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MEMORANDUM – Community & Neighborhood Services Department – PHAC Memo No. HD15-09

DATE: AUGUST 13, 2015

TO: PUBLIC HOUSING AUTHORITY COMMISSION

THRU: MARSHA REED, ACTING CITY MANAGER
NACHIE MARQUEZ, ASSISTANT CITY MANAGER
JENNIFER MORRISON, COMMUNITY AND NEIGHBORHOOD SERVICES DIRECTOR

FROM: KURT KNUTSON, HOUSING AND REDEVELOPMENT MANAGER

SUBJECT: RESOLUTION NO. H0120 APPROVING THE CITY OF CHANDLER HOUSING AND REDEVELOPMENT DIVISION'S TENANT BASED RENTAL ASSISTANCE ADMINISTRATIVE PLAN AND CERTIFYING TO COMPLIANCE WITH THE RELATED HOME REGULATIONS

RECOMMENDATION: Staff and the Housing and Human Services Commission (HHSC) members recommend to the Public Housing Authority Commission, adoption of Resolution No. H0120 approving the City of Chandler Housing and Redevelopment Division's Tenant Based Rental Assistance (TBRA) Administrative Plan and certifying to compliance with the HOME related regulations.

BACKGROUND: On April 30, 2015, City Council approved an award of HOME Investment Partnership Program (HOME) funds to the Housing and Redevelopment Division to provide rental housing assistance to approximately 15 individuals or families experiencing chronic homelessness in Chandler. TBRA funds are provided to assist clients for a period of up to 24 months per household. City Council previously funded a Chandler TBRA program which was operated and administered by two other social service agencies. The existing TBRA program and their participants are transitioning to a program in which the housing component is administered by the City's Housing Division and case management services are provided by the Chandler Christian Community Center (CCCC).

DISCUSSION: TBRA is available to qualified individuals and families in a similar manner as the Housing Choice Voucher program (Section 8). One of the major differences between the Section 8 program and TBRA program is TBRA participants must accept rental assistance in conjunction with mandatory case management. CCCC will provide intensive targeted intervention and ongoing case management to TBRA eligible clients.

CCCC will screen and refer potential TBRA participants to the City of Chandler TBRA program. When a TBRA opening occurs, the Housing Division will determine the eligibility of the CCCC referred applicant(s). Chandler Housing Division staff will determine income eligibility for each applicant, conduct background screenings and verify other application information to determine final eligibility. Selected applicants will be scheduled for a housing assistance program orientation. CCCC's case manager and the Housing Division will work with landlords and TBRA recipients to determine rent affordability and housing options. Housing Division staff will conduct initial Housing Quality Standards inspections and special inspections to ensure the rental units are decent, safe and sanitary.

Rental amounts will be determined by the Housing Division based on the federal HOME TBRA regulations. Participants will contribute approximately 30% of their adjusted income toward monthly rent and utilities. Utility deposits and security deposits required by the landlord are paid by the Housing Division using HOME TBRA funds and are considered a grant to program participants.

Together with CCCC case management services, the goal is to achieve a level of self-sufficiency for TBRA participants to enable those individuals and families to successfully integrate into society and remain in a "housed" situation.

FINANCIAL IMPLICATIONS: The US Department of Housing and Urban Development funds the costs associated with the HOME TBRA program.

PROPOSED MOTION: Move to adopt Resolution No. H0120 of the Public Housing Authority Commission of the City of Chandler, Arizona, approving the City of Chandler Housing and Redevelopment Division's Tenant Based Rental Assistance Administrative Plan and certifying to compliance with the HOME related regulations.

Attachments: Resolution No. H0120
Tenant Based Rental Assistance Administrative Plan

RESOLUTION NO. H0120

A RESOLUTION OF THE PUBLIC HOUSING AUTHORITY COMMISSION OF THE CITY OF CHANDLER, ARIZONA, APPROVING THE CITY OF CHANDLER HOUSING AND REDEVELOPMENT TENANT BASED RENTAL ASSISTANCE ADMINISTRATIVE PLAN AND CERTIFYING TO COMPLIANCE WITH THE RELATED HOME REGULATIONS

WHEREAS, pursuant to the United States Department of Housing and Urban Development (HUD), an Administrative Plan should be established for each program to set the standard for program operations, management and implementation details of the federally funded Housing Programs; and

WHEREAS, the City of Chandler Housing and Redevelopment Division has developed the attached Administrative Plan for the Tenant Based Rental Assistance (TBRA) Program;

WHEREAS, the TBRA Administrative Plan incorporates the attached Housing Program policies to implement the City of Chandler TBRA Program; and

WHEREAS, the Public Housing Authority Commission of the City of Chandler is the entity charged with approving the Administrative Plans and authorizing the submittal of that plan to for approval.

NOW, THEREFORE, BE IT RESOLVED, by the Public Housing Authority Commission of the City of Chandler as follows:

Section 1. That the TBRA Administrative Plan, in the form attached hereto, as well as the documents incorporated therein, are hereby approved.

Section 2. That the City of Chandler Housing and Redevelopment Division be directed to make the TBRA Administrative Plan approved herein be available for review by HUD.

Section 3. That the staff of the City of Chandler Housing and Redevelopment Division be directed to perform all acts necessary to give effect to this Resolution, including, without limitation, providing any required certification of compliance with applicable regulations.

PASSED AND ADOPTED by the Public Housing Authority Commission of the City of Chandler, Arizona, this ____ day of _____, 2015.

ATTEST:

_____ _____

CITY CLERK JAY TIBSHRAENY, CHAIRMAN

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. H0120 was duly passed and adopted by the Public Housing Authority Commission of the City of Chandler, Arizona, at a regular meeting held on the _____ day of _____, 2015, and that a quorum was present thereat.

