets:

- Interests in Indian trust land.
- Equity accounts in HUD homeownership programs; and
- The value of necessary items of personal property such as furniture and automobiles.
- FSS Accounts
- Education Savings Accounts- Coverdell or any qualified tuition program under IRS section 529 and 530
- The value of real property the family does not have legal authority to sell Irrevocable Trusts
- Amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member, for an incident resulting in a disability.

G. Computation of Rent

The first step in computing rent is to determine each family's Total Tenant Payment (TTP). If the family is occupying a unit that has tenant-paid utilities, the utility allowance is subtracted from the TTP. The result of this computation, if a

positive number, is the tenant rent. If the TTP less the utility allowance is a negative number, the result is the utility reimbursement, which is paid to the tenant.

5. TTP is the highest of:
  - a) 30% of adjusted monthly income; or
  - b) 10% of monthly income; but never less than the
  - c) Minimum Rent; and never more than the
  - d) Flat Rent, if chosen by the family (where applicable)
6. Tenant rent is computed by subtracting the utility allowance for tenant supplied utilities (if applicable) from the TTP. In developments where PHCD pays all utility bills directly to the utility supplier, tenant rent equals TTP.
7. The minimum rent shall be \$50 per month; however, a hardship exemption shall be granted to residents who can document that they are unable to pay the \$50 because of a hardship. Refer to Chapter VII, Section B of this ACOP.
8. At initial certification and at each subsequent annual reexamination, the resident shall be offered a choice of paying either the income-based rent or the Flat Rent applicable to the unit they will be occupying.
9. Utility Reimbursements

Where the utility allowance exceeds the total tenant payment of the family, PHCD will provide a utility reimbursement payment through a Utility Reimbursement Card. Deposits to the Utility Reimbursement Card will be made monthly. If the family owes any sums to PHCD or any other housing authority, PHCD may use any utility reimbursement amount owed to the family as payment.

PHCD, at its discretion and as deemed operationally feasible, may make utility reimbursement payments directly to the utility company. Such direct payment shall not require the family's consent; however, PHCD shall inform the family immediately upon its decision to make payments directly.

Effective January 1, 2024, upon the implementation of Housing Opportunity through Modernization Act of 2016 (HOTMA) and applicable regulations and guidelines promulgated by HUD, foster children and foster adults are household members and will be considered when determining utility allowance.

#### H. Earned Income Disallowance

(This section H shall become effective January 1, 2024, upon the implementation HOTMA and applicable regulations and guidelines promulgated by HUD)

HOTMA eliminated the Earned Income Disallowance (EID) effective January 1, 2024, however, tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID until the allowed time frame expires. No new families may be added. Further, within two years from the effective date of January 1, 2024, or January 1, 2026, no family will receive the EID benefit.

The Earned Income Disallowance (EID) is the exclusion from the calculation of the family's income, the income increase attributable to new employment or increased

earnings, over the income received prior to qualifying for the disallowance. The following applies to residents who qualified and are receiving EID benefits prior to January 1, 2024.

1. Lifetime Limit

a) 24-Month Period

The 24-month lifetime limitation applies to residents starting EID on or after May 9, 2016. This lifetime limitation shall be provided for a straight 24-month period (consecutive 12 months at 100% disallowance followed by the second and final consecutive 12 months at 50% disallowance with a fixed start and end date, irrespective of whether a family maintains continual employment).

b) 48-Month Period

The 48-month lifetime limitation applies to residents receiving EID prior to May 9, 2016 [24 CFR, § 960.255(b)(4)]. EID can be stretched out by temporarily stopping the clock when the resident becomes unemployed and restarting the clock upon reemployment within the applicable lifetime limit.

2. The periods of income disallowance are as follows:

a) 100% disallowance of increased earnings: The initial 12-month cumulative full exclusion period begins on the date the qualifying family member experiences an increase in income attributable to employment or increased earnings. For tracking and administrative purposes, PHCD can begin the EID on the first day of the month following the effective date of employment.

b) 50% disallowance of increased earnings: The second 12-month cumulative exclusion period begins after the initial period ends.

c) Each family member is entitled to a separate EID benefit. However, each family member is entitled to such benefit only once per lifetime and applicable period limit.

I. Rent Collection

Clients are mailed a monthly rent statement listing any transactions processed that month and indicating the balance due. PHCD has initiated the following rent payment options for its residents:

Check, money order, or cashier's check mailed by the resident directly to PHCD lockbox together with the payment stub from the rent statement for processing; or

Authorized direct debit from resident's checking or savings account; or

Online payment through major credit card;

Cash will not be accepted. Payments of any kind will not be accepted at the site offices.

**VIII. Interim Rent Adjustments: Fixed Rent System**

**A. Adjusting Rent between Regular Reexamination**

- Refer to Chapter VI of this ACOP
- 1. Earned Income Disallowance (EID) (refer to Chapter XII of this ACOP)
- 2. Misrepresentation by the resident
  - a) If the resident misrepresented facts to PHCD resulting in rent that is less than the correct amount, the increase in rent shall be retroactive to the first of the month following the effective date of the change in income. In justifiable cases, PHCD may take such action as it deems advisable in accordance with federal or Florida law, including but not limited to termination of assistance and eviction.
  - b) Decreases in income resulting from welfare fraud or from welfare cuts for failure to comply with economic self-sufficiency requirements are not eligible for rent reductions (imputed welfare income).
- 3. Hardship for Families Paying Minimum Rent

A hardship exemption shall be granted to residents who can document that they are unable to pay the minimum rent of \$50 because of a hardship. Interim reexaminations to temporarily adjust the rent will be made for families under hardship.

Residents qualify for a hardship exemption to the minimum rent if:

- a) The family has lost eligibility for, or is applying for, a Federal, State or local assistance program;
- b) The family would be evicted as a result of the imposition of the minimum rent requirements;
- c) The income of the family has decreased because of changed circumstances, including loss of employment;
- d) A death in the family has occurred; or
- e) Other circumstances as determined by PHCD.

The family should notify their AMP administrator or designee that they wish to request a hardship exemption. When the resident requests the hardship exemption, PHCD will suspend the minimum rent requirement beginning the month following the family's request. The suspension will continue until PHCD determines if there is a qualifying financial hardship and whether it is temporary or long term. PHCD may not evict the family for nonpayment of minimum rent during the 90-day period beginning the month following the hardship exemption request.

If PHCD determines that the hardship is temporary, less than 90 days, or if the family does not qualify for the exemption, the minimum rent will be reinstated retroactively to the

suspension date. PHCD will offer a repayment agreement to the family for the back rent owed.

If PHCD determines that the hardship is long term, the family will be exempted from the minimum rent requirements so long as such hardship continues. The exemption shall apply from the beginning of the month following the family's request for the hardship exemption until the end of hardship and will be reviewed at least annually.

PHCD, at its discretion, will request documentation from the residents to verify the type and extent of the hardship.

The minimum rent hardship exemption is retroactive to October 21, 1998. If any resident who qualified for the hardship exemption was charged a minimum rent since that time, the resident may be entitled to a retroactive credit.

## **IX. Choice of Rent: Flat Rents**

Public Housing residents may choose between a Flat Rent or Income-based Rent that is based on family income as detailed in Chapter XII. Flat Rents are based on the unit market value and vary by unit size, type and by development location. PHCD must offer new admissions to Public Housing developments a choice of paying a flat or income-based rent at the time of admission. At the annual reexamination, all Public Housing residents are offered the choice of paying the Flat Rent or Income-based Rent.

### **A. Development of Flat Rents**

When developing the Flat Rent schedule, PHCD will take the following information into consideration:

- Rents of non-assisted rental units in the immediate neighborhood
- Size of PHCD's units compared to non-assisted rental units from the neighborhood
- Age, type of unit and condition of PHCD's units compared to non-assisted rental units from the neighborhood
- Land use in the surrounding neighborhood
- Amenities (childcare, laundry facilities, playgrounds, community rooms, social services, education/job training programs, etc.) at PHCD's properties and in the surrounding neighborhood
- Crime in PHCD's developments and the surrounding neighborhood
- Quality of local schools serving each PHCD development
- Availability of public transportation at each PHCD development and
- Availability of accessible units for people with mobility impairments

### **B. Annual Update of Flat Rents**

The Flat Rent structure shall be reviewed annually and adjusted accordingly using a rent reasonableness study based on the information listed above.

Per PIH Notice 2014-12 and PIH 2015-13, the following provisions were implemented:

1. Flat Rents will be set at no less than 80% of the Fair Market Rent (FMR) and reduced, if necessary, to account for utility costs.
2. If a new Flat Rent amount will increase a family's existing rental payment by more than 35%, then the new amount shall be phased in to ensure the family's rent does not increase by more than 35% annually.
3. The revised Flat Rents will be applied to new admissions upon the revision's effective date; however, when a current Public Housing resident chooses Flat Rent, their rent shall not be adjusted until the next regular annual reexamination.

### **C. Reexamination of Families on Flat Rents**

Public Housing residents paying Flat Rents are required to recertify income every three (3) years, rather than annually. However, such residents are still required to participate in an annual reexamination for any changes in the family composition, to ensure that unit

size is still appropriate, and to check compliance with the community service requirements, if applicable.

D. Hardship of Families Paying Flat Rents

Families who have elected to pay flat rent are eligible to switch to a lower income-based rent, if the family has experienced a verified hardship such as:

1. loss in income because of changes in circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance; and/or
2. increased expenses because of changes in circumstances, such as increased medical costs, childcare, transportation, education, or similar items.

## **X. Lease Termination Procedures**

### **A. General Policy: Lease Termination**

The Public Housing Lease (Lease) may be terminated by PHCD in compliance with HUD regulations 24 CFR § 966 and in accordance with the provisions contained in Chapter 83, Part II, of the Florida Statutes. At the time the notice of lease termination is sent, all residents will receive HUD form 5380, *Notice of Occupancy Rights under the Violence against Women Act* form, and HUD form 5382, *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation* form, at the time the applicant is denied assistance. See Chapter XIV—Violence Against Women Act of this ACOP for additional details.

The Lease may be terminated by the resident only after the end of the first year by giving 30 days written notice and upon compliance with all applicable procedures to properly vacate the unit and to depart in good standing.

PHCD shall have the right to terminate or refuse to renew the Lease for failure by the resident to fulfill their obligations set forth in the Lease agreement and for serious or repeated violations by the resident of one (1) or more of the material terms of the Lease (including residents under the Homeless Pilot Program). PHCD will not terminate the tenancy on the basis or as a direct result of the fact that the person is a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking. Termination may happen under the following circumstances:

1. A resident or any member of the household fails to fulfill their obligations under the Articles of the Lease, the Community Policies, or Tenant Rules and Regulations, and any additions or amendments to the Lease, Community Policies or Tenant Rules and Regulations.
2. A serious or repeated violation by the resident or any member of their household of one (1) or more terms of the Lease.
3. Denial or disconnection of utility services that are paid by the Resident. PHCD will not terminate assistance if the resident restores utility service legally and timely in compliance with 30-day notice to cure, or by the time the informal hearing takes place.
4. Tampering with utilities to illegally obtain service or changing the account to an adult person that is not listed in the Lease.
5. Any drug-related criminal activity, violent criminal activity, or non-violent criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of PHCD. Any such criminal activity that resulted in a conviction shall be cause for termination of tenancy, and for eviction from the dwelling unit (See Chapter III, Section E – Criminal Activity for additional details):
  - a) Drug-related criminal activity whether “on or off” the premises for the Resident, any member of their household, or a guest, and “on” the premises for other person under the Resident’s control. Drug-related criminal activity shall include illegal possession, illegal manufacture, sale, distribution, use and/or possession with intent to manufacture, sell, distribute or use a controlled substance;

- b) Violent criminal activity includes, but is not limited to: any criminal activity that has as one (1) of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, non-trivial bodily injury or property damage;
  - c) Non-violent criminal activity includes, but is not limited to: any activity that threatens the health, safety, or right to peaceful enjoyment by the residents, employees of PHCD or any other Miami-Dade County personnel or official;
  - d) A fugitive felon or parole violator after conviction of a crime or attempt to commit a crime is considered a person that threatens the health, safety and right to peaceful enjoyment of the premises by other residents or employees of PHCD;
  - e) PHCD will not consider criminal related activities for juvenile household members under the age of 18 unless they are tried as adults for certain criminal offenses or if the acts occur on PHCD property;
  - f) PHCD may also terminate assistance based on the conduct underlying arrests, only if the conduct indicates the individual is not suitable for tenancy and PHCD has sufficient evidence that the individual engaged in the conduct other than the fact of the arrest.
6. If an activity does not threaten the health, safety or right to peaceful enjoyment of the residents, but a warning has been issued to an individual or family, any subsequent warning regarding the same individual or family shall be considered a violation of the Lease.
  7. A record of alcohol abuse or pattern of abuse that poses a direct threat to the health or safety of others shall be considered a violation of the Lease.
  8. Failure by the resident to report to any reexamination interview or provide verification of any information required by PHCD to include failure to sign and submit consent forms or other documentation to determine eligibility in the program. Clients who fail to comply are provided a 30-day notice to correct the issue.
  9. Discovery of material false statements in connection with information provided at application or reexamination, or fraud committed by the resident in connection with any federally assisted housing program.
  10. For Public Housing residents only, failure to comply with Federal, State or local public assistance program requirements related to work activities, community service and self-sufficiency requirements.
  11. If the resident or any member of their household, a guest or a person under the resident's control engages in the illegal use, or threatened use of or display of firearms, fire bombs or other weapons on PHCD property.
  12. If the conduct of the resident, any member of their household, a guest or person under the resident's control, is such that there is a likelihood that their presence on the premises may lead to personal injury or property damage.