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY GAB

The City of Chandler Housing and Redevelopment's Tenant Based Rental Assistance Program Administrative Plan

Chandler Arizona

Where Values Make The Difference

Final - Effective 07/01/2015

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Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

The City of Chandler Housing and Redevelopment Division (CHRD) receives its funding for the Tenant Based Rental Assistance program from the United States Department of Housing and Urban Development (HUD) under the HOME program. The CHRD is not a federal department or agency. The CHRD is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. The CHRD must ensure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

Tenant Based Rental Assistance Program

The Tenant Based Rental Assistance (TBRA) program is a form of rental assistance in which the assisted tenant may move from a dwelling unit with a right to continued assistance. The program provides rental assistance, security deposits and utility deposits to persons identified and referred to CHRD by Chandler Christian Community Center (CCCC). Referrals must be homeless (with or without disabilities). The CHRD does not accept applications for this program without a direct referral from CCCC.

This program provides up to two years of rental assistance for referred applicants who meet eligibility criteria.

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

Federal laws require the CHRD to treat all applicants and participants equally, providing the same quality of services, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. The CHRD will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012 and further clarified in Notice PIH 2014-20.
- Violence Against Women Reauthorization Act of 2013 (VAWA)

Nondiscrimination

Federal regulations prohibit discrimination against certain protected classes. State and local requirements, as well as the CHRD policies, can prohibit discrimination based on other factors.

The CHRD shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called "protected classes")

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

The CHRD will not discriminate on the basis of marital status or sexual orientation. The CHRD will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the TBRA program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or participant toward or away from a particular area based any of these

factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class.

Providing Information to Families and Owners

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

Discrimination Complaints

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

- Provide written notice of the complaint to those alleged and inform the complainant that such notice was made.
- Investigate the allegations and provide the complainant and those alleged with findings and either a proposed corrective action or an explanation of why corrective action is not warranted.
- Keep records of all complaints, investigations, notices, and corrective action. [Notice PIH 2014-20]

Applicants or participants who believe that they have been subject to unlawful discrimination may notify the CCHRD either orally or in writing. Within 10 business days of receiving the complaint, the CHRD will provide a written notice to those alleged to have violated the rule. The CHRD will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

The CHRD will attempt to remedy discrimination complaints made against the CHRD and will conduct an investigation into all allegations or discrimination.

Within 10 business days following the conclusion of the CHRD's investigation, the CHRD will

provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted. The CHRD will keep a record of all complaints, investigations, notices and corrective actions.

Policies Related To Persons with Disabilities

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

The CHRD must ensure that persons with disabilities have full access to the CHRD's programs and services. This responsibility begins with the first contact by an interested family and continues through every aspect of the program.

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

> *The City of Chandler Housing and Redevelopment Division is committed to fully complying with all state, federal and local laws involving non-discrimination and equal opportunity. Any person who believes he/she needs a reasonable accommodation to participate in any program for the City of Chandler Housing and Redevelopment Division should notify our office at least twenty-four hours prior to the date of the accommodation will be required.*

Definition of Reasonable Accommodation

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

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

Types of Reasonable Accommodations

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

- Permitting applications and reexaminations to be completed by mail
- Providing "large-print" forms
- Conducting home visits
- Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with the CHRD staff

Request for an Accommodation

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the CHRD treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The family must explain what type of accommodation is needed to provide the person with the disability full access to the CHRD's programs and services.

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

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

Verification of Disability

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 2-1 at the end of this chapter. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability.

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

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

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

When verifying a disability, the CCHRD will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 15. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer

support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

- The CCHRD must request only information that is necessary to evaluate the disability-related need for the accommodation. The CCHRD will not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.
- In the event that the CCHRD does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, the CCHRD will dispose of it. If the information needs to be disposed, the CCHRD will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26].

Approval/Denial of a Requested Accommodation

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

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

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

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

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

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

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

fundamental alteration to the TBRA program and without imposing an undue financial and administrative burden.

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

Program Accessibility for Persons with Hearing or Vision Impairments

HUD regulations require that persons with disabilities related to hearing and vision have reasonable access to programs and services [24 CFR 8.6].

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

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available.

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

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

Physical Accessibility

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

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

When issuing a certificate to a family that includes an individual with disabilities who needs an accessible unit, the CCCC will provide a current list of available accessible units known to CCCC and will assist the family in locating an available accessible unit, if necessary.

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

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

Overview

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

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

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

Oral Interpretation

The CCHRD will offer competent interpretation services free of charge, upon request, to the LEP person.

The CCHRD will utilize a language line for telephone interpreter services. Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by the CCHRD. The interpreter may be a family member or friend.

Written Translation

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

In order to comply with written-translation obligations, the CCHRD will take the following steps:

- Provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered.
- Translation of other documents, if needed, can be provided orally; or
- If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the CCHRD does not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3, 25.104, and 100.201]

A person with a disability, as defined under federal civil rights laws, is any person who:

- Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual, or
- Has a record of such impairment, or
- Is regarded as having such impairment

The phrase "physical or mental impairment" includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

"Major life activities" includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and/or working.

"Has a record of such impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major live activities.

"Is regarded as having an impairment" is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as The CCHRD) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

- Current illegal drug users
- People whose alcohol use interferes with the rights of others
- Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the TBRA program

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

The HUD definition of a person with a disability is much narrower than the civil rights definition

of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the $400 elderly/disabled household deduction, the $480 dependent deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

The definition of a person with a disability for purposes of granting a reasonable accommodation request is much broader than the HUD definition of disability. Many people will not qualify as a disabled person under the TBRA program, yet an accommodation is needed to provide equal opportunity.

CHAPTER 3

ELIGIBILITY

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

To be eligible for the TBRA program:

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

Definitions of Family and Household Members

Family and Household [24 CFR 92.2, 24 CFR 5.403 & 24 CFR 5.404]

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

(1) a single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or

(2) a group of persons residing together. 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.

Gender Identity means actual or perceived gender characteristics.

Sexual orientation means homosexuality, heterosexuality, or bisexuality.

Household
Household means one or more persons occupying a housing unit.

Remaining Member of a Tenant Family
The HUD definition of family includes the *remaining member of a tenant family,* which is a member of an assisted family who remains in the unit when other members of the family have left the unit. Household members such as live-in aides do not qualify as remaining members of a family.

Head of Household
Head of household means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program. The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.

Spouse
A spouse means the marriage partner of the head of household.

Dependent
A *dependent* is a family member who is under 18 years of age <u>or</u> a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a dependent allowance as described in Chapter 6.

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

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

Full-time Student
A full-time student (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to be full-time is defined by the educational institution.

Elderly and Near-Elderly Persons, and Elderly Family

Elderly Persons
An *elderly person* is a person who is at least 62 years of age.

Near-Elderly Persons

A *near-elderly person* is a person who is at least 50-61 years of age.

Elderly Family

An *elderly family* is one in which the head, spouse, or sole member is an elderly person. Identifying elderly families is important because elderly families qualify for the elderly family allowance as described in Chapter 6.

Persons with Disabilities and Disabled Family

Persons with Disabilities

Under the TBRA program, special rules apply to persons with disabilities and to any family whose head, spouse is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of this chapter. These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

As discussed in Chapter 2, the CHRD must make all aspects of the TBRA program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

Disabled Family

Disabled family means a family whose head, spouse, or sole member is a person with a disability. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

Even though persons with drug or alcohol dependencies are considered persons with disabilities, this does not prevent the CHRD from denying assistance for reasons related to alcohol and drug abuse in accordance with the policies found in this Chapter regarding Denial of Assistance or from terminating assistance in accordance with the policies in Chapter 12.

Guests

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

The participant must receive prior written permission from the landlord to have any guest temporarily stay in the unit. A copy of the written permission will be provided to the CCHRD.

With the landlord's consent, a guest can remain in the assisted unit no longer than a total of 14 days in any 12-month period. Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the assisted household more than 50 percent of the time, are not subject to the time limitations of guests as described above.

A family may request an exception in writing to this policy for valid reasons (e.g., care of a

relative recovering from a medical procedure is expected to last 30 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

The family in tenancy that allows an unauthorized occupant to reside in their unit is not in compliance will be subject to termination of tenancy. Some examples of unauthorized occupants include:

- Use of the unit address as the guest's current residence for any purpose that is not explicitly temporary or has the landlord's consent shall be construed as permanent residence.
- Persons that have joined the household without undergoing screening;
- Persons that stay in the unit beyond an authorized period; and
- A person (often a relative) that came to the unit as an extended visitor because the resident needed support, for example, after a medical procedure but stayed on in the unit beyond the time needed by the resident.

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

Foster Children and Foster Adults

Foster children and foster adults that are living with an applicant or who have been approved by the CCHRD to live with a participant family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction.

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

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

Children that are temporarily absent from the home as a result of placement in foster care are discussed in the next section.

Absent Family Members

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

Definitions of Temporarily and Permanently Absent

Generally an individual who is or is expected to be absent from the assisted unit for less than 30

consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 30 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

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

Absences Due to Placement in Foster Care

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

Absent Head or Spouse

An employed head or spouse absent from the unit up to a maximum of 180 consecutive days due to employment will continue to be considered a family member.

A head or spouse who is absent from the unit because of a military deployment or active service will continue to be considered a family member.

Family Members Permanently Confined for Medical Reasons

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

The CCHRD will request verification of the family member's permanent absence from a responsible medical professional. If the responsible medical professional cannot provide a determination, the person will be considered temporarily absent. If the family certifies that the family member is confined on a permanent basis, they may present, and the CCHRD will consider, any additional documentation or evidence.

Return of Permanently Absent Family Members

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

Live-In Aide

A *live-in* aide is a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

(1) is determined to be essential to the care and well-being of the persons,
(2) is not obligated for the support of the persons, and
(3) would not be living in the unit except to provide the necessary supportive services.

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

with disabilities.

The income of a live-in aide is not counted in the calculation of annual income for the family [24 CFR 5.609(b)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. Because live-in aides are not *family* members, a relative who serves as a live-in aide would not be considered a remaining member of a tenant family.

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

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

The CCHRD will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 982.316(b)]:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The person commits drug-related criminal activity or violent criminal activity; or

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

Occasional, intermittent, multiple or rotating care givers typically do not reside in the unit and would not qualify as live-in aides. Therefore, an additional bedroom will not be approved for a live-in aide under these circumstances.

Basic Eligibility Criteria

Income Eligibility and Targeting

Income Limits
HUD establishes HOME income limits for all areas of the country and they are published 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 Limit [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.

Using Income Limits for Eligibility [ICF's Housing and Community Development Group Sept. 2014]
There are two key rules regarding the income eligibility of households under a TBRA program.

- *Low-income*: TBRA is limited to tenants whose annual incomes are at or below the HUD low-income limit. A low-income family is one whose annual gross income is 80 percent or below of area median income. HUD established and periodically publishes these income limits by family size for each jurisdiction.

- *Funding allocation*: For each fiscal year allocation, at least 90 percent of the households assisted with HOME-funded TBRA must have incomes at or below 60 percent of area median income. [24 CFR 92.216].