13. For Public Housing residents, if school-age children do not attend school regularly and are absent more than 15 unexcused days within any 90-day period of a given school year except in instances of death, serious illness or injury, or the child who attains the age of 16 years files a formal declaration of intent to terminate school enrollment with the School Board.
14. Serious or repeated damage to the dwelling unit, or the creation of physical hazards in the unit, common areas, grounds, or parking areas.
15. Extremely poor housekeeping, including hoarding and clutter that causes health and safety concerns or property damage.
16. Any fire on the premises caused by carelessness, failure to supervise children or unattended cooking.
17. If the resident, any member of their household, or a guest or person under the resident's control threatens, obstructs or interferes with a PHCD employee or any government official conducting official business on or around the premises.
18. The resident refuses to accept PHCD's proposed change(s) to the Lease.
19. If the resident repeatedly interferes with or does not follow the Lease or Community Policies, or if the Lease has expired and has not been renewed.
20. If through HUD's EIV system, PHCD verifies that one of the household members is also participating in another federally housing program and that they have not relinquished the assistance within 30 days from the date of the move-in. In that case, PHCD will require proof of the termination of the subsidized housing assistance prior to lease termination (see Chapter VI (E) (3) – Double Subsidy).
21. Tenants must use their unit address as their mailing address for all official PHCD correspondence. This correspondence includes but is not limited to reexamination appointments, rent change notifications, inspection appointments, inspection results, termination proceedings, etc. Exceptions may be made to this rule on a case-by-case basis, i.e. domestic violence victims or if a tenant is able to demonstrate that their mailbox has been tampered with and is unsecure by submitting official documentation from the US postal service and/or police records.
22. Being over-income in accordance with the parameters in Chapter VI of this ACOP.
23. If the tenant has exceeded the asset limitation in accordance with the parameters described herein (This clause 23 shall become effective January 1, 2024, upon the implementation of HOTMA and applicable regulations and guidelines promulgated by HUD).

#### B. Mitigating Circumstances

Before PHCD makes a decision to send a notice terminating assistance, PHCD shall consider all circumstances relevant to a particular case. This may include the seriousness of the offending action, the extent of participation by the leaseholder in the offending action, the effects that the eviction would have on family members not involved in the offending activity and the extent to which the leaseholder has shown personal responsibility and has taken all reasonable steps to prevent or mitigate the offending action (see Chapter III of this ACOP).

### C. Notice Requirements

When PHCD proposes to terminate a lease, the termination shall follow all applicable Federal and State laws.

The notice of termination to the resident shall state the reasons for termination, inform the resident of their right to make reply, settlement, and/or request a grievance hearing in accordance with the Grievance and Appeal Policy, Chapter IX if this ACOP.

1. PHCD shall give a 7-day written notice of termination for serious violations of the Lease;
2. PHCD shall give the applicable written notice of termination (14-Day Notice of Termination for Non-payment of Rent) for a resident's failure to pay rent. Such notice shall not be sent until the rent becomes delinquent in accordance with the Lease; and
3. PHCD shall give a 30-day written notice of termination in any other case or cause.

### D. Recordkeeping Requirements for Residents

In accordance to State of Florida records retention schedule, a written record of every termination and/or eviction shall be maintained by PHCD at the developments, and shall contain the following information:

1. Name of resident, race and ethnicity, number and identification of unit occupied;
2. Date of the Notice of Lease Termination and any other state or local notices required, which may be on the same form and run concurrently;
3. Specific reason(s) for the Notice(s), with section of the lease violated, and other facts pertinent to the issuing of the Notice(s) described in detail;
4. Date and method of notifying resident; and
5. Summaries of any conferences held with resident including dates, names of conference participants and conclusions.

Such records may be maintained electronically.

## **XI. Grievance and Appeal Policy**

When PHCD's action or failure to act has an adverse effect on a public housing applicant or resident's rights, duties, welfare or status, the applicant will be afforded an informal review and the resident will be afforded a grievance hearing.

The grievance and appeal process described in PHCD's Reasonable Accommodation Policy and Procedures (Appendix IV of the ACOP) shall be applied to those cases in which applicants or residents have been denied reasonable accommodation requests.

### **A. Applicant's Informal Reviews**

1. Applicants denied program participation or removed from the waiting list shall be notified of such determination in writing and provided with 30 calendar days to request an informal review, generally after the initial interview. It is an applicant's responsibility to notify ALC when there is a change in address. Applicants whose mail is returned by the post office will be automatically withdrawn from the waiting list.
2. If PHCD proposes to deny admission on the basis of a family member's criminal record, PHCD will provide the family member with a copy of the criminal record either before or at the informal review and provide an opportunity to dispute the accuracy and relevance of that record.
3. Once a waiting list is closed, only applicants that have had an interruption in the eligibility process may request an informal review. Applicants that have not been selected, did not show to initial interview, or refused a unit without good cause (see Appendix I – Definitions of this ACOP) will not be granted an informal review once the waiting list has been dissolved.
4. Requesting an informal review

Applicants may request an informal review in writing to the address or fax number indicated on the adverse action notice. The request must be made within 30 calendar days from the date of the notice. PHCD, at its sole discretion, may schedule an informal review at the applicant's request, beyond this timeframe, on a case-by-case basis. PHCD will schedule the review for the next available hearing date and forward written notification to the applicant.

### **5. Informal Review Procedures**

- a) The informal review will be conducted by designated PHCD staff that shall listen to testimony or other evidence that the applicant may wish to present.
- b) Representatives from mixed finance developments (see Chapter I of this ACOP) may attend applicant's informal reviews to provide guidance on Low Income Housing Tax Credit (LIHTC) regulations and to explain reasons for denial of assistance.
- c) If the applicant fails to appear at a scheduled informal review, except for verifiable good cause (see Appendix I – Definitions of this ACOP), the applicant is in

automatic default and the decision rendered by the designated PHCD staff in their absence shall be final.

- d) The final decision shall be made in writing within 30 calendar days of the informal review. In extenuating circumstances, PHCD Director or designee may review and modify the decision of an informal reviewer. However, the informal reviewer's decision shall not abridge any other rights the applicants have under law.

## B. Resident's Grievance and Appeal

This resident grievance and appeal policy is based on the requirements, standards, and criteria set forth by U.S. Department of Housing and Urban Development, in the Code of Federal Regulations, Volume 24, Part 966-Lease and Grievance Procedures, with such modifications required by State and Local law. The policy shall be incorporated into and made a part of all the County Dwelling Leases for public housing governed by Part 966.

All residents of public housing are afforded ample opportunity for a fair and impartial hearing on matters involving the Public Housing Dwelling Lease executed between the resident and the County. This policy encompasses all other County instituted regulations which affect the resident's rights, welfare, or status, including victims of domestic violence under VAWA.

PHCD has included in this ACOP the Final Rule of the Streamlining Administrative Regulations (Docket No. FR5743-F-03) effective April 7, 2016, regarding the resident's grievance and appeal process.

## C. Applicability (Availability) and Exclusions

The grievance and appeal procedure shall be applicable and available to all individual grievances, except in the following cases, which may not result in a lease termination:

### 1. Non-Public Housing Lease, Rental or Purchase Agreements

This policy does not apply to the following Lease, rental or purchase agreements:

- The Section 23 and Section 10 Housing Assistance Payments Program
- The Section 8 Housing Assistance Payments Programs
- The Low-Rent Housing Ownership Opportunities Program (Turnkey II)

### 2. Disputes between residents not involving PHCD.

### 3. Residents filing a grievance on behalf of another resident who is not part of their own dwelling lease.

### 4. Residents that file a grievance together (otherwise referred to as a class grievance).

### 5. Negotiating Policy Changes

This policy is not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and PHCD. Only interpretations of policy may be grieved, not the policy itself.

## 6. Enterprise Income Verification (EIV) Discrepancies

Discrepancies in wages shown in data provided by the Enterprise Income Verification (EIV) system must be clarified through third party verifications to employers. For EIV versus Social Security Administration (SSA) benefit discrepancies, PHCD should request the resident to obtain a current, original SSA benefit letter within ten (10) business days of the interview day.

### D. Definitions

For the purpose of this policy, the following definitions shall apply:

#### 1.AMP Administrator

Shall mean the representative of PHCD who is responsible for the day-to-day operations and management of a public housing development. These responsibilities shall include, but are not limited to: lease enforcement, and property maintenance.

#### 2.Chief Hearing Officer

Shall mean the Hearing Officer appointed by PHCD Director, to serve as the Chairperson of the Hearing Panel and render decisions on matters brought before it. This person shall also be responsible for all administrative details of the Hearing Panel.

#### 3.Complainant

Shall mean any resident whose grievance is presented to the AMP administrator or designee of the development in which they reside.

#### 4.Development

Shall mean a public housing facility, which is under the management of PHCD or its designee.

#### 5.Elements of Due Process

Shall mean an eviction action or termination of tenancy in the State or Local court in which the following procedural safeguards are present by state:

- a) Adequate notice to the resident of the grounds for terminating tenancy and for eviction;
- b) Opportunity for the resident to examine all relevant documents, records, and regulations of PHCD prior to the trial or grievance hearing for the purpose of preparing a defense;
- c) Right of the resident to be represented by legal counsel;
- d) Opportunity to have their case heard before an impartial Hearing Officer or Hearing Panel;

- e) Opportunity for the resident to refute the evidence presented by PHCD, including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense the resident may have; and
- f) The right to a written determination based on evidence presented at grievance hearing.

#### 6. Grievance or Complaint

Shall mean any dispute which a resident may have with respect to a PHCD action or failure to act in keeping with the provisions of the Public Housing Dwelling Lease or other PHCD regulations. Such action or failure to act must adversely affect the rights, duties, welfare, or status of the resident bringing such dispute.

#### 7. Grievance Hearing

Shall mean a proceeding at which a grievance is presented to a Hearing Officer or Hearing Panel. Deadlines to request a grievance hearing by the resident are as follows:

- Ten (10) working days of the date of the Notice of a planned adverse action (e.g., lease termination, maintenance charges, fines, fees, etc.).
- Ten (10) working days as of the date the grievance event occurred for any dispute.

#### 8. Hearing Officer

Shall mean an individual appointed by PHCD Director, as defined in Section E of this Chapter to serve on the Hearing Panel and render decisions on matters brought before it.

#### 9. Hearing Panel

Shall mean a panel of three (3) persons in accordance with Section E of this Chapter.

#### 10. Resident

Shall mean the adult person or persons other than a live-in aide who resides in the unit and who has an executed Dwelling Lease with the County as the lessee of the dwelling unit. If no such person now resides in the unit, this shall refer to the remaining head of household of the original Lease who continues to reside in the unit.

### E. Hearing Officer or Hearing Panel

#### 1. PHCD may have a Hearing Officer or Hearing Panel.

##### a) Hearing Officer

The Hearing Officer shall be a PHCD employee appointed by PHCD Director or designee, but such employee cannot be the public housing AMP Administrator or a member of their staff, from the development at which the resident submitting the grievance (complainant) resides. The Hearing Officer will maintain a log of all

decisions made available, upon request, to the complainant or complainant's representative.

b) Hearing Panel

The Hearing Panel shall be three (3) people.

- (1) A Chief Hearing Officer who shall be a PHCD employee appointed by PHCD Director or designee; however, they cannot be the AMP administrator or a member of their staff at the development at which the resident submitting the grievance (complainant) resides. The Chief Hearing Officer will maintain a log of all decisions made available, upon request, to the complainant or complainant's representative.
  - (2) Two (2) members shall be resident representatives:
    - (a) One (1) representative shall be from the Overall Tenant Advisory Council (OTAC).
    - (b) One (1) representative shall be nominated by the Resident Council representative of the development in which the complainant resides. If the development does not have a recognized Resident Council, then OTAC will appoint a resident or OTAC member from the respective region.
    - (c) If OTAC or the development's Resident Council fail to nominate their respective representative, or in the event that the OTAC representative or the resident representative who lives at the development does not show up to the grievance hearing, the complainant may sign the "*Waiver of Panel Member for Public Housing Hearing Panel*" form in order to conduct the grievance hearing.
2. Representatives from mixed finance developments (see Chapter I of this ACOP) may attend grievance hearings to provide guidance on Low Income Housing Tax Credit (LIHTC) regulations and to explain reasons for adverse action.

F. Informal Settlement of a Grievance

1. As a condition prior to a grievance hearing, all grievances shall be personally presented, either orally or in writing, for informal settlement process to the AMP Administrator so that the grievance may be discussed informally and settled without a grievance hearing. The resident may be requested to complete a grievance hearing request form.
2. The AMP Administrator or designee will hold an informal settlement conference with complainant to address grievance, complete the "*Summary of Discussion-Informal Settlement of a Grievance*" form, and provide a copy of the form to the complainant, which will specify the following:
  - Date of the conference
  - Names of the participants
  - Complaint
  - Disposition of Complaint

- Procedures to request a grievance hearing, if unresolved
3. If the complainant is not satisfied with the results of the informal settlement process, the complainant may request a grievance hearing within five (5) working days from the date of receipt of the “*Summary of Discussion-Informal Settlement of a Grievance*” form. If the complainant does not request a grievance, the disposition of the grievance under the informal settlement process will become final.

#### G. Procedures for Obtaining a Grievance Hearing

##### 1. Requesting a Grievance Hearing

Residents must request a grievance hearing in writing within five (5) business days of receiving the results of the informal settlement process (see Section F of this Chapter) from their AMP Administrator or designee, subject to Section C of this Chapter. The written request must specify:

- a) The reason(s) for the grievance; and
- b) The action or relief sought.

##### 2. Scheduling a Grievance Hearing

Upon compliance by a resident with provisions of this policy, a grievance hearing shall be scheduled within 30 days from receipt of the request for the next available date. By written notification from the Hearing Officer or Chief Hearing Officer, the date, time, location, and the procedures governing the grievance hearing will be made available to all parties to the complaint.

##### 3. Grievance Hearings by Telephone

A grievance hearing may be held via telephone conference, if requested no less than three (3) business days prior to the grievance hearing, in situations where a health condition or mobility prevents any of the parties from attending the grievance hearing in person. A grievance hearing via telephone conference for any other reason shall be at the discretion of the Hearing Officer or Chief Hearing Officer. Grievance hearings held by telephone conferences are not allowed simply for the convenience of any of the parties.

#### H. Procedures for the Conduct of Grievance Hearings

##### 1. Venue

The grievance hearing shall be held before the Hearing Officer or Panel at PHCD' main office or the development in which the complainant resides, unless otherwise relocated for good cause.

##### 2. Due Process

- a) The parties may be represented by legal counsel or another person chosen as a representative.