Citizenship or Eligible Immigration Status

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration status.
All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with the CCHRD's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

Declaration

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For citizens, nationals and eligible noncitizens the declaration must be signed personally by the head or spouse and any other family member 18 or older, and by a parent or guardian for minors. No declaration is required for live-in aides, foster children, or foster adults.

Social Security Numbers

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSNA detailed discussion of acceptable documentation is provided in Chapter 7.

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

The CCHRD must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR 5.216

Family Consent to Release of Information

HUD requires each adult family member, and the head of household or spouse regardless of age, to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and

other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

The CCHRD must deny admission to the program if any member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR 5, Subparts B and F [24 CFR 982.552(b)(3)].

Denial of Assistance

A family that does not meet the eligibility criteria discussed in this chapter must be denied assistance. In addition, denial of assistance includes any of the following:

- Denying listing on the CCHRD waiting list
- Denying or withdrawing a certificate
- Refusing to enter into a RAP contract or approve a request for tenancy
- Does not provide complete and true information to the CCHRD
- Does not provide information that the CCHRD or HUD determines is necessary in the administration of the program.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- Any family member has engaged in or threatened violent or abusive behavior toward a CCHRD personnel.

  -*Abusive or violent behavior towards CCHRD personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

  -*Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.
- Any household member is subject to a lifetime registration requirement under a state sex offender registration program.
- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.
- Any member of the household has been evicted from federally assisted housing in the last 3 years for drug-related criminal activity. The CCHRD may admit an otherwise-eligible family if the household member has completed an approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g., the person involved in the

criminal activity no longer lives in the household).

- The CCHRD determines that any household member is currently engaged in the use of illegal drugs. *Currently engaged in* is defined as any use of illegal drugs during the previous six months.

- The CCHRD has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents. CCHRD will consider the use of a controlled substance or alcohol to be a pattern if there is more than once incident during the previous six-6 months.

  In determining *reasonable cause*, the CCHRD will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. CCHRD will also consider evidence from treatment providers or community-based organizations providing services to household members.

- Any household member has been convicted of manufacture or distribution of drugs, violent criminal activity, or criminal activity attached to gang association within the past three years unless there are mitigating circumstances reviewed and approved by the CCHRD. Mitigating circumstances, including, but not limited to:

  - the seriousness of the criminal activity;
  - the relationship between the criminal activity and the safety and security of residents, staff, or property;
  - the length of time since the offense;
  - the age of the household member at the time of the offense;
  - evidence of rehabilitation, such as employment, participation in a job training program, education, participation in a drug or alcohol treatment program, or recommendations from a parole or probation officer, employer, teacher, social worker, or community leader;
  - the effect a denial of admission will have on the household and the community.

Unproven allegations or arrests that did not result in convictions will not be used as evidence of criminal activity, drug-related or violent criminal activity. In addition, the program will not consider expunged/purged/sealed convictions as evidence of criminal activity.

If the applicant's past criminal activity was related to his or her disability, the TBRA program will provide a reasonable accommodation if necessary.

Drug-related criminal activity, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].

Violent criminal activity, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].

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. *'Immediate vicinity'* means within a three-block radius of the premises.

Examples of *criminal activity* includes, but not limited to:

- Forgery
- Identity Theft
- Discharge of Firearm
- Theft against any government agency

State laws purporting to legalize medical marijuana directly conflict with the admission and continued requirements of the Quality Housing and Work Responsibility Act of 1998 ("Public Housing Reform Act") and are thus subject to preemption. [September 24, 1999 HUD Letter Re: Medical Use of Marijuana].

Screening for Eligibility

The CCHRD is authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the TBRA program. This authority assists the CCHRD in complying with HUD requirements and the CCHRD policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records, the CCHRD require every applicant family to submit a consent form signed by each adult household member.

The CCHRD will perform a criminal background check through local law enforcement for every adult household member. Performing criminal background checks are necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided.

Additionally, the CCHRD must ask whether the applicant, or any member of the applicant's household, is subject to a lifetime registered sex offender registration requirement in any state.

Screening for Suitability as a Tenant

The CCHRD has no liability or responsibility to the owner for the family's behavior or suitability for tenancy. The owner is responsible for screening and selection of the family to occupy the owner's unit. The CCHRD must inform the owner that screening and selection for tenancy is the responsibility of the owner. An owner may consider a family's history with respect to factors such as: payment of rent and utilities, caring for a unit and premises, respecting the rights of other residents to the peaceful enjoyment of their housing, criminal activity that is a

threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

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

Removal of a Family Member's Name from the Application

Should the CCHRD's screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration; the CCHRD may offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the CCHRD will deny admission to the family.

For other criminal activity, the CCHRD may permit the family to exclude the culpable family members as a condition of eligibility. As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit, stay as a guest, or reside in the assisted unit. After admission to the program, the family must present evidence of the former family member's current address upon the CCHRD's request.

Notice of Eligibility or Denial

If the family is eligible for assistance, the CCHRD will notify the family in writing and schedule a tenant briefing, as discussed in Chapter 5.

If the CCHRD determines that a family is not eligible for the program for any reason, the family must be notified in writing within 10 business days of the determination. The notice must describe: (1) the reasons for which assistance has been denied, (2) the family's right to an informal review, and (3) the process for obtaining the informal review. See Chapter 15, for informal review policies and procedures.

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

The term *person with disabilities* means a person who has any of the following types of conditions:

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:
  Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; *or*

  In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

  (A) In General
  The term "developmental disability" means a severe, chronic disability of an individual that:
  (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;
  (ii) is manifested before the individual attains age 22;
  (iii) is likely to continue indefinitely;
  (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) Self-care, (II) Receptive and expressive language, (III) Learning, (IV) Mobility, (V) Self-direction, (VI) Capacity for independent living, (VII) Economic self-sufficiency; and
  (v) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

  (B) Infants and Young Children
  An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term person with disabilities refers to an individual with handicaps.

Individual with Handicaps [24 CFR 8.3]

Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

(1) Physical or mental impairment includes:
   (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
   (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(2) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means:
   (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;
   (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or
   (c) Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.

Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

When a family wishes to receive assistance under the TBRA program, the family receive a referral from CCCC and submit an application that provides the CCHRD with the information needed to determine the family's eligibility. HUD requires the CCHRD place all families that apply for assistance on a waiting list. When TBRA assistance becomes available, the CCHRD must select families from the waiting list in accordance with HUD requirements and the CCHRD policies as stated in the administrative plan.

HUD regulations require that all families have an equal opportunity to apply for and receive housing assistance, and that the CCHRD affirmatively further fair housing goals in the administration of the program [24 CFR 982.53]. Adherence to the selection policies described in this chapter ensures that the CCHRD will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

Application Process

Applying for Assistance

Any family that wishes to receive TBRA assistance must be referred by CCCC to apply for admission to the program.

Completed pre applications must be returned to the CCHRD by mail, by fax, or submitted in person during normal business hours. Pre applications must be complete in order to be accepted by the CCHRD for processing. If a pre application is incomplete, the CCHRD will notify the family of the additional information required.

Accessibility of the Application Process

The CCHRD must take steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). The CCHRD must provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or the CCHRD must provide an alternate approach that provides full access to the application process. Chapter 2 provides a full discussion of the CCHRD's policies related to providing reasonable accommodations for people with disabilities.

Placement on the Waiting List

The CCHRD must review each completed pre application received and if the pre application is complete, it will be placed on a waiting list of applicants. Applicants will be placed on the waiting list according to their preference, and date and time their complete application is received by the CCHRD.

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list.

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

Managing the Waiting List

Organization of the Waiting List

The CCHRD's TBRA waiting list must be organized in such a manner to allow the CCHRD 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 local preference;
- Racial or ethnic designation of the head of household

An applicant family that applies for assistance from the TBRA program may apply to be placed on the waiting list for any public housing or housing choice voucher program if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs.

Opening and Closing the Waiting List

Opening of the waiting list will be announced via memo to the CCCC that applications for TBRA will be accepted. The memo will state where, when, and how to apply. The notice will include the Fair Housing logo and slogan and otherwise be in compliance with Fair Housing requirements.

Closing the Waiting List

The CCHRD is permitted to close the waiting list if it has an adequate pool of families to use its available TBRA assistance. Alternatively, the CCHRD may elect to continue to accept applications only from certain categories of families that meet particular preferences or funding criteria.

Closing of the waiting list will be announced via memo to the CCCC that applications for TBRA are closed. The memo will state the date the waiting list will be closed.

Reporting Changes in Family Circumstances

While the family is on the waiting list, the family must inform the CCHRD, within 10 business days, of changes in family size, or composition, preference status or contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing by using our '*Change Report Form*'. The copy of the form must be time and date stamped by the CCHRD to be considered valid. The copy of the form will be provided to the participant.

Changes in an applicant's circumstances while on the waiting list may affect the family's

entitlement to a preference. When an applicant reports a change that affects their placement on the waiting list, the waiting list will be updated accordingly.

Removal from the Waiting List

The CCHRD will remove an applicant from the waiting list upon request by the applicant family or the CCCC Case Manager. The CCHRD will ask the applicant family and/or the CCCC Case Manager to provide their request in writing. In such cases no informal hearing is required.

If at any time an applicant family is on the waiting list, the CCHRD determines that the family is not eligible for assistance (see Chapter 3), the family will be removed from the waiting list.

If a family is removed from the waiting list because the CCHRD has determined the family is not eligible for assistance, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting and will inform the family how to request an informal review of the CCHRD's decision (see Chapter 15).

Selection for TBRA Assistance

Application Interview

The CCHRD will obtain the information and documentation needed to make an eligibility determination though a face-to-face interview with a the CCHRD representative. 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 the CCHRD 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 the CCHRD.

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

The head of household and the spouse will be strongly encouraged to attend the interview together. However, either the head of household or the spouse may attend the interview on behalf of the family. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to the CCHRD.

The head of household or spouse must provide acceptable documentation of legal identity. (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation at the time of the interview, he or she will be required to provide it within 10 business days.

Pending disclosure and documentation of social security numbers, the CCHRD will allow the family to retain its place on the waiting list for 30 days. If not all household members have disclosed their SSNs at the next time the CCHRD is issuing certificates, the CCHRD will issue a certificate 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, the CCHRD will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items).

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 (See Chapter 3).

The CCCC Case Manager, interpreter, or other assistant may assist the family with the application and the interview process. Where the CCCC Case Manager, interpreter or other third party is used to assist the family, the family will provide written authorization.

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

If the family is unable to attend a scheduled interview, the family should contact CCHRD in advance of the interview to schedule a new appointment. If a family does not attend a scheduled interview, CCHRD will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without the CCHRD approval will be denied assistance based on the family's failure to supply information needed to determine eligibility. A notice of denial will be issued in accordance with policies contained in Chapter 3.

Selection Method

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

Homeless Preference

In an effort to support local goals and initiatives, the CCHRD established a homeless person preference.

Income Targeting

For each fiscal year allocation, at least 90 percent of the families assisted through TBRA initially occupying assisted units must have annual incomes at or below 60 percent of the area median income.

Targeting Families

The CCHRD will target five (5) families from the waiting list to be selected for eligibility.