- b) The opportunity will be provided to the resident to examine before the grievance hearing and, at the resident's expense, to copy all documents, records, and regulations of PHCD that are relevant to the grievance hearing, unless otherwise prohibited by law and in the event of hardship. In the event PHCD does not comply with a request to provide the resident with a copy of their file prior to the grievance hearing, PHCD is prohibited from relying on the contents of the file at the grievance hearing as set forth in the federal regulations. Therefore, any document not so made available after a request by the resident may not be relied on by PHCD at the grievance hearing.
  - c) The resident or their representative has the right to present evidence and arguments in support of their complaint, to controvert evidence relied on by the County or the AMP administrator, and to confront and cross-examine all witnesses on whose testimony or information the County or the AMP administrator relies.
  - d) PHCD will provide reasonable accommodations to persons with disabilities for equal opportunity to participate in the grievance hearing (see Appendix IV of this ACOP).
  - e) Limited English Proficiency (LEP) persons have the right to be provided with assistance in accordance with the LEP policy (see Chapter I of this ACOP).
  - f) The resident has the right to a swift decision, rendered, and based only on the evidence presented at the Grievance Hearing.
3. Failure to appear
- a) If the complainant should fail to appear for a scheduled grievance hearing, except for verifiable good cause, they shall be in automatic default and the decision rendered by the Hearing Officer or Hearing Panel in their absence shall be final.
  - b) In the event that the Resident Council Representative or the resident representative who lives at the development fails to appear, the resident may sign the "*Waiver of Panel Member for Public Housing Hearing Panel*" form in order to conduct the grievance hearing.
  - c) The complainant and PHCD shall be notified of the determination by the Hearing Officer or Panel. A determination that the complainant has waived their rights to a grievance hearing shall not constitute a waiver of any right that the complainant may have to contest the disposition of the complaint in an appropriate judicial proceeding.

4. Showing of Entitlement

At the Grievance Hearing the complainant must first make a showing of an entitlement to the relief sought. Thereafter, PHCD has the burden of justifying the action or failure to act, against which the complaint directed.

5. Conduct of Grievance Hearings

The Grievance Hearing shall be conducted by the Hearing Officer or Chief Hearing Officer and oral or documentary evidence pertinent to the facts and issues raised by

the complainant may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The Hearing Officer or Chief Hearing Officer shall require PHCD, the complainant, OTAC, Resident Council representative, and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the Hearing Officer or Chief Hearing Officer may result in exclusion from the proceedings, decisions adverse to the interest of the disorderly party, or denial of the relief sought, as appropriate.

6. Verification

The Hearing Officer or Panel must verify any document provided by the resident, such as evidence of completion of rehabilitation program or any other proof or testimony provided, before submitting the decision letter to uphold or overturn the denial of assistance

7. Transcript of Hearings

The complainant or PHCD may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the grievance hearing. Any interested party may purchase a copy of such transcript.

I. Decision of the Hearing Officer or Hearing Panel

1. Decision

The decision of the Hearing Officer or Panel shall be based solely and exclusively upon the facts and evidence presented at the grievance hearing, mitigating circumstances, and upon applicable PHCD and Federal regulations and requirements.

Within 14 calendar days of the grievance hearing, the Hearing Officer or Chief Hearing Officer shall prepare a written decision, which shall contain the reasons supporting such decision. A copy of the decision shall be sent to complainant. The County shall retain a copy of the decision in the resident's lease file or such other folder.

The Hearing Panel must reach a majority decision. However, when members of the Hearing Panel are not in agreement, the Chief Hearing Officer may refer the case to PHCD Director or designee for the final decision, who may request additional information and/or interview with the resident, if deemed necessary.

The decision of the Hearing Officer or Panel shall be final. In extenuating circumstances, upon the resident's written request for review, PHCD Director may modify the decision of a Hearing Officer or Panel. The Hearing Officer or Panel's decision, however, shall not abridge any other rights the residents have under law.

2. Continuing Rights

A decision by the Hearing Officer or Panel in favor of PHCD, or which denies the relief requested by the complainant in whole or in part, shall not constitute a waiver of, or affect in any manner whatever, their rights. Nor shall the decision affect in any manner

whatever, any rights the complainant may have to a trial or other review in any judicial proceeding which may thereafter be brought in a matter.

3. Copies of Grievance Hearing Decision Letters

Copies of grievance hearing decision letters in addition to any documents or testimony presented at the grievance hearing are kept on file as per State of Florida retention schedules by the Hearing Officer, Chief Hearing Officer, or on site.

J. Eviction Actions

If a resident has requested a grievance hearing in accordance with Section G of this Chapter, the eviction procedure is suspended until the Hearing Officer or Panel produces its written decision. If the Hearing Officer or Panel upholds the decision of PHCD to terminate the tenancy, eviction proceedings may be instituted immediately. If the resident fails to quit the premises within the applicable statutory period, or on the termination date stated in the notice of termination, whichever is later, appropriate action brought against them which may require that they pay court costs and attorney fees.

## **XII. Utilities and Maintenance Charges**

### **A. Utilities**

This section establishes the procedures for utility allowances for utilities purchased by residents of public housing developments. Utilities are defined as electricity, gas, water and sewer. Telephone and cable television are not considered utilities under this policy.

Effective January 1, 2024, upon the implementation of the Housing Opportunity through Modernization Act of 2016 (HOTMA) and applicable regulations and guidelines promulgated by HUD, foster children and foster adults are household members and will be considered when determining utility allowance.

#### **1. Standard for utility consumption allowances**

PHCD shall establish for each development, a consumption allowance based on bedroom size that will afford a reasonable consumption of utilities by an energy conservative household of modest circumstances consistent with the requirement of a safe, sanitary and healthful living environment. The consumption allowance shall be a uniform monthly amount based on an average monthly utility requirement for a year.

#### **2. Review and revision of allowance**

- a) Annual review: PHCD shall review the utility allowances annually or in accordance with federal regulatory requirements and shall adjust the amount of utility allowance if necessary to reflect changes in utility rates and/or utility consumptions.
- b) Interim revision due to rate changes: PHCD may revise its utility allowances for resident-purchased utilities between annual reviews if there is a rate change (including fuel adjustments). PHCD is required to do so if a rate change, by itself or together with prior rate changes not adjusted for, results in a change of 10% or more from the rates on which such allowances were based.
- c) Schedule of Utility Allowances: Schedules of utility allowances for each development are posted on the bulletin board in each development office and will be made available to the resident upon request.
- d) Relief from excess consumption: Residents may request relief from excess utility consumption if the request is based on medical needs of the elderly, ill or disabled resident or for special factors affecting utility usage not within the control of the resident.

### **B. Utilities Paid by the Resident**

1. Utility accounts established and maintained by the residents must be in the name of an adult family member listed in the Public Housing Lease. Illegal tampering to obtain utility services or changing the utility accounts to an adult person that is not listed in the Public Housing Lease are grounds for termination of the Lease.

2. Some buildings have master meters that are currently paid by PHCD. Due to utility modernization, however, building master meters may be replaced by individualized meters causing the utility costs to become the responsibility of the resident.

3. Residents are responsible for monitoring their utility consumption.

C. Maintenance Charges

1. This section establishes the procedures for maintenance charges in Public Housing developments.

a) A list of maintenance charges is posted in the development offices and will be made available to residents upon request.

b) Residents will be charged for materials and services as shown on the price list in effect at the time of repair for damages that are intentional or caused by negligence of the residents.

c) PHCD will notify the resident by mail or in person of any maintenance charges for which they will be billed. A resident may then request a grievance hearing under the grievance procedure.

d) If a resident requests a grievance hearing to dispute maintenance charges, the charges will not become due until the grievance process has been completed.

2. Move-Out Charges:

a) Upon the move out inspection, residents will be held responsible for all damages beyond normal wear and tear to the unit and appliances.

b) Damages beyond normal wear and tear that are not repaired will be charged to the resident's security deposit and if necessary the resident's account at the time of move-out. The price list in effect at the move-out will be utilized to price labor and materials.

c) Photographs of the damages will be maintained in the tenant file in accordance with the retention schedule.

### **XIII. Fair Housing and Equal Opportunity**

#### **A. Non-discrimination Policy**

1. PHCD complies with all federal, state, and local antidiscrimination laws including, but not limited to: the Fair Housing Act; Section 504 of the Rehabilitation Act of 1973; and the Americans with Disabilities Act.
2. No person shall, on the basis of race, color, sex, religion, national or ethnic origin, familial status, marital status, status as a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking, actual or perceived sexual orientation, gender identity or gender expression, ancestry, age, pregnancy, disability, or source of income be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under programs operated and/or funded by PHCD.
3. PHCD prohibits inquiries regarding actual or perceived sexual orientation, gender identity or gender expression, which includes but is not limited to whether a person is transgendered.
4. PHCD will provide applicants and participants with federal/state/local information regarding discrimination and any recourse available to them if they believe they may be victims of discrimination.
5. PHCD will display the Fair Housing poster at PHCD, Public Housing and Section 8 New Construction site offices. Upon eligibility determination, applicants will be provided with the Housing Discrimination Complaint form and information pertaining to procedures to be followed if the applicant believes they have experienced illegal discrimination.

#### **B. Processing Non-Discrimination Complaints and Reasonable Accommodation Requests**

1. All applicable Fair Housing Information and Discrimination Complaint forms will be made available at PHCD's 504/ADA Coordinator's office and/or by the 504/ADA Coordinator mailing copies of information to person requesting same. In addition, all appropriate written information and advertisements will contain the appropriate written information, and advertisements will contain the appropriate Equal Opportunity language and logo.
2. PHCD's 504/ADA Coordinator will assist any family that believes they have been discriminated against by providing copies of the federal and local housing discrimination forms and the addresses of the applicable offices. In addition, PHCD's 504/ADA Coordinator will facilitate conciliation of discrimination complaints upon the request of complainants (see Appendix I- Definitions), to the greatest extent feasible.
3. PHCD will cooperate with HUD in conducting monitoring and compliance reviews and complaint investigations, pursuant to all applicable civil rights statutes and regulations, Executive Orders, and all civil rights related program requirements.
4. Reasonable accommodation requests are processed through the 504/ADA Coordinator's office (refer to Section E of this Chapter).

C. Effective Communication Policy

PHCD has an Effective Communication Policy to ensure effective communication with applicants, residents, program participants, employees, and people with disabilities. Such policy is Appendix II of this ACOP.

D. Emergency Evacuation Assistance Program Procedures

In case of emergency, PHCD will take all necessary steps to address specific needs of its residents in consistency with the Miami-Dade County Emergency Evacuation Assistance Program, as described in Appendix III of this ACOP.

Additionally, PHCD's Emergency Management Manual will continue to be reviewed to ensure that it contains all necessary provisions required for people with disabilities in emergency conditions.

E. Reasonable Accommodation Policy and Procedures

PHCD's Reasonable Accommodation Policy and Procedures, as referenced through this ACOP, is Appendix IV of this ACOP.

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

### **A. Overview**

Under the 2013 reauthorization of the Violence Against Women Act (VAWA) and Miami-Dade County Resolution No. R-644-12, PHCD is required to implement internal policies to include provisions for protection of victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking, regardless of sex, gender identity, gender expression or actual or perceived sexual orientation. For definitions of terms under this chapter, refer to Appendix I of this ACOP.

### **B. Notification of Occupancy Rights under VAWA**

PHCD provides applicants and residents with the HUD form 5380, *Notice of Occupancy Rights under the Violence Against Women Act* form, that explains the VAWA protections, including the right to confidentiality, and any limitations on those protections.

PHCD also provides applicants and residents with HUD form 5382, *Certification of Domestic Violence, Dating Violence, Sexual Assault, Stalking or Alternate Documentation* form to be completed by the victim to document that the applicant or resident is a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking.

The Lease, Lease addendum, or tenancy addendum, as applicable, shall include a description of specific protections afforded to the victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking.

### **C. Protections Provided Under the VAWA**

VAWA provides specific protections for victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking.

1. VAWA provides that PHCD may not deny admission or assistance to an applicant on the basis or as a direct result of the fact that the person has been a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking if the applicant otherwise qualifies for admission or assistance.
2. Provides that PHCD may not terminate the Lease of a family that moves out of the dwelling unit in violation of the Lease, with or without prior notification to PHCD, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking and who reasonably believed they were imminently threatened by harm from further violence if they remained in the unit.
3. Provides that an incident or incidents of actual or threatened domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the Lease of the victim.
4. Provides that criminal activity directly related to domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking may not be construed as cause for terminating the Lease of a resident if a member of the resident's household, a

guest, or another person under the resident's control is the one engaging in the criminal activity and the resident or affiliated individual or other individual is the actual or threatened victim of the domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking.

5. Provides PHCD with the authority to terminate the Lease to any resident or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing, the victim of the violence.

D. Limitations of VAWA Protections

1. Nothing in this section limits the authority of PHCD, when notified of a court order, to comply with respect to the rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking, or the distribution of property among household members.
2. Nothing in this section limits any available authority of PHCD to evict or terminate assistance to a resident or tenant for any violation not premised on an act of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking that is in question against the tenant or an affiliated individual of the tenant. However, PHCD must not subject the tenant, who is or has been a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking, or is affiliated with an individual who is or has been a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate assistance.
3. Nothing in this section limits the authority of PHCD to issue a termination of lease or evict a tenant if PHCD can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to property or site would be present if that tenant or lawful occupant is not evicted or terminated from assistance. In this context, words, gestures, actions, or other indicators will be considered an "actual and imminent threat" if they meet the standards provided in the definition of "actual and imminent threat" in Appendix I of this ACOP.
4. Any termination of lease or eviction, as provided in paragraph D(2) of this section should be utilized only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property or site, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents.

E. Evidence Required as Proof of Domestic Violence, Dating Violence, Sexual Assault or Stalking

1. When confronted with cases of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or Stalking, PHCD must provide the alleged victim with HUD form 5382, *Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking and Alternate Documentation* and request that it be

returned within 14 business days. PHCD may, but is not required, to extend the time period to submit the documentation with the approval of the division director or designee. In response to this request, the resident may complete HUD form 5382 or provide one of the following types of third party documentation:

- a) Court records (e.g., restraining and civil protection orders) or statements from a judge or other court officials;
- b) Medical records or statements from mental health professionals or medical professionals from whom the victim sought assistance in addressing domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking;
- c) Police reports or statements (e.g., records of police visits to the victim's address or telephone calls, which may include telephone calls to the police registering a complaint, a log of police runs made to the residence, and copies of all tapes and reports written by officers responding to a call);
- d) Reports or statements signed by workers (collectively, "professionals") from a domestic violence shelter or domestic violence program attesting to the time the victim spent in the shelter and the correlation to the incidents of abuse;
- e) Statements signed by a clergy or social worker, other employee, agent, or volunteer of an administrative agency, social service agency, victim service provider, domestic violence program, clergy, counselor, or attorney (collectively, "professional") from whom the victim sought assistance in addressing domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking.
- f) Other credible evidence as corroborated by law enforcement or domestic violence providers.

Statements signed by above-mentioned professionals must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence occurred and meet the definition of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking. Same statements must also be signed by the victim.