Order of Selection

Applicant families will be selected from the waiting list based on the following in rank order:

1) Preference,
2) income targeting, and
3) family targeting.

Within each category, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by the CCHRD.

Notification of Selection

When a family has been selected from the waiting list, the CCHRD must notify the family. The CCHRD will notify the family by first class mail when it is selected from the waiting list. The notice will inform the family of the following:

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview
- Who is required to attend the interview
- All documents that must be provided at the interview, including information about what constitutes acceptable documentation

Completing the Application Process

The CCHRD must verify all information provided by the family (see Chapter 7). Based on verified information, the CCHRD must make a final determination of eligibility (see Chapter 3) and must confirm that the family qualified for the selected preference, family targeting or funding targeting that affected the order in which the family was selected from the waiting list.

If the CCHRD determines that the family is ineligible, the CCHRD will send written notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 15).

If a family fails to qualify for family targeting that affected the order in which it was selected from the waiting list, the family will be returned to its original position on the waiting list. The CCHRD will notify the family in writing that it has been returned to the waiting list, and will specify the reasons for it.

Chapter 5

BRIEFING AND CERTIFICATE ISSUANCE

When a family is determined to be eligible for the TBRA program, the CCHRD must ensure that the family fully understands the way the program operates and the family's obligations under the program. This is accomplished through both an oral briefing and provision of a briefing packet containing the HUD-required documents and other information the family needs to know. Once the family is fully informed of the program's requirements, the CCHRD issues the family a certificate. The certificate includes the unit size for which the family qualifies based on the CCHRD's subsidy standards, as well as the issue and expiration date of the certificate. The certificate is the document that authorizes the family to begin its search for a unit, and limits the amount of time the family has to successfully locate an acceptable unit.

Briefing and Family Obligations

Briefing

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

Notification and Attendance

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

If the notice is returned by the post office with no forwarding address, the applicant will be denied and their name will not be placed back on the waiting list. If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated.

Applicants who fail to attend a scheduled briefing will be scheduled for another briefing automatically. The CCHRD will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without prior the CCHRD approval, will be denied assistance (see Chapter 3).

Oral Briefing

Each briefing will provide information on the following subjects:

- How the HOME TBRA program works;
- Family and owner responsibilities;
- Where the family can lease a unit inside the CCHRD's jurisdiction;

Briefing Packet

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

- The term of the certificate, and the CCHRD's policies on any extensions or suspensions of the term. If CCHRD allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the rental assistance payment for a family, including how the CCHRD determines the rent standard for a family, how the CCHRD determines total tenant payment for a family, and information on the rent standard and utility allowance schedule.
- An explanation of how the CCHRD determines the maximum allowable rent for an assisted unit.
- The form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy.
- The CCHRD's subsidy standards including when and how exceptions are made.
- The HUD brochure on how to select a unit.
- The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home.*
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form.
- A list of landlords or other parties willing to lease to assisted families or help families find units.
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the CCHRD.
- The family obligations under the program.
- The grounds on which the CCHRD may terminate assistance for a participant family because of family action or failure to act.
- The CCHRD's informal hearing procedures including when the CCHRD is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
- Information on how to fill out and file a housing discrimination complaint form
- Information about the protections afforded by the Violence against Women Act of 2013 (VAWA) to victims of domestic violence, dating violence, sexual assault and stalking.
- "Is Fraud Worth It?" HUD-1141-OIG) which explains the types of actions a family must avoid and the penalties for program abuse.

Family Obligations

Obligations of the family are described in the federal regulations and on the certificate itself. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. The CCHRD must inform families of these obligations during the oral briefing, and the same information must be included in the briefing packet. When the family's unit is approved and the RAP contract is executed, the family must meet those obligations in order to continue

participating in the program. Violation of any family obligation may result in termination of assistance, as described in Chapter 12.

Time Frames for Reporting Changes Required by Family Obligations

Unless otherwise noted below, when family obligations require the family to respond to a request or notify the CCHRD of a change, notifying the CCHRD of the request or change within 10 business days of its occurrence is considered prompt notice (e.g., If you became employed, you would use the start date of employment to start your count of 10 business days).

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

The family obligations of the certificate are listed as follows:

1. The family must supply any information that the CCHRD or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
2. The family must supply any information requested by the CCHRD or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
3. The participant is required to report all changes within 10 business days of its occurrence and the CCHRD will determine if an interim reexamination will be conducted.
4. The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
5. Any information supplied by the family must be true and complete.
6. The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest. Damages beyond normal wear and tear will be considered to be damages, which could be assessed against the security deposit.
7. The family must allow the CCHRD to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
8. The family must not commit any serious or repeated violation of the lease. The CCHRD will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict, police reports, and affidavits from the owner, neighbors, or other credible parties with direct knowledge.

   Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].
9. The family must notify the CCHRD and the owner before moving out of the unit or terminating the lease. The family must comply with lease requirements regarding written

notice to the owner. The family must provide written notice to the CCHRD at the same time the owner is notified.

10. The family must promptly give the CCHRD a copy of any owner eviction notice.
11. The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
12. The composition of the assisted family residing in the unit must be approved by the CCHRD. The family must promptly notify the CCHRD in writing of the birth, adoption, or court-awarded custody of a child. The family must request the CCHRD approval to add any other family member as an occupant of the unit.