## 2. Conflicting Evidence

- a) If PHCD receives conflicting evidence that an incident of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking has been committed (such as certification forms 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 abuser or perpetrator), PHCD may request third-party documentation from victims in order to resolve the conflict.
- b) The victim must provide the third party documentation within 30 days. If the victim fails or refuses to provide third-party documentation where there is conflicting evidence, PHCD does not have to provide the victim with the protections contained in this policy.

F. Considerations for Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking

PHCD must consider:

1. The nature and severity of each case while exercising discretion on whether or not family members or their guests pose an actual **and** imminent threat to the health, safety, or right to peaceful enjoyment of the premises by others. Any eviction or termination of assistance taken on this basis should only be used when there are no other actions that can be taken to reduce or eliminate the threat, including but not limited to:
  - a) Transferring the victim
  - b) Barring the perpetrator from the property
  - c) Lease bifurcation
  - d) Contacting law enforcement
2. Undertaking whatever actions permissible and feasible under PHCD's programs to assist victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking (e.g., bear the cost of the transfer, the possible issuance of a Section 8 voucher, etc.), subject to availability of funding and resources and approval from PHCD Director.
3. Removing the perpetrator of domestic violence from the Lease, while the remaining family members stay in the assisted unit, upon approval of the division director or designee.
4. The effects of denial or termination of assistance on other family members who were not involved in the offense.
5. The conditions barring the culpable household member from residing in or visiting the unit.
6. The circumstances relevant to an eviction or termination of tenancy based on the extent to which the person has shown personal responsibility to prevent the offending action, and the time that has elapsed since their arraignment for that crime.
7. The range of evidence as proof of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking, which may include, but is not limited to victim's statement, testimony or affidavit outlining the facts of the violence or cruelty in each incident, utilizing form HUD-5382.

G. Emergency Transfer Plan

1. PHCD is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking. In accordance with the Violence Against Women Act (VAWA), PHCD allows tenants who are victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit.
2. The ability to request a transfer is available regardless of sex, gender identity, gender expression, or actual or perceived sexual orientation. The ability of PHCD to honor such

request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking, and on whether PHCD has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

3. This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the Federal agency that oversees that PHCD is in compliance with VAWA.

#### H. Eligibility for Emergency Transfers

1. A tenant who is a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking is eligible for an emergency transfer under the following conditions:
  - If the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit that the tenant is occupying; or
  - If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.
2. A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.
3. Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

#### I. Emergency Transfer Request Documentation

1. To request an emergency transfer, the tenant shall notify PHCD's management office and submit a written request for a transfer. PHCD will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:
  - A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under PHCD's program; or
  - If applicable, a statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

#### J. Confidentiality

The information under the *Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking and Alternate Documentation* form will remain confidential and will be used by PHCD only to provide the victims with the exceptions and protections under VAWA.

1. PHCD must ensure that private information of victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking is protected in accordance with VAWA requirements.
2. PHCD and/or its designee will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives PHCD written permission to release the information on a time limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person(s) that committed an act(s) of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking against the tenant. See the *Notice of Occupancy Rights under the Violence Against Women Act* form for more information about PHCD's responsibility to maintain the confidentiality of information related to incidents of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking.

K. Emergency Transfer Timing and Availability

1. PHCD and/or its designee cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. PHCD and/or its designee will, however, act as quickly as possible to move a tenant who is a victim of domestic violence to another unit, subject to availability and safety of a unit.
2. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. PHCD may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.
3. If PHCD has no safe and available units for which a tenant who needs an emergency is eligible, PHCD will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, PHCD and/or its designee will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence that are provided with HUD form 5380.

L. Safety and Security of Tenants

1. Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.
2. Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).
3. Tenants who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>.

4. Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.
5. Tenants who are or have been a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking will be provided with HUD form 5380 that includes a list of local organizations offering assistance to victims of domestic violence.

M. Lease Bifurcation

1. PHCD may, in accordance with paragraph 2 of this section, bifurcate a lease, or remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to such member who engages in criminal activity directly relating to domestic violence, economic abuse, or technological abuse, against an affiliated individual or other individual:
  - Without regard to whether the household member is a signatory to the lease; and
  - Without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant.
2. A lease bifurcation, as provided in paragraph 1 of this section, shall be carried out in accordance with any requirements or procedures as may be prescribed by Federal, State, or local law for termination of assistance or leases and in accordance with any HUD requirements.

N. Reasonable Time to Establish Eligibility for Housing Assistance or to Find Alternative Housing

1. If PHCD exercises the option to bifurcate a lease and the individual who was evicted was the eligible tenant, PHCD will provide to the remaining tenant or tenants that were not already eligible a period of 90 calendar days from the date of bifurcation of the lease to establish:
  - eligibility under the same program, or
  - establish eligibility under another covered housing program (see definition in Appendix I), or
  - find alternative housing.
2. The 90-calendar-day period will not be available to a remaining household member if the statutory requirements for the same program prohibit it.

Note that if the remaining family members have not provided evidence of citizenship or eligible immigrations status, the tenant or tenants will be provided with 30 days to provide such evidence in accordance with 24 CFR, Part 5 Subpart L (refer to Chapter III of this ACOP).

3. The 90-day calendar period also will not apply beyond the expiration of a lease, unless this is permitted by program regulations.

4. PHCD may extend the 90-calendar-day period up to an additional 60 calendar days, unless prohibited from doing so by statutory requirements of the covered program or unless the time period would extend beyond expiration of the lease.
- O. Assistance for Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking
1. PHCD shall refer victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking to the State of Florida Office of the Attorney General, State Attorney's Office or the Department of Law Enforcement to apply for participation in the Address Confidentiality Program for Victims of Domestic Violence.
  2. PHCD may collaborate with appropriate counseling and law enforcement entities to assist victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking, including but not limited to the following services and programs for domestic violence victims:
    - a) Certified Domestic Violence Centers:
      - Safespace Shelter: 305-758-2804
      - The Lodge: 305-693-1170
    - b) Domestic Violence One Stop Center:
      - Coordinated Victims Assistance Center (CVAC): 305-285-5900

P. Non-discrimination

Pursuant to VAWA and the policies of Miami-Dade County, no applicant or tenant shall, on the basis of actual or perceived race, color, religion, national or ethnic origin, sex, familial status, marital status, status as a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking, gender identity or gender expression, actual or perceived sexual orientation, disability, ancestry, age, pregnancy, or source of income be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under VAWA.

**PUBLIC HOUSING and COMMUNITY  
DEVELOPMENT**

**DEFINITIONS**

**APPENDIX I**

**OF THE**

**ADMISSIONS AND CONTINUED  
OCCUPANCY POLICY**

Effective Date: \_\_\_\_\_

BCC Adopted: \_\_\_\_\_

## **APPENDIX I**

### **Definitions**

**Admission Preference**

Any preference, to the extent authorized by law, the Agency may establish for use in selecting among applicants that respond to local housing needs and priorities.

**Actual and Imminent Threat (24 CFR §5.2003)**

A physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. 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, and the length of time before the potential harm would occur.

**Adult**

A person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State or tribal law.

**Affiliated Individual (24 CFR §5.2003)**

With respect to an individual, means a spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or any individual, tenant, or lawful occupant living in the household of that individual.

**Applicant**

A person or family that has applied for housing assistance.

**Arrested**

Taking or seizing a person by legal authority, such as the police, in response to a criminal charge.

**Bifurcate (24 CFR §5.2003)**

To divide a lease as a matter of law, subject to permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

**Child/Minor**

A member of the family (other than the family head or spouse) who is under 18 years of age.

**Complainant (HUD Federal Register Vol. 81 #25 and 24 CFR §966.53)**

Any resident whose grievance is presented to PHCD or at the development management office.

**Continuity of Assistance**

A family is considered continuously assisted if it has been receiving housing assistance under any program of the U.S. Housing Act of 1937 without experiencing an extended interruption during the occupancy of the assisted unit. An interruption of four (4) months between the assisted occupancy of one unit and the assisted occupancy of another unit is considered discontinued assistance.

**Conviction**

A formal declaration that a person has been found guilty of a criminal offense by a verdict of a jury or a judge in a court of law.

**Covered Housing Program (24 CFR §5.2003)**

The following HUD programs must afford VAWA Protections:

- Section 202 Supportive Housing for the Elderly
- Section 811 Supportive Housing for Persons with Disabilities
- Housing Opportunities for Persons With AIDS (HOPWA)
- HOME Investment Partnerships (HOME)
- Homeless programs under title IV of the McKinney-Vento Homeless Assistance Act (including the Emergency Solutions Grants, the Continuum of Care, and the Rural Housing Stability Assistance
- Multifamily rental housing under section 221(d)(3) of the National Housing Act with a below-market interest rate (BMIR) pursuant to section 221(d)(5)
- Multifamily rental housing under section 236 of the National Housing Act
- Public Housing
- Section 8 Housing Choice Voucher
- Section 8 Project-Based Vouchers
- Section 8 Moderate Rehabilitation Single Room Occupancy
- The Housing Trust Fund

**Covered Housing Provider (24 CFR §5.2003)**

The individual or entity under a covered housing program that has responsibility for the administration and/or oversight of VAWA protections and includes public housing agencies, sponsors, owners, mortgagors, managers, State and local governments or agencies thereof, nonprofit or for-profit organizations or entities.

**Criminal Records**

All criminal arrest records, including but not limited to sex offender registration records for all family members 18 years and over. PHCD will conduct such checks on household members who are younger than 18 years only if they are being tried as adults for certain criminal offenses. The term “criminal records” does not include records unavailable to PHCD by operation of law, including sealed or expunged records, juvenile records, exempt records under Florida’s Public Records Act, or other records unavailable to PHCD under state and federal laws.

**Dating Violence (24 CFR §5.2003 and the Florida Statutes)**

The federal regulations defines “dating violence” as 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; and
- the frequency of interaction between persons involved in the relationship.

The Florida Statutes defines “dating violence” as violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:

- A dating relationship must have existed within the past six (6) months;

- The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
- The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.

The term does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context.

**Deconcentration of Income**

The admission of higher income families (50-80%) of area median income to developments where extremely low income families predominate and vice versa.

**Dependent**

A member of the family (excluding foster children, foster adults, or live-in aides) other than the family head or spouse, who is under 18 years of age, or is a person with disabilities, or is a Full-time Student.

**Disability Assistance Expenses**

Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus. These allowances are given when calculating adjusted income for attendant care and auxiliary apparatus in excess of ten (10) percent of annual income.

**Disabled Family (HUD Equal Access Rule, PIH Notice 2014-20, and 24 CFR §5.403)**

A family whose head, co-head, spouse, or sole member is a person with disabilities; or two (2) or more persons with disabilities living together; or one (1) or more persons with disabilities living with one or more live-in aides.

**Discriminatory Effect**

A practice has a discriminatory effect where it actually or predictably results in a disparate impact on a group of persons or creates, increases, reinforces, or perpetuates segregated housing patterns because of race, national or ethnic origin, color, sex, religion, age, disability, familial status, marital status, status as a victim of domestic violence, dating violence, sexual assault or stalking, ancestry, actual or perceived sexual orientation, gender identity or gender expression, pregnancy or source of income.

**Displaced Family (24 CFR §5.403)**

Includes persons who can document that they have been displaced by a natural disaster declared by the President of the United States, displaced through no fault of their own, by governmental action, or displaced by domestic violence.

**Displacement Due to Governmental Action**

Activity carried on by an agency of the United States or by any State or local governmental body or in connection with code enforcement or a public improvement or development program.

**Domestic Violence (24 CFR §5.2003 and the Florida Statutes)**

The term ‘domestic violence’ includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding and, in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who—

- is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim;
- is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- shares a child in common with the victim; or

commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.”

**Drug-related Criminal Activity**

Illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug, with the intent to manufacture, sell, distribute or use the drug.

**Due Process**

Shall mean an eviction action or a termination of tenancy in a State or local court in which the following procedural safeguard are present by state:

- Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction;
- Opportunity for the resident to examine all relevant documents, records, and regulations of PHCD prior to the trial or grievance hearing for the purpose of preparing a defense;
- Right of the tenant to be represented by counsel;
- Opportunity for the tenant to refute the evidence presented by PHCD including the right to confront and cross-examine witnesses or equitable defense which the tenant may have;
- Opportunity to have their case heard before an impartial Hearing Officer or Hearing Panel; and
- The right to a written determination based on evidence presented at grievance hearing.

**Economic Abuse**

The term ‘economic abuse’, in the context of domestic violence, dating violence, and abuse in later life, means behavior that is coercive, deceptive, or unreasonably controls or restrains a person’s ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to—(A) restrict a person’s access to money, assets, credit, or financial information; (B) unfairly use a person’s personal economic resources, including money, assets, and credit, for one’s own advantage; or (C) exert undue influence over a person’s financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.

**Earnings and Benefits**

Means the incremental earnings and benefits resulting from a qualifying employment training program or subsequent job.

**Elderly Family (HUD Equal Access Rule, PIH Notice 2014-20, and 24 CFR §5.403)**

A Family whose head, co-head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one (1) or more live-in aides.

**Elderly Person**

A person 62 years of age or older.

**Eligibility Income**

This is Annual Income amount which is compared to USHUD approved Income Limits to determine if an applicant family is eligible for admission to the housing program.

**Extremely Low Income**

**(HUD Federal Register Vol. 79 #122 dated 6-25-14 and Vol. 81 #45 dated 3-8-16)**

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

- The poverty guidelines established by the U.S. Department of Health and Human Services applicable to the family of the size involved; or
- Thirty (30) percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30 percent of the area median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

**Ethnicity Categories**

There are two ethnicity categories:

- a) Hispanic or Latino. A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term "Spanish origin" can be used in addition to "Hispanic" or "Latino."
- b) Not Hispanic or Latino. A person not of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.

**Family**

Family includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

(1) A single person, who may be:

- (i) An elderly person, displaced person, disabled person, near-elderly person, or any other single person;
- (ii) An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or

(2) A group of persons residing together, and such group includes, but is not limited to:

- (i) A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
- (ii) An elderly family;
- (iii) A near-elderly family;
- (iv) A disabled family;
- (v) A displaced family; and
- (vi) The remaining member of a tenant family.

**Family Income**

Family Income means the annual earned and unearned income derived from all sources of the family members expected to reside in the dwelling unit and upon which rent is to be based. The terms earned income and unearned income are defined as follows:

**Earned Income**

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

**Unearned income**

Any annual income, as calculated under 24 CFR § 5.609, that is not earned income.

**Foster Adult**

A member of the household who is 18 years of age or older and meets the definition of a foster adult under State law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgement, decree or other order of any court of competent jurisdiction.

**Foster Child**

A member of the household who meets the definition of a foster child under State law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgement, decree or other order of any court of competent jurisdiction.

**Full-Time Student**

A person registered for and carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended. An educational institution includes a vocational school with a diploma or certificate program, as well as an institution offering a college degree.

**Fraud**

Deceit or trickery deliberately practiced to gain some advantage dishonestly. Fraud is an intentional deception and is not committed accidentally.

**Gender Expression**

All of the external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, grooming, mannerisms, speech patterns and social interactions. Social or cultural norms can vary widely and some characteristics that may be accepted as masculine, feminine or neutral in one culture may not be assessed similarly in another.

**Gender Identity (HUD Equal Access Rule, PIH Notice 2014-20, and 24 CFR §5.100)**

Gender identity means actual or perceived gender-related characteristics.

**Good Cause**

With respect to refusal of a unit housing offer, “good cause” shall mean that an applicant or resident who are offered a unit can demonstrate through objective evidence that a move into the unit offered would result in a hardship related to the ability of the applicant or resident to conveniently use the facility. Examples of good cause are included in Chapter III of this policy).

With respect to not attending a scheduled appointment or not providing required documentation, "good cause" shall mean that an applicant or resident can demonstrate through objective evidence that circumstances beyond the applicant/resident's control resulted in non-compliance. Examples may include illness, hospitalization, or emergency incidents.

**Grievance or Complaint**

Shall mean any dispute which a resident may have with respect to a PHCD action or failure to act in keeping with the provisions of the Public Housing Dwelling Lease or other PHCD regulations. Such action or failure to act must adversely affect the rights, duties, welfare, or status of the resident bringing such dispute.

**Head of Household**

The family member who is 18 years or older and held responsible and accountable for the family, normally considered to be the official tenant of record or the lessee.

**Health and Medical Care Expenses.**

Health and medical care expenses are any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period of which annual income is computed. A deduction for elderly or disabled families only. These allowances are given when calculating adjusted income for medical expenses in excess of ten (10) percent of annual income.

**HUD or USHUD**

United States Department of Housing and Urban Development

**Hearing**

A proceeding at which a resident's grievance relating to PHCD's adverse action or decision, is heard in order to insure that the complainant's rights were not violated.

**Homeless Family**

Category 1: An individual or family who ***lacks a fixed, regular, and adequate night time residence***, meaning:

- a) An individual or family with a primary night-time 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;
- b) 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***
- c) An individual who is exiting an institution where they 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;
- d) An individual or family transitioning out of permanent supportive housing.

**Homeownership Opportunities**

After October 28, 1998, any homeownership opportunities shall mean any homeownership units developed, purchased, or redeveloped by Miami-Dade County solely or as a joint venture with any other entity.

**Income Eligibility for Admission**

At least 40% of families admitted to the Public Housing program in each fiscal year must have incomes that do not exceed extremely low income levels. In each fiscal year, PHCD may reduce the targeted public housing admissions to the extent that PHCD provides tenant-based Section 8 assistance above the targeted 75% to families that do not exceed extremely low income levels. The public housing target, however, may not be reduced below 30% of admissions.

**Income Limits**

Income limits are those published by USHUD for admission of Low-Income and Very-Low-Income families to federally subsidized housing developments.

**Independent contractor**

An individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done.

**Interim Adjustments or Re-determination of Rents**

Changes in rent between admission and subsequent annual re-examinations due to a change in family composition or income.

**Live-in Aide**

A person 18 years of age or older who resides with one (1) or more elderly persons, or near-elderly persons, or persons with disabilities who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.
- The live-in aide's income is not counted when determining family income.

**Low Income Family**

A family whose Annual Income does not exceed eighty percent (80%) of the median family income for the area, as determined by USHUD, with adjustments for smaller and larger families.

**Minimum Rent**

Statutory requirement that each family assisted under Public Housing programs pay a monthly minimum rent or Total Tenant Payment (TTP) of \$50.00, subject to hardship exemption waiver, if applicable.

**Monthly Income**

One-twelfth of Annual Income.

**Monthly Adjusted Income**

One-twelfth of Adjusted Annual Income.

**Near-Elderly Family (HUD Equal Access Rule, PIH Notice 2014-20, and 24 CFR §5.403)**

A family whose head of household, co-head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two (2) or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62, living with one or more live-in aides.

**Net Family Assets**

Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in USHUD homeownership programs. The value of any business or family assets disposed of by an applicant or tenant for less than fair market value during the two years preceding the date of application for the program or reexamination shall be included in the determination of Net Family Assets.

**New Affordable Desegregative Rental Housing**

After October 28, 1998, any affordable desegregative rental housing developments developed, purchased or redeveloped by Miami-Dade County solely or as a joint venture with any other entity. This includes the redevelopment of public housing.

**Non-Elderly Family**

Two (2) or more persons who are not elderly but live together and are related by blood, or marriage, or operation of law, or give evidence of a stable relationship which has lasted over a period of at least one year. All Family Income and resources are available to meet the family's needs.

**Non-Violent Criminal Activity**

Any criminal activity that is not a Violent Criminal Activity or a Drug-related Criminal Activity, as defined herewith, but that is such that it may threaten the health, safety or right to peaceful enjoyment of the premises by other residents. Non-violent criminal activities include but are not limited to fraud, bribery, vandalism, burglary, larceny, robbery, etc.

**Offer**

The term 'offer' is used in the context of project-based assistance and means an offer of a unit that is vacant, appropriate for the household in size and type, and meets applicable housing quality standards.

**Person with Disabilities**

Under federal discrimination law, an individual is disabled if they have a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment. This definition does not include any individual who is a drug addict and is currently using illegal drugs, or an alcoholic, who poses a direct threat to the health, safety and right to peaceful enjoyment of the premises by other residents.

**Racial Categories**

There are five racial categories:

- a) American Indian or Alaska Native. A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
- b) Asian. A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam
- c) Black or African American. A person having origins in any of the black racial groups of Africa. Terms such as "Haitian" or "Negro" can be used in addition to "Black" or "African American."
- d) Native Hawaiian or Other Pacific Islander. A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

- e) White. A person having origins in any of the original peoples of Europe, the Middle East or North Africa.

**Reasonable Accommodation**

A reasonable accommodation is a change, modification, alteration, or adaptation in a policy, procedure, practice, program, facility or unit that provides a person with a disability the opportunity to participate in, or benefit from, a program (housing or non-housing), service or activity.

**Re-examination Date**

The date on which any rent change is effective as required by the annual re-examination of eligibility for continued occupancy.

**Sexual Assault**

Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

**Sexual Orientation (HUD Equal Access Rule, PIH Notice 2014-20, and 24 CFR §5.100)**

Sexual orientation means homosexuality, heterosexuality or bisexuality.

**Single Person**

A person living alone or intending to live alone and who does not qualify as an Elderly Family, Disabled Family, Displaced Person, or as the remaining member of a tenant family.

**Special Needs Households**

A household consisting of a Family that is considered to be Homeless, a survivor of Domestic Violence, a Person with Disability, or Youth Aging out of Foster Care. (Rule Chapter 67-48, Florida Administrative Code).

**Stalking (24 CFR §5.2003 and Florida Statutes)**

The federal regulations defines “stalking” as following, pursuing, or repeatedly committing acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate; and in the course of, or as a result of, such acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or substantial emotional harm to that person, a member of the immediate family of that person, or the spouse or intimate partner of that person.

In the Florida, the law defines “stalking” as the willful malicious and repeated following, harassing, or cyber stalking of another person, and/or the making of a credible threat with the intent to place that person in reasonable fear of death or bodily injury of the person, or the person's child, sibling, spouse, parent, or dependent.

**Technological Abuse**

The term ‘technological abuse’ means an act or pattern of behavior that occurs within domestic violence, sexual assault, dating violence or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology, including but not limited to: internet enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.

**Tenant Error**

A tenant error occurs when the tenant, by action or inaction, breaches a lease, regulation, or program requirement because of a misunderstanding of rules. Tenant errors are considered unintentional program violations as compared to fraud (see Fraud definition above).

**Tenant Rent**

The amount payable monthly by the Family as rent to the Public Housing Agency. Where all utilities (except telephone) and other essential housing services are supplied by the Agency, Tenant Rent equals the Total Tenant Payment (TTP). Where some or all utilities (except telephone) and other essential housing services are not supplied by the Agency and the cost thereof is not included in the amount paid as rent to the Agency, Tenant Rent equals Total Tenant Payment less the Utility Allowance.

**Total Tenant Payment**

Total Tenant Payment for any dwelling unit shall be the highest of the following, rounded to the nearest dollar:

- 30% of Monthly Adjusted Income;
- 10% of Monthly Income;
- The monthly portion of a Family's Welfare Assistance from a public agency specifically designated by such agency to meet the Family's housing costs; or
- The PHCD statutory minimum rent which is currently \$50, subject to hardship exemption waiver, if applicable.

**Unauthorized Occupants/Boarders**

A person who is staying in the dwelling unit, but is not listed on the lease, Article III, or approved by the Landlord to dwell in the unit in excess to 14 days.

**Uniform Federal Accessibility Standards (UFAS) Unit**

A dwelling unit that is designed, constructed, altered or adapted to comply with Uniform Federal Accessibility Standards (UFAS) and is located in an accessible route.

**Units with Accessible Features**

A unit which has been altered in a manner that has some accessible features that assists persons with disabilities (see also UFAS unit), but is not an UFAS unit.

**Utility Allowance**

If the cost of utilities (except telephone) for an assisted unit is not included in the Tenant Rent but is the responsibility of the family occupying the unit, the Utility Allowance is the amount equal to the estimate made of the monthly costs of a reasonable consumption of such utilities for the unit, consistent with the requirements of a safe, sanitary, and healthful living environment based on an annual review of utility rates. The estimate made must be approved by USHUD. The resident may also request relief from excess utility consumption (see Section 4-1 (B) (iv) regarding the excess consumption policy).

**Utility Reimbursement**

The amount, if applicable, by which the utility allowance for the unit exceeds the Total Tenant Payment for the Family occupying the unit.

**Very Low Income Family**

A family whose annual income does not exceed fifty percent (50%) of the median family income for the area, as determined by USHUD, with adjustments for smaller and larger families.

**Violent Criminal Activity**

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 reasonable likely to cause, serious bodily injury or property damage.

**Waiting List**

The list of applicants who are waiting to be verified eligible for admittance to housing programs administered by PHCD and offered the benefit as it becomes available.

**MIAMI-DADE COUNTY  
PUBLIC HOUSING AND COMMUNITY DEVELOPMENT  
PUBLIC HOUSING TENANT LEASE AGREEMENT**

**Effective Date:** \_\_\_\_\_

**Entity ID #:**

**ARTICLE I  
Terms and Conditions**

In accordance with applicable State and Federal Statutes, rules and regulations, the United States Housing and Urban Development (HUD) regulations and requirements and with Miami-Dade County's, by and through Miami-Dade Public Housing and Community Development, Admissions and Continued Occupancy Policy and the terms and conditions contained herein, this LEASE AGREEMENT (hereinafter the "Lease") executed between Miami-Dade County, a political subdivision of the State of Florida (called the "Landlord") and \_\_\_\_\_ herein after, (called "Tenant") for the dwelling located at \_\_\_\_\_ (address), \_\_\_\_\_ (unit), \_\_\_\_\_

(city), Florida \_\_\_\_\_(zip code) consisting of \_\_\_\_\_ bedroom (s), for an initial term not to exceed twelve consecutive months, effective \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_ ending at midnight \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_.

**1. Renewal of the Lease**

Unless otherwise modified or terminated in accordance with Article XV, *Termination of Lease Agreement* as defined herein, this Lease shall automatically renew for successive terms of one (1) year.

**2. Rental charges**

- (a) Monthly rental charge for the dwelling unit is \$\_\_\_\_\_. The monthly rent is subject to change and is computed in compliance with applicable law and federal regulations and policies as stipulated by HUD. When the amount of monthly rent changes, the Landlord shall give the Tenant written notice of the new amount and the date from which the new amount is applicable. Said notice shall become a part of this Lease.
- (b) The Tenant agrees to pay a prorated portion of the monthly rental for the first month's rent due on the day that this Lease becomes effective. (The proration is computed as follows: Monthly rental charge in Article 1. 2 (a) above \$\_\_\_\_\_divided by number of days in the month \_\_\_\_\_times number of days in the month unit will be occupied \_\_\_\_\_, = prorated rent \$\_\_\_\_\_.
- (c) The monthly rental charge stated in Article 1.2 (a) above shall remain in effect until adjusted by the Landlord in accordance with Articles VI and VII of this Lease.

**3. Community Policies**

Landlord developments have adopted Community Policies that govern various aspects of residency at each site. These regulations may be modified from time to time and shall be posted in each site's management office. The Community Policies are considered part of this Lease and are binding upon the Tenant as if incorporated herein. Any serious or repeated violation of the Community Policies shall be considered a violation of this Lease and may be grounds for eviction.

Any violation of Miami Dade County orders during a state of emergency may also be deemed a violation of the lease.

#### 4. Definitions

- (a) **Common Household Pet** means a domesticated animal, such as a dog, cat, bird, rodent (including a rabbit), fish, or turtle, that is traditionally kept in the home for pleasure rather than for commercial purposes. Common household pets do not include reptiles (except turtles). If this definition conflicts with any applicable State or local law or regulation defining the pets that may be owned or kept in dwelling accommodations, the State or local law or regulations shall apply. This definition does not include animals that are used to assist persons with disabilities.
- (b) **Criminal activity** means any illegal activity whether on or off the premises. For the purposes of this Lease, drug-related criminal activity shall include illegal possession, manufacture, sale, distribution, use and/or possession with intent to manufacture, sell, distribute, or use a controlled substance; violent criminal activity shall include any illegal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonable likely to cause, nontrivial bodily injury or property damage; and Non-Violent criminal activity shall include any non-violent criminal activity that threatens the health, safety or right of peaceful enjoyment by other Tenants or employees of the Landlord.
- (c) **Decent, Safe and Sanitary Condition** means a dwelling which meets the uniform physical condition standards established by HUD and complies with applicable building codes, housing codes, and HUD regulations.
- (d) **Dependent** means a member of the family other than the head, spouse, or co-head, who is under 18 years of age or is a person with disabilities or a full-time student. For the purposes of this Handbook, a foster child, a foster adult, or a live-in aide may never be a dependent regardless of age or disability.
- (e) **Dependent Child** means a member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or a person with a disability, or is a full-time student.
- (f) **Development** means landlord's multifamily or single-family properties developed and subsidized by federal funds.
- (g) **Earned Income** means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment.
- (h) **Elderly Person** means a household composed of one or more persons, at least one of whom is 62 years of age or more at the time of initial occupancy.
- (i) **Eviction** means the dispossession of the tenant from the leased unit as a result of the termination of tenancy, including a termination prior to the end of a lease term.
- (j) **Family composition** means the person(s) whose status determines the computation of monthly rent.
- (k) **Guest** means any person who is on the premises or the site with the Tenant or household member's consent, or a person under the Tenant's control who comes onto any site.