    The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The CCHRD will determine eligibility of the new member in accordance with the policies in Chapter 3.
13. The family must promptly notify the CCHRD in writing if any family member no longer lives in the unit.
14. If the CCHRD has given approval, a foster child or a live-in aide may reside in the unit. The CCHRD has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when the CCHRD consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3.
15. The family must not sublease the unit, assign the lease, or transfer the unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
16. The participant must receive prior written permission from the landlord to have any guest temporarily stay in the unit. A copy of the written permission will be provided to the CCHRD. With the landlord's consent, a guest can remain in the assisted unit no longer than a total of 14 days in any 12-month period. The family must supply any information requested by the CCHRD to verify that the family is living in the unit or information related to family absence from the unit.
17. The family must promptly notify the CCHRD when the family is absent from the unit. Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the CCHRD at the start of the extended absence.
18. The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease.
19. The family must not own or have any interest in the unit.
20. Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
21. Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 3 (section III.C. on examples of criminal activity) and see Chapter 12 for HUD and CCHRD policies related to drug-related and violent criminal activity.
22. Members of the household must not engage in abuse of alcohol in a way that threatens

the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and the CCHRD policies related to alcohol abuse.

23. An assisted family or member of the family must not receive TBRA program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
24. A family must not receive TBRA program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the CCHRD has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities.

Subsidy Standards and Certificate Issuance

The CCHRD has established subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions.

Determining Family Unit (Certificate) Size

For each family, the CCHRD determines the appropriate number of bedrooms under the CCHRD subsidy standards and enters the family unit size on the certificate that is issued to the family. The family unit size does not dictate the size of unit the family must actually lease, nor does it determine who within a household will share a bedroom/sleeping room.

The following requirements apply when the CCHRD determines family unit size:

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the housing quality standards. [24 CFR 982.401 (d)]
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
- Any live-in aide (approved by the CCHRD to reside in the unit to care for a family member who is disabled) must be counted in determining the family unit size;
- Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person will be a one-bedroom unit.

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

- Live-in aides will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family.
- Single person families will be allocated a one bedroom.
- Foster children will be included in determining unit size.

- A separate bedroom should be allocated for the Head of Household and spouse/cohabitant.
- A separate bedroom should be allocated for the Head of Household if no spouse or cohabitant exists.
- When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to CCHRD indicating that the student has established a separate household or the family declares that the student has established a separate household.
- A separate bedroom should be allocated where there is an odd number of family members (excluding the head of household, spouse/cohabitant).

The CCHRD will reference the following chart in determining the appropriate certificate size for a family:

Certificate Size	**Persons in Household** **(Minimum – Maximum)**
1 Bedroom	1-2
2 Bedrooms	2-4
3 Bedrooms	4-6
4 Bedrooms	6-8
5 Bedrooms	8-10

Exceptions to Subsidy Standards

In determining family unit size for a particular family, the CCHRD may grant an exception to its established subsidy standards if the CCHRD determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances [24 CFR 982.402(b)(8)]. Reasons may include, but are not limited to:

- A need for an additional bedroom for medical equipment
- A need for a separate bedroom for reasons related to a family member's disability, medical or health condition

The family must request any exception to the subsidy standards in writing within 30 days of the determination of certificate size. The request must explain the need or justification for a larger family unit size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source (e.g. doctor or health professional), unless the disability and the disability–related request for accommodation is readily apparent or otherwise known. The family's need for an additional bedroom due to special medical equipment must be re-verified in writing at annual reexamination.

All exceptions to subsidy standards will be reviewed and determined by management.

The CCHRD will notify the family of its determination within 10 business days of receiving the family's request. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

Certificate Issuance

When a family is selected from the waiting list or when a participant family wants to move to another unit, the CCHRD issues a certificate.

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

A certificate can be issued to an applicant family only after the CCHRD has determined that the family is eligible for the program based on verification of information received within the 60 days prior to issuance and after the family has attended an oral briefing.

Certificates will be issued to eligible applicants immediately following the mandatory briefing.

The CCHRD should have sufficient funds to house an applicant before issuing a certificate. If funds are insufficient to house the family at the top of the waiting list, the CCHRD must wait until it has adequate funds before it calls another family from the list. Prior to issuing any certificates, the CCHRD will determine whether it has sufficient funding in accordance with the policies in Chapter 15.

If CCHRD determines that there is insufficient funding after a certificate has been issued, the CCHRD may rescind the certificate and place the affected family back on the waiting list.

Certificate, Extensions, and Suspensions

Certificate Term

The initial term of a certificate will be at least 60 calendar days. The initial term must be stated on the certificate. The family must submit a Request for Tenancy Approval and proposed lease within the 60-day period unless the CCHRD grants an extension.

Extensions of Certificate Term

The CCHRD has the authority to grant extensions of search time, to specify the length of an extension, and to determine the circumstances under which extensions will be granted. The CCHRD will approve additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose.

The family will be notified in writing of the CCHRD's decision to approve or deny an extension. The CCHRD's decision to deny a request for an extension of the certificate term is not subject to informal review.

Chapter 6

INCOME AND SUBSIDY DETERMINATIONS

A family's income determines eligibility for assistance and is also used to calculate the family's payment and the CCHRD's subsidy. The HOME program has income targeting requirements for the HOME program. Therefore, the CCHRD must determine each family is income eligible by determining the family's annual income [24 CFR 92.203(a)]. The CCHRD will use the Section 8 Housing Choice Voucher program annual income as defined at 24 CFR 5.609 in determining annual income to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations.

Annual Income

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

> 5.609 Annual income.
> (a) Annual income means all amounts, monetary or not, which:
> (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
> (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
> (3) Which are not specifically excluded in paragraph [5.609(c)].
> (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

Household Composition and Income

Income received by all family members must be counted unless specifically excluded by the regulations [24 CFR 92.203(d)(1)]. It is the responsibility of the head of household to report changes in family composition. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(c)(2)].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically

	excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or cohead)	Employment income above $480/year is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

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

Generally an individual who is or is expected to be absent from the assisted unit for 30 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 30 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

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

Absences Due to Placement in Foster Care

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

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

Absent Head, Spouse, or Cohead

An employed head, spouse, or cohead absent from the unit more than 30 consecutive days due to employment will continue to be considered a family member.