- (l) **Household member** means all person(s) authorized to reside in the unit including foster children/adults and live-in aides. This Lease does not confer any rights to the unit by foster children/adults and live-in aides.
- (m) **Live-in Aide** means a person who resides with an elderly, disabled or handicapped person and who:
  - (i) Is determined to be essential to the care and well-being of the person;
  - (ii) Is not obligated for the support of the person; and
  - (iii) Would not be living in the unit except to provide the necessary supportive services to the person.
- (n) **Site** means landlord's property that is comprised of one or more developments that may be contiguous or scattered.
- (o) **Tenant** means the adult person who has been identified as head of household, has executed the Lease with Landlord, and all authorized persons residing in the unit.
- (p) **Unauthorized Occupants/Boarders** means a person who is staying in the dwelling unit, but is not listed on this Lease, Article III.1. (a) and (b) or approved by the Landlord to dwell in the unit for more than 14 days.
- (q) **Unearned Income** means any pension, annuity, transfer payments (payments or income received where no goods or services were offered such as welfare, social security, government subsidies for certain benefits), any cash or in-kind benefits.
- (r) **Warning** means any written notification to the Tenant or adult household member by any Landlord's employee or law enforcement officer, acting in their official capacity, regarding criminal activity, including the abuse of drugs and/or alcohol, by household members or guests.

**ARTICLE II**  
**Rent Payments**

1. (a) **Due Date:** Rent is due and payable on the first (1<sup>st</sup>) day of each month and shall be considered delinquent after the 10th day of the month. If the 10th day of the month falls on a Saturday, Sunday or legal holiday, rent shall be considered timely paid on the business day following that Saturday, Sunday, or legal holiday, but delinquent thereafter. If payment is not received on time, a late charge will be automatically assessed to the Tenant's account as stated in Article V (4)-Late Charges.
- (b) **Rent Payment:** Rent shall be paid through any of the following options: 1) check, money order, or cashier's check mailed by the Tenant directly to the Landlord's lockbox together with payment stub from Tenant's monthly rent statement, 2) authorized direct debit from Tenant's checking or savings account, 3) paid online with major credit card. Cash will not be accepted. Payments of any kind will not be accepted at the site offices.
- (c) **Return Check Charge:** Any time a check, direct debit, or other form of payment is not honored, the Landlord may collect a fee as specified in the Community Policies. Failure to pay such fees is grounds for eviction. If a personal check is returned unpaid twice within a twelve-month period, only money orders or cashier's checks will be accepted during the subsequent 12-month period.

**ARTICLE III**

**Authorized Members of the Household**

1. Authorized occupants are the individuals who make up the family composition and other household members listed below. Each family member 18 years of age or older shall sign the Lease to acknowledge their acceptance of all terms.

(a) Family composition (*list head of household (HOH), spouse or co-head, other family members*):

| NAME | DATE OF BIRTH | SOCIAL SECURITY | RELATIONSHIP |
|------|---------------|-----------------|--------------|
|      |               |                 | HOH          |
|      |               |                 |              |
|      |               |                 |              |
|      |               |                 |              |
|      |               |                 |              |
|      |               |                 |              |

(b) Household members who are not part of the family composition (*for example, live-in aide, foster child/adult*):

| NAME | DATE OF BIRTH | SOCIAL SECURITY | RELATIONSHIP |
|------|---------------|-----------------|--------------|
|      |               |                 |              |
|      |               |                 |              |
|      |               |                 |              |

(c) Additions: Any addition to the individuals permitted to reside in the premises, other than natural births, requires advance written approval from the Landlord. Such approval may be granted at the discretion of the Landlord and only if the unit size is appropriate, and the new adult family member passes the Landlord’s screening criteria including, but not limited to, a criminal history check. Tenant agrees to wait for the Landlord’s written approval before allowing additional person/s to move into the premises. This provision applies equally to all persons, including spouses, children under foster care or temporary custody, foster adults, and live-in aides.

(d) Removals: Removals for any reason of any of the household members named above on the Lease shall be reported in writing by the Tenant to the Landlord within ten (10) days of occurrence.

2. In addition to the head of household and/or spouse, each member of the household 18 years or older shall sign the Lease to acknowledge their acceptance of all terms. Members of the household upon attaining age 18 years after initial lease execution shall sign a new lease with all other adult members of the household at the next annual re-examination.

3. This Lease will not be revised to permit a change of family composition resulting from a request to allow adult relatives to move into a unit except under extraordinary circumstances as determined by the Landlord.
4. Failure of the Tenant to comply with the above provisions, or to provide complete and accurate information regarding household members, is a ground for eviction.
5. As listed in Article III, Authorized Members of the Household cannot participate in any other subsidized housing program provided by Federal, State, or local housing assistance program. Multiple residencies and/or multiple rent subsidies are grounds for eviction.
6. Only the persons listed in Article III of this Lease are authorized to use the unit's address on their driver's license, identification card, or as their mailing address as required by (24 CFR § 966.4 (f) (2) and (3)).

**ARTICLE IV**  
**Security Deposit**

1. Amount: Tenant agrees to pay a security deposit, as security for performance of the rental agreement, in an amount equal to the greater of \$100.00 or one month's gross rent. An additional pet deposit of \$100.00 is required if Tenant has a pet. A pet deposit shall not be required in the event the Tenant requires an assistive animal, as defined in the Assistance Animal Policy section of the Community Policies.
2. Disposition: At lease termination, the Landlord may choose to impose a claim on the security deposit for:
  - (a) Unpaid rent;
  - (b) The cost of repairing damage to the unit beyond normal wear and tear;
  - (c) Applicable court costs and attorney fees related to any termination or other proceeding provided Landlord prevails in the Court action; and
  - (d) Other charges due from the Tenant to Landlord.

Upon vacating of the premises for termination of the Lease, if the Landlord does not intend to impose a claim on the security deposit, the Landlord shall have fifteen (15) days to return the security deposit.

3. Notification: Tenant agrees to give thirty (30) days written notice of intent to vacate delivered personally or by certified mail to the Landlord. If the Landlord intends to impose a claim on the deposit, a written notice of intent to impose a claim on the Tenant's security deposit, including the reason for imposing the claim, will be sent by certified mail to the Tenant's last known mailing address within thirty (30) days after the Tenant has moved out. Failure by the Tenant to give the required 30 days' notice of intent to vacate will relieve the Landlord of the 30 days' notice requirement but shall not waive any right the Tenant may have to the security deposit or any part of it.

**ARTICLE V**  
**Other Charges and Conditions**

In addition to the payment of monthly rent, the Tenant is responsible for the payment of other charges as specified in the Lease and Community Policies posted in each site management office. Other charges include: (1) any Landlord excess utility surcharges, (2) maintenance costs, (3) violation fines, (4) delinquent rent late charge, and (5) other amounts owed to Landlord. The Landlord shall provide written

notice of the amount of any charge in addition to monthly rent. Additional charges are due and collectible two (2) weeks after written notice of the charges. Each written notice of charges in addition to rent must

include a statement that the Tenant may use the grievance procedure to dispute charges the Tenant disagrees with Failure to timely request a grievance waives any objection on the part of the Tenant to any charge.

1. **Utilities:** The Tenant agrees to comply with all applicable rules and regulations issued by any Federal, State, or local governmental authority regarding the regulation and conservation of utilities or fuels and not to waste or otherwise misuse the utilities provided by the Landlord.
  - (a) **Landlord-Supplied Utilities, Services and Equipment:** If indicated by an "X" in column (1) below, the indicated utility, service and equipment is supplied by Landlord and is included in the Tenant's rent. At developments where utilities are provided by Landlord, a charge may be assessed for excess utility consumption due to the operation of air conditioning units or major Tenant-supplied appliances. The schedule of any such excess utility surcharges shall be posted by the Landlord in site management offices.
  - (b) **Tenant-Paid Utilities, Services and Equipment:** If indicated by an "X" in column (2) below, an allowance for utilities appropriate for the size and type of dwelling unit shall be established for utilities paid by the Tenant directly to the utility suppliers. By initialing next to the marked items below, the Tenant agrees to supply or pay the marked services and equipment. Air conditioning systems installed with individual check meters are not included in the utility allowance pursuant to federal regulations. If the utilities allowance results in a net rent credit to the Tenant, the Landlord may pay the utility reimbursement jointly to the Tenant and the utility supplier, or directly to the utility supplier, if the Tenant and the utility supplier consent. The Landlord may change the utilities allowance at any time during the term of the Lease. Unless otherwise allowed by federal regulations, the Landlord shall give the Tenant 60-day written notice of the annual revised Utility Allowance. If the Tenant fails to request a grievance hearing pursuant to the grievance procedures, the Tenant waives any objection they may have to the utility allowance or utility surcharge.
  - (c) The Tenant must pay for the utilities/services in column (2). Payments should be made directly to the appropriate utility company where applicable.
  - (d) The utility accounts must be under the name of the Head of Household, Spouse, or co-head.

**Utility Services**

|  |  |
|--|--|
| <p><b>Utility services supplied by the Landlord, as marked below:</b></p> <p><input type="checkbox"/> Electricity</p> <p><input type="checkbox"/> Air Conditioning</p> <hr/> <p><input type="checkbox"/> Gas</p> <p><input type="checkbox"/> Water and sewer</p> <p><input type="checkbox"/> Other (specify)</p> | <p><b>Utility services paid by the Tenant, as marked below:</b></p> <p><input type="checkbox"/> Electricity</p> <p><input type="checkbox"/> Air Conditioning</p> <hr/> <p><input type="checkbox"/> Gas</p> <p><input type="checkbox"/> Water and sewer</p> <p><input type="checkbox"/> Other (specify)</p> |
|--|--|

**Appliances**

|  |  |
|--|--|
| <p><b>Appliances supplied by the Landlord, as marked below:</b></p> <p><input type="checkbox"/> Electricity</p> <p><input type="checkbox"/> Air Conditioning</p> <p><input type="checkbox"/> Gas</p> <p><input type="checkbox"/> Water and sewer</p> <p><input type="checkbox"/> Other (specify)</p> <hr/> | <p><b>Appliances supplied by the Tenant, as marked below:</b></p> <p><input type="checkbox"/> Electricity</p> <p><input type="checkbox"/> Air Conditioning</p> <p><input type="checkbox"/> Gas</p> <p><input type="checkbox"/> Water and sewer</p> <p><input type="checkbox"/> Other (specify)</p> <hr/> |
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2. **Maintenance Costs:** Tenant shall be responsible for the cost of services or repairs that are the result of damage to the premises, common areas or grounds that are caused by the Tenant, household members or guests. When the Landlord determines that maintenance service provided is not caused by normal wear and tear, the Tenant shall be charged for the cost of such service, either in accordance with the Schedule of Maintenance Charges posted by the Landlord or, for work not listed on the Schedule of Maintenance Charges, based on the actual cost to the Landlord for the labor and materials needed to complete the work.
3. **Fines:** The Tenant agrees to pay fines, different from maintenance charges, that are incurred a result of violations to the rules and regulations as set forth in the Community Policies duly adopted and posted in each site management office.
4. **Late Charges:** A \$20.00 late charge shall be applied to the Tenant’s account if rent is delinquent. Late charges assessed hereunder shall not be due and collectible until two (2) weeks after the Landlord gives written notice of the charge. In the event the Tenant fails to pay this late charge following receipt of the written notice, the Tenant shall receive a 30-day written notice of termination. Failure to pay the late charge is grounds for eviction. To prevent late charges, refer to Article II (1)(a).
5. **Other Amounts:** As a further condition of this Lease, Tenant agrees to pay all other amounts owed to Landlord such as back rent, back charges, or administrative fines pursuant to a repayment agreement or Court order, and all other amounts owed to Miami-Dade County or its agencies and departments.

Failure to pay these and other charges timely after two weeks of notice by Landlord is grounds for eviction.

**ARTICLE VI**

***Re-examinations and Determination of Eligibility***

1. In accordance with federal regulations, the status of each household will be re-examined at least once every twelve (12) months to re-determine rent, dwelling size, and eligibility to continue occupancy. This re-examination shall be conducted in accordance with the approved statement of policies and procedures, laws and regulations, schedule of rents, income, and occupancy limits.
2. The Tenant agrees to promptly supply the Landlord, when requested, with accurate information about: Social Security Number, citizenship or eligible immigration status, family composition (including age and gender), income, assets, employment, handicap or disability of family

members, proof of school registration and school attendance of minor children and related information necessary to determine eligibility, annual income, adjusted income and rent. Providing incomplete and inaccurate information will be considered fraud and shall constitute grounds for eviction.

3. All information supplied to the Landlord must be verified. The Tenant is responsible for complying with the Landlord's request for verification. This may include signing consent forms and releases for third-party sources, presenting documents for review, or providing other suitable forms of verification. Landlord may conduct a criminal background screening on the Tenant or any household member during annual reexamination or whenever the Landlord deems it necessary. Landlord is final determiner as to whether the information has been adequately verified. The Tenant shall be notified in writing of the effective date of any rent adjustment resulting from the reexamination.
4. If due to instability of family income or family composition, annual family income cannot be determined, a temporary determination of income and rent will be made and a special reexamination will be scheduled every 30 days, not to exceed a total of 90 days, or until stable income is established, whichever comes first. The Tenant shall be notified in writing of the date of each special reexamination.
5. Reexaminations during the contemplation of, or pending, lease termination or eviction proceedings shall not constitute a waiver of the right to pursue such proceedings.

#### **ARTICLE VII**

##### ***Interim Re-examinations and Rent Adjustments***

***(This Article VII shall become effective January 1, 2024, upon the implementation of the Housing Opportunity Through Modernization Act of 2016 (HOTMA) and applicable regulations and guidelines promulgated by HUD)***

1. The Landlord must be informed of the following changes between annual re-examinations:
  - (a) The Tenant is required to report to Landlord all increases in earned income that occur between regularly scheduled annual re-examinations. Any increase of the family's adjusted earned income by ten (10) percent or more must be processed if the family reported a decrease in income within the same annual reexamination cycle (24 CFR §960.257(b)(3)(i)).
  - (b) The Tenant is required to report to Landlord all increases in unearned income that occur between regularly scheduled annual reexaminations. Any increase of the family's adjusted unearned income by ten (10) percent or more must be processed if the family reported zero income.
  - (c) The Tenant is required to report to Landlord all decreases in unearned income that occur between regularly scheduled annual re-examinations. Decreases in unearned income of ten (10) percent or more will be processed including if the family reported zero income.
  - (d) The Tenant is required to report to Landlord permanent removals of a family member. The Landlord will process an interim reexamination for all decreases in adjusted income as a result of the permanent removal of the family member.
  - (e) If the total family income increases or decreases lasting longer than one-month (30 days), the Tenant must report such change in writing to the management office within ten (10) days of occurrence.
  - (f) The Landlord will not conduct an interim reexamination in the last three months of an effective annual reexamination. Should a credit be owed to the resident, it will be

retroactively credited together with the annual reexamination.

- (g) Interim reexamination may be conducted to reflect any changes to family composition, including natural birth or adoption, however, family additions or removals must be reported in writing to the Landlord as soon as they are known, but in no event later than ten (10) days after occurrence. Only decreases in adjusted income of ten (10) percent or more must be processed.
  - (h) Rent will not be adjusted when income decreases result from verified failure to participate in an economic self-sufficiency program, or failure to comply with work or community service requirements, or fraud, by any member of the family composition under any Federal, State or County law applicable to welfare or public assistance benefits.
  - (i) Rent may be adjusted between scheduled re-examinations when rent formulas or procedures change, or if utility allowances applicable to the unit are adjusted, as allowed by federal law and regulations.
2. If the monthly rental payment decreases by ten (10) percent or more as a result of the rent adjustment, the adjusted rent will become effective the first day of the month following the date the information is reported to the Landlord. If the rent should increase by ten (10) percent or more based on the family income, the adjustment will become effective the first day of the second month following the month in which the change is reported or 30 days, whichever is greater, after proper verification is completed.
3. If it is found that the Tenant failed to timely report any changes in income or family composition as described above or provided inaccurate or incomplete information, it will be considered fraud, any of the following may occur:
- (a) Any increase in rent which would have occurred had changes been reported in a timely manner will be made retroactive to the effective date of the change in circumstances and the Tenant agrees to reimburse the Landlord for the difference between the rent they should have paid and the rent they were charged.
  - (b) Any decrease in rent that would have occurred had changes been reported in a timely manner will be made effective the first day of the month following the date the change is reported to the Landlord and will not apply retroactively.
  - (c) The Tenant may be subject to eviction and/or prosecution regardless of the effect on rent, if any.

### **ARTICLE VIII** **Transfers**

- 1. The Tenant will be notified in writing once the Landlord approves a transfer. Upon signing the new Lease, the Tenant is required to move within fifteen (15) calendar days. If the Tenant refuses to move, the Landlord may terminate this Lease. The Tenant shall be offered the opportunity for a hearing under the Landlord grievance procedure.
- 2. Should the Tenant accept a unit with disability accessibility features, and the Tenant or any member of the household does not need such features, the Tenant agrees to move to a unit without such when another Tenant who is disabled needs the unit with the accessibility features, within thirty (30) days of notice thereof.
- 3. The Landlord will consider but need not honor a Tenant's request for a transfer.
- 4. The Landlord may reassess the Tenant's eligibility for housing including, but not limited to, a criminal history check when reviewing the Tenant's request for transfer.

5. Tenants approved for transfer must have a current rent account with no outstanding balance and must leave the present unit in a satisfactory condition. The Tenant shall be responsible for all moving expenses, except where required by federal regulations. The Tenant agrees to sign a new Lease for the new unit before the move-in occurs.

**ARTICLE IX**  
***Tenant's Obligations***

As a requirement for continued occupancy of a dwelling unit the Tenant, in addition to other obligations described elsewhere in this Lease, must:

1. Abide by all regulations and conditions established by Landlord in the Lease and Community Policies and with the requirements of all applicable building codes, housing codes, federal regulations, state, or local law that impose obligations relating to the occupancy of a dwelling unit and surrounding premises. Violations of such requirements shall constitute a violation of the Lease. A sample lease, community policies, and any addenda documents shall be posted in a conspicuous manner in the site management office and shall be available upon request.
2. Comply with the terms of the Lease, including but not limited to rent payment and housekeeping requirements.
3. Use the property exclusively as a private residence for themselves and household members listed in Article III., 1 (a) and (b) of this Lease, and not to use or permit its use for any other purpose (See 24 CFR § 966.4 (f) (2) and (3)). The Landlord may by prior written approval consent to a member of the family composition engaging in a legal home-based business in the dwelling unit where the business is incidental to the primary use of the unit as a residence. The activities of any such authorized business are subject to the requirements of this Lease, the Community Policies and all applicable Federal, State, and local laws that impose obligations relating to the operation of a home-based business. Failure to operate the home-based business in compliance with this Lease and Community Policies will result in eviction.
4. Not assign the Lease; nor sublease the dwelling unit; nor give accommodation to unauthorized occupants/boarders.
5. Not give accommodation to any guest, more than a total of fourteen (14) days per year, whether or not consecutive, unless the Tenant obtains the advance written consent of the Landlord. Not to allow any other person, including guest or visitors, or other person otherwise under the control of the Tenant, to reside or to stay as a guest in the dwelling unit during the Tenant's absence unless the Tenant obtains the advance written consent of the Landlord.
6. Advise the Landlord if Tenant will be absent from the unit for more than seven (7) consecutive days. Tenants shall notify the Landlord in writing, secure the unit, and provide a means to contact the Tenant in an emergency. Failure to comply is grounds for termination of the Lease.
7. Ensure that school-age children are enrolled in school, attend regularly and not be absent without excuse for more than fifteen (15) days in any 90-day period within a given school year barring death, serious illness or injury, or the child who attains the age of sixteen (16) years files a formal declaration of intent to terminate school enrollment with the school board. If PHCD determines there is a violation of this provision, the Tenant may provide PHCD with evidence of compelling circumstances that demonstrate good cause related to the school-aged child(ren) failure to attend school.
8. Keep the dwelling unit, the surrounding premises and any such other areas as may be assigned to the Tenant for the Tenant's exclusive use in a clean, safe, and sanitary condition.
9. Perform seasonal lawn maintenance or other maintenance tasks, where performance of such

tasks by tenants of dwelling units of a similar design and construction is customary. Tenants who are unable to perform such tasks because of age, disability or infirmity shall be exempt from such requirement.

10. Refrain from and cause members of their household, guests, or other persons under their control to refrain from destroying, defacing, damaging, or removing Landlord's property from the dwelling unit, common areas or other Landlord property.
11. Notify the Landlord promptly of any known need for repairs to the dwelling unit and of any known unsafe condition in the common areas and grounds of the development that may lead to damage or injury.
12. Pay reasonable charges, other than for normal wear and tear, for the repair of damages to the dwelling unit, or to Landlord buildings, facilities or common areas caused by the Tenant, any member of their household, a guest, or another person under the Tenant's control.
13. Meet community service, work, or family self-sufficiency public assistance program requirements as applicable.
14. To act, and cause household members, guests, or other persons under the Tenant's control, to act in a manner which will not disturb other Tenants' peaceful enjoyment of their premises. If a warning is given to the Tenant or any adult household member concerning any guest, neither the Tenant nor any household member shall permit such person to have access to the leased unit where the Tenant and household members reside. The Tenant and household members agree that such person who subsequently visits the site where the Tenant's unit is located shall be considered a trespasser. The Tenant and household members shall cooperate in all respects with Landlord personnel and law enforcement officers in treating such person as a trespasser.
15. Assure that the Tenant, any member of their household, or guest does not engage in:
  - (a) Any activity criminal or non-criminal, that threatens the health, safety, or right to peaceful enjoyment of the premises by other Tenants or employees of Landlord; or
  - (b) Any drug-related criminal activity. For the purposes of this Lease, the term drug-related criminal activity means the illegal possession, manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute, or use, of a controlled substance as defined in Section 102 of the Controlled Substances Act.) [966.4 (f)(12)](OB); or
  - (c) Any activity that interferes with the job responsibilities of, or in any way threatening, Landlord employees, authorized vendors, service personnel or representatives of the Landlord.
16. Assure that no other person under the Tenant's control engages in:
  - (a) Any activity, criminal, or non-criminal, that threatens the health, safety, or right to peaceful enjoyment of the premises by other Tenants or employees of the Landlord; or
  - (b) Any drug-related criminal activity on the premises; or
  - (c) Any activity that interferes with the job responsibilities of, or in any way threatening, Landlord employees, authorized vendors, service personnel or representatives of the Landlord.
17. Assure that the Tenant, any member of the household, guests, or any other person under the Tenant's control abides by the Landlord's Smoke Free Policy

**ARTICLE X**

### ***Landlord Obligations***

The Landlord will:

1. Maintain the dwelling unit and the development in decent, safe, and sanitary condition and in good repair and free from hazards.
2. Comply with requirements of applicable building codes, housing codes and HUD regulations materially affecting health and safety.
3. Make necessary repairs to the dwelling unit. If the repair is a safety or health hazard, the Landlord upon notice and inspection, will make the necessary repairs to the dwelling to ensure it does not compromise the safety and well-being of the Tenant. Landlord shall be responsible for the repair of the unit within a reasonable period of time after receiving notice from Tenant, provided however, if the damage was caused by Tenant, household members, or guests, the reasonable cost of the repairs shall be charged to Tenant. [966.4 (h)(2)]
4. Keep development buildings, facilities, and common areas, not otherwise assigned to the Tenant for maintenance and upkeep, in a clean and safe condition.
5. Maintain in good and safe working order and condition electrical, plumbing sanitary, heating, ventilating, and other facilities, and appliances, including elevators, supplied, or required to be supplied by Landlord.
6. Provide and maintain appropriate receptacles and facilities for the deposit of garbage, rubbish and other waste removed from the dwelling unit by the Tenant. However, Landlord is not obligated to provide individual trash cans.
7. Supply running water, reasonable amounts of hot water and reasonable amounts of heat at appropriate times of the year (according to local custom and usage) except where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or where heat or hot water is generated by an installation within the exclusive control of the Tenant and supplied by a direct utility connection.
8.
  - (i) Notify the Tenant of the specific grounds for any proposed adverse action by Landlord. Such adverse action includes, but is not limited to, a proposed lease termination, transfer of the Tenant to another unit, or imposition of charges for maintenance and repair, or excess consumption of utilities.
  - (ii) When required to afford the Tenant opportunities for a hearing under the grievance procedure, inform the Tenant of the right to request such hearing. In the case of a lease termination, the notice of lease termination shall constitute adequate notice of proposed adverse action. In the case of a proposed adverse action other than a proposed lease termination, Landlord shall not take the proposed action until the time for the Tenant to request a grievance hearing has expired, and (if a hearing was timely requested by the Tenant) the grievance process has been completed.
9. By signing this rental agreement, the Tenant agrees that upon surrender or abandonment of the dwelling unit, as defined by Chapter 83, Florida Statutes, the Landlord shall not be liable or responsible for storage or disposition of the Tenant's personal property. Note: According to Section 83.59(3) (c), Florida Statutes," it shall be presumed that the tenant has abandoned the dwelling unit if they are absent from the premises for a period of a time equal to one-half the time for periodic rental payment. However, this presumption shall not apply if the rent is current or the tenant has notified the Landlord, in writing, of an intended absence."
10. A person with disabilities shall for all purposes under this Lease be provided reasonable accommodation to the extent necessary to provide such person with an opportunity to use and

occupy the unit in a manner equal to that of a person who is not disabled. This paragraph shall constitute notice that the Tenant may at any time during the Lease term or any renewal hereof request a reasonable accommodation for a of a household member with a disability. Tenant shall be required to provide verification that the accommodation requested is necessary due to the disability. Any requests for reasonable accommodations must be made in accordance with the Landlord's adopted Community Policies and the County's Admission and Continued Occupancy Policies.

**ARTICLE XI**  
**Inspections**

Prior to occupancy, the Landlord and the Tenant shall inspect the dwelling unit and immediate surrounding premises. The Landlord shall furnish the Tenant with a written statement of the condition of the dwelling unit, immediate surrounding premises and the equipment provided within the unit. This statement shall be signed by the Landlord and the Tenant, and a copy retained in the Tenant's file.

1. When the Tenant vacates the dwelling unit, the Landlord shall inspect the unit and furnish the Tenant with a written statement of any claims to the Security Deposit pursuant to Article IV.3 of this Lease. The Tenant and/or his representative will be provided the opportunity to join in such inspection unless the Tenant vacates without notice to the Landlord.
2. The Tenant agrees that upon at least forty-eight (48) hours advance written notice, stating reason for entry access, a duly authorized agent or representative of the Landlord shall be permitted to enter the dwelling unit during reasonable hours to perform routine inspections, preventive maintenance, improvements, or repairs. However, the Tenant's request for maintenance shall constitute permission to enter the unit when the Landlord's maintenance staff comes to perform such maintenance work, even if the Tenant and all adult members of the household are absent from the premises.
3. The Landlord shall have the right to enter the Tenant's dwelling without prior notice to the Tenant if there is reasonable cause for the Landlord to believe that an emergency condition exists. If the Tenant and all adult members of their household are absent from the premises at the time of entry, the Landlord shall leave a written statement notifying the Tenant of the date, time, and purpose of entry.

**ARTICLE XII**  
**Unit Defects Hazardous to Life, Health and Safety**

In the event the dwelling unit is damaged to the extent that conditions are created which are hazardous to the life, health and safety of the Tenant, the rights and obligations of the Tenant and the Landlord are as follows:

1. The Tenant shall immediately notify the Landlord of the damage and the Landlord shall make repairs within a reasonable time of the Tenant's reporting the condition to the Landlord.
2. If the necessary repairs cannot be made within a reasonable time, the Landlord shall offer the Tenant a replacement dwelling unit, if available. If the damage was caused by the Tenant, any member of their household, or guests, the reasonable cost of the repairs shall be charged to the Tenant.
3. If alternative accommodations are unavailable and necessary repairs cannot be made within a reasonable time, the Landlord shall abate rent in proportion to the seriousness of the damage and loss in value as a dwelling while the Tenant is residing in the unrepaired dwelling unit. The Tenant agrees to continue to pay full rent, less the abated portion agreed upon by the Landlord, during the time in which the defect remains uncorrected. No abatement of rent shall occur if the Tenant

rejects alternative accommodations or if the damage was caused by the Tenant, any member of their household, a guest, or a person under the Tenant's control.

4. If the Landlord determines that the dwelling unit is untenable because of imminent danger to the life, health and safety of the Tenant, and alternative accommodations are refused by the Tenant, this Lease shall be terminated.

**ARTICLE XIII**  
**Legal Notices**

1. All notices, except as provided in Article XI.4, required to be delivered to the Tenant pursuant to this Lease shall be delivered in writing any one of the following ways:
  - (a) To the Tenant or an adult member of the Tenant's household; or
  - (b) If the Tenant and all adult members of the household are absent from the premises, by leaving a copy at the residence and by prepaid first-class mail properly addressed.
2. All notices required to be delivered to the Landlord by the Tenant shall be in writing either sent by prepaid first class mail addressed to the site management office listed on the last page of this Lease, or delivered by the head of household, or other household member, in person to the Asset Management Project (AMP) administrator (or designee) at the address listed on the last page of this Lease.
3. If the Tenant is visually impaired, notices must be in accessible format.

**ARTICLE XIV**  
**Posted Notices**

All community policies, rules, regulations, and schedules for special charges for services, repairs or utilities that are required to be posted, shall be publicly posted in a conspicuous manner in the site office and shall be furnished to applicants and Tenants upon request. Such schedules, rules and regulations may be modified by the Landlord by giving thirty (30) days written notice of the proposed modifications allowing the Tenant an opportunity to present written comments which shall be taken into consideration by the Landlord prior to the proposed modification becoming effective. The notice shall be posted in at least three (3) conspicuous places within the affected Landlord property.

**ARTICLE XV**  
**Termination of the Lease**

This Lease may be terminated by the Tenant at the end of the first year, by the Tenant giving thirty (30) days written notice in the manner prescribed by Article XIII.2. This Lease may be terminated by the Landlord in accordance with the provisions of this Lease and Chapter 83, Part 2, Florida Statutes as it may be amended.

1. Conditions of Termination

The Landlord shall have the right to terminate or refuse to renew the Lease for any of the following reasons:

- a. Failure by the Tenant or any member of their household to fulfill their obligations outlined under the Articles of this Lease, the Community Policies and any addenda or amendments to the Lease or Community policies.
- b. A serious or repeated violation by the Tenant or any member of their household of one (1) or more terms of the Lease.

- c. Denial or disconnection of utility services that are paid by the Tenant. The Landlord will not terminate assistance if the Tenant restores the utility service legally and timely in compliance with the 30-day notice to cure, or by the time the informal hearing takes place.
- d. Tampering with utilities to illegally obtain service or changing the account to an adult person that is not listed as a family member in this Lease.
- e. Any activity, criminal, or non-criminal, engaged in by the Tenant, any member of their household, a guest, or a person under the control of the Tenant, which threatens the health, safety, or right to peaceful enjoyment of the premises by other Tenants or employees of Landlord.
- f. Any criminal activity (violent, non-violent, or drug-related) that threatens the health, safety, or right to peaceful enjoyment of the premises by other Tenants or employees of the Landlord, as stated in Article IX Tenant's Obligations. Any such criminal activity that resulted in a conviction shall be cause for termination of tenancy, and for eviction from the dwelling unit. For the purposes of this Lease:
  - i. Drug-related criminal activity, whether "on or off the premises" for the Tenant, any member of their household, or a guest, and "on the premises" for other persons under the Tenant's control. Drug-related criminal activity shall include illegal possession, manufacture, sale, distribution, use and/or possession with intent to manufacture, sell, distribute, or use, a controlled substance; and
  - ii. Violent criminal activity shall include 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, nontrivial bodily injury or property damage.
  - iii. Non-violent criminal activity shall include any activity that threatens the health, safety or right to peaceful enjoyment by the Tenants or employees of the Landlord.
  - iv. The Landlord may also terminate assistance based on the conduct underlying the arrest, only if the conduct indicates the individual is not suitable for tenancy and the Landlord has sufficient evidence that the individual engaged in the conduct other than the fact of the arrest.
- g. Failure by the Tenant to report to any reexamination interview or provide verification of any information required by the Landlord to include the failure to sign and submit consent forms or other documentation to determine eligibility in the program.
- h. Tenant and Household Members shall not commit fraud, bribery, or any other corrupt or criminal act in connection with any government agency or program. If it is determined that Tenant or any household member has provided fraudulent information or committed fraud in connection with the application process, or to otherwise remain in the dwelling unit.
- i. Failure to keep the dwelling unit, the surrounding premises and any such other areas as may be assigned to the Tenant for the Tenant's exclusive use in a clean, safe, and sanitary condition.
- j. Failure to comply with Federal, State, or local public assistance program requirements related to work activities, community service requirements or fraud.
- k. If the Tenant or any member of their household, a guest, or a person under the Tenant's control, engages in the illegal use, or threatened use of or display of firearms, fire, bombs or other weapons on Landlord's property.
- l. If the conduct of the Tenant, any member of their household, a guest, or a person under the Tenant's control, is such that there is a likelihood that their presence on the premises may lead to personal injury or property damage.
- m. If the Tenant does not ensure that school-age children are enrolled in school, attend regularly and not be absent without excuse for more than fifteen (15) days in any 90-day period within a given school year barring death, serious illness or injury, or the child who

attains the age of sixteen (16) years files a formal declaration of intent to terminate school enrollment with the school board. If PHCD determines there is a violation of this provision, the Tenant may provide PHCD with evidence of compelling circumstances that demonstrate good cause related to the school-aged child(ren) failure to attend school.

- n. Serious or repeated damage to the dwelling unit, creation of physical hazards in the unit, common areas, grounds, or parking areas. Tenant must pay for any necessary repairs of damages caused; non-payment will be grounds for termination.
- o. Any fire on the premises caused by carelessness, failure to supervise children or unattended cooking.
- p. If the Tenant, any member of their household, a guest or a person under the Tenant's control threatens, obstructs, or interferes with an employee of the Landlord or any government official conducting official business on or around the premises.
- q. The Tenant refuses to accept the Landlord's proposed change(s) to this Lease.
- r. If the Tenant repeatedly interferes with, or is counter to Lease or Community policies, or if the Lease has expired and has not been renewed.
- s. A Tenant member of the United States Armed Forces who is required to move pursuant to permanent change of station 35 miles or more from the location of the rental premises, or who is prematurely or involuntarily discharged or released from active duty with the United States Armed Forces, may terminate their rental agreement by providing the Landlord with a written notice of termination to be effective at least 30 days after the Landlord's receipt of the notice. The notice to the Landlord must be accompanied by a copy of the official military order or written verification signed by the member's commanding officer.
- t. Being over the income limit established for the Public Housing Program in accordance with the parameters described in the Admissions and Continued Occupancy Policy (ACOP).
- u. If the Tenant has exceeded the asset limitation in accordance with the parameters described in Landlord's Admissions and Continued Occupancy Policy (ACOP). (This clause shall become effective January 1, 2024, upon the implementation of HOTMA and applicable regulations and guidelines promulgated by HUD).

2. If the Landlord proposes to terminate this Lease, the termination of the Lease shall be by Federal and State law as follows:

- a. Landlord shall give fourteen (14) days written notice of termination if said termination is caused by Tenant's failure to pay rent. except when the Secretary of HUD requires Landlord to give adequate notice to secure emergency rent relief in accordance with Article XVI of the Lease. Such notice shall not be sent until the rent is delinquent in accordance with Article II.1 (a) of this Lease.
- b. Landlord shall give seven (7) days written notice of termination for serious violations of the Lease.
- c. Landlord shall give thirty (30) days written notice of termination in any other case.

#### **ARTICLE XVI**

##### ***Adequate Notice to Secure Emergency Rent Relief***

Upon the Declaration of a national emergency and availability of Federal funding to provide emergency rent relief, the Secretary of HUD, may direct the Landlord to provide Tenants facing eviction for non-payment of rent with adequate notification and information about the opportunity to secure emergency rent relief funding. The Landlord will comply with this directive and applicable laws as follows:

- a. The Landlord shall give thirty (30) days written notice for non-payment of rent. Such notice shall not be sent until the rent is delinquent in accordance with Article II.1 (a) of this Lease.

- b. The Landlord shall include in the written notice information about the availability of emergency rent relief.

**ARTICLE XVII**  
**Grievance/Appeal Procedure**

Disputes concerning the obligations of the Tenant or the Landlord shall be resolved in accordance with the grievance procedure in effect at the time such grievance arises. In the case of a lease termination, the notice of lease termination shall constitute adequate notice of proposed adverse action. In the case of a proposed adverse action other than a proposed lease termination, Landlord shall not take the proposed action until the time for the Tenant to request a grievance hearing has expired and, if a hearing was timely requested by the Tenant, after the grievance process has been completed. The application of Landlord's policy may be grieved but not the policy itself.

**ARTICLE XVIII**  
**Change in Rental Agreement**

During the term of the Lease, the Landlord may change the terms and conditions of this Lease. The Landlord shall notify the Tenant of any change at least thirty (30) days before the proposed effective date of the change. The Tenant may accept the changed terms and conditions by signing a new Lease, addenda, or amendments to the existing Lease. Failure to sign indicates that the Tenant has rejected the changed terms and conditions and they intend to terminate the tenancy effective at the end of the last monthly period prior to the effective date of the proposed change.

**ARTICLE XIX**  
**Tenant Training Programs**

The Tenant agrees to attend the Landlord's Tenant orientation program upon entry into public housing and the Landlord's post occupancy training program after entry into public housing. The Landlord will provide the Tenant with training schedule information. The Landlord agrees to make special provisions to accommodate disabled, frail elderly, and medically ill Tenants.

**ARTICLE XX**  
**Miscellaneous Provisions**

- 1 This Lease, including attachments and addenda to the Lease, shall constitute the entire agreement between the parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect to the subject matter hereto unless acknowledged in writing by the duly authorized representatives of both parties.
- 2 This Lease confers rights and remedies only upon the Tenant and Landlord identified in Articles I of this Lease, those individuals identified in Article III, and the United States Department of Housing and Urban Development. No person, other than the Landlord, Tenant, and the United States Department of Housing and Urban Development, shall be deemed to be a third party beneficiary of this Lease or any other documents associated with this Lease, and any provision of this Lease, may be waived or amended in whole or in part by Landlord, Tenant or at any time if, in their sole discretion, they deem it desirable to do so, in accordance with the provisions of this Lease.
3. Nothing herein shall alter, affect, modify, change, or extend any other agreement between the Tenant and the Landlord unless specifically stated herein.
4. The invalidity of all or any part of this Lease shall not render invalid the remainder of this Lease or the remainder of such section, if the remainder would then conform to the requirements of applicable law.
5. This Lease shall be governed under the laws of the State of Florida as to all matters, including but not limited to matters of validity, construction, effect, and performance. Venue for any litigation

between parties regarding this Agreement shall lie only in State and Federal court in Miami-Dade County, Florida.

6. Review of this Lease - The parties warrant that (i) they have executed this Agreement with full knowledge of their rights; (ii) they have received or have been given the opportunity to receive independent legal advice from their attorneys with respect to the matters herein set forth and the rights and asserted rights arising out of said matters; and (iii) they have not relied on any statements or representations (other than representations set forth in this Agreement) by any other party or its representatives.
7. Tenants participating in the Low-Income Housing Tax Credit (LIHTC) program must also sign the Lease Addendum # 1.
8. In accordance with HUD's final rule implementing the 2022 reauthorization of the Violence Against Women Act (VAWA) and subsequent notices or guidelines, Tenants must also sign the Lease Addendum #2, which is hereby incorporated by reference.
9. In accordance with HUD's final rule entitled "Instituting Smoke-Free Public Housing" and Notice PIH-2017-03 (HA), Tenants must also sign the Lease Addendum #3, which is hereby incorporated by reference.
10. **Severability.** If it is determined that there is any conflict within this lease agreement, the authority shall prevail in the following order: Federal, State and local. If any provision of this lease agreement is determined to be invalid, illegal, or unenforceable, it shall not affect the enforceability of any other provision of this Agreement. Rather, the invalid, illegal, or unenforceable provision shall be modified to the extent necessary so that it is valid, legal, and enforceable.
11. **Waiver.** No delay or failure by Landlord in exercising any right under this Lease agreement, and no partial or single exercise of any such right shall constitute a waiver of that or any other right, unless otherwise expressly provided herein.
12. **Radon.** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over a time period. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from Miami-Dade County public health unit.
13. **Lead-Based Paint.** Check and complete if the Dwelling Unit was built before January 1, 1978. Lead Warning Statement (when used in this article, the term Lessor refers to Landlord and the term Lessee refers to Tenant). Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, Lessors must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

Lessor's Disclosure (initial) \_\_\_\_\_ Presence of lead-based paint or lead-based paint hazards (check (i) or (ii) below):

- (i) \_\_\_\_\_  
\_Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (ii) \_\_\_\_\_ Lessor has no knowledge of lead-based paint and/or lead-based paint hazards in the housing \_\_\_\_\_

Records and reports available to the Lessor (check (i) or (ii) below):

(i) \_\_\_\_\_ Lessor has provided the lessee with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(ii) \_\_\_\_\_ Lessor has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing. Lessee's Acknowledgment (initial)

\_\_\_\_\_ Lessee has received copies of all information listed above.

\_\_\_\_\_ Lessee has received the pamphlet Protect Your Family From Lead in Your Home

**TENANT AGREES THAT ALL PROVISIONS OF THIS LEASE AGREEMENT HAVE BEEN READ AND ARE UNDERSTOOD AND FURTHER AGREES TO BE BOUND BY ITS PROVISIONS AND CONDITIONS AS WRITTEN.**

IN WITNESS THEREOF, the parties have executed this Lease Agreement this  day of  in the year  at Miami-Dade County, Florida.

**TENANT**

**MIAMI-DADE COUNTY,  
a political subdivision of the State of Florida**

\_\_\_\_\_  
Tenant (head of household)

\_\_\_\_\_  
Landlord/Authorized Representative

\_\_\_\_\_  
Spouse (if applicable)

\_\_\_\_\_  
Site Name

\_\_\_\_\_  
Family/Household Member (18 or older)

\_\_\_\_\_  
Site address

\_\_\_\_\_  
Family/Household Member (18 or older)

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Family/Household Member (18 or older)