Family Members Permanently Confined for Medical Reasons

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

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

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the

remaining head, or spouse qualifies as an elderly person or a person with disabilities.

Joint Custody of Dependents

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

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

Caretakers for a Child

The approval of a caretaker is at the owner and the CCHRD's discretion and subject to the owner and the CCHRD's screening criteria. If neither a parent nor a designated guardian remains in a household receiving TBRA assistance, the CCHRD will take the following actions.

(1) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.

(2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases CCHRD will extend the caretaker's status as an eligible visitor.

(3) At any time that custody or guardianship legally has been awarded to a caretaker, the certificate will be transferred to the caretaker.

(4) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

Anticipating Annual Income

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

Basis of Annual Income Projection

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

- An imminent change in circumstances is expected.
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)].

- The CCHRD believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

The CCHRD must determine annual income by reviewing source documents for at least two months, evidencing annual income for the TBRA-assisted household [24 CFR 92.203 (2)]. The CCHRD will use current tenant-provided documents to project annual income. When the tenant-provided documents are pay stubs, the CCHRD will make every effort to obtain current and consecutive pay stubs dated within the last two months.

Example: When the tenant provided documents are paystubs, use the amount of paystubs listed to determine how many should be collected to meet the 2 month requirement.

Weekly-	8 consecutive paystubs
Bi-weekly-	4 consecutive paystubs
Semi-monthly-	4 consecutive paystubs
Monthly-	2 consecutive paystubs
Semi-monthly-	4 consecutive paystubs

The following information will be used to convert periodic wages to annual income:

- Multiply hourly wages by the number of hours worked per year (2080 hours for full-time employment with a 40 hour work week and no overtime).
- Multiply weekly wages by 52.
- Multiply bi-weekly wages (paid every other week) by 26.
- Multiply semi-monthly wages (paid twice each month) by 24.
- Multiply monthly wages by 12.

If CCHRD determines additional information is needed, the CCHRD will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7.
In this case, the CCHRD will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit train will be left as to how the CCHRD annualized projected income.

When the CCHRD cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the CCHRD will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income. Anytime current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the CCHRD to show why the historic pattern does not represent the family's anticipated income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and

documentation to the CCHRD to show why the historic pattern does not represent the family's anticipated income.

Income determinations for new TBRA recipients are good for a six-month period. If TBRA assistance is not provided before the six months has expired, the household's income eligibility must be reviewed again before assistance may be provided [24 CFR 92.203(2)].

Known Changes in Income

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

> **Example:** An employer reports that a full-time employee who has been receiving $6/hour will begin to receive $6.25/hour in the eighth week after the effective date of the reexamination. In such a case The CCHRD would calculate annual income as follows: ($6/hour × 40 hours × 7 weeks) + ($6.25 × 40 hours × 45 weeks).

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the CCHRD will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs.

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

Earned Income

Types of Earned Income Included in Annual Income

Wages and Related Compensation

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

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

Some Types of Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are counted [24 CFR 5.609(b)(8)] <u>except</u> for the special pay to a family member serving in the Armed Forces

who is exposed to hostile fire [24 CFR 5.609(c)(7)].

Types of Earned Income Not Counted in Annual Income

Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]

This type of income (including gifts) is not included in annual income. Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than 180 days [Notice PIH 2009-19].

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

Children's Earnings

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

Certain Earned Income of Full-Time Students

Earnings in excess of $480 for each full-time student 18 years old or older (except for the head, spouse, or cohead) are not counted [24 CFR 5.609(c)(11)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

Income of a Live-in Aide

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)]. (See Eligibility chapter for a full discussion of live-in aides.)

Income Earned under Certain Federal Programs

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

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Awards under the federal work-study program (20 U.S.C. 1087)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

State and Local Employment Training Programs

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government). 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 training program [24 CFR 5.609(c)(8)(v)].

The CCHRD defines *training program* as "a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period to time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education" [expired Notice PIH 98-2, p. 3].

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

HUD-Funded Training Programs

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

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

Earned Income Tax Credit

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

Earned Income Disallowance for Persons with Disabilities [24 CFR 92.203(d)(3), 24 CFR 5.617]

The earned income disallowance (EID) encourages people with disabilities to enter the work force by not including the full value of increases in earned income for a period of time. The full text of 24 CFR 5.617 is included as Exhibit 6-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.

Eligibility

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

- Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.

- Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].

New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least $500.

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "prior income."

The CCHRD defines *prior income,* or *prequalifying income,* as the family member's last certified income prior to qualifying for the EID.

The family member's prior, or prequalifying, income remains constant (as a baseline) throughout the period that he or she is participating in the EID.

Initial 12-Month Exclusion

During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are cumulative and need not be consecutive.

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Second 12-Month Exclusion and Phase-In

During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12 months are cumulative and need not be consecutive.

Lifetime Limitation

The EID has a four-year (48-month) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 months later. The one-time eligibility for the EID applies even if there are breaks in assistance.

During the 48-month eligibility period, the CCHRD will schedule and conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her

prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

Business Income [24 CFR 5.609(b)(2)]

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

Business Expenses

Net income is "gross income less business expense".

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

Business Expansion

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

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

Capital Indebtedness

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

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

Negative Business Income

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

Withdrawal of Cash or Assets from a Business
HUD regulations require the CCHRD to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

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

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

Assets [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]
There is no asset limitation for participation in the TBRA program. However, HUD requires that the CCHRD include in annual income the anticipated "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)].

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 6-4 provides the regulatory definition of *net family assets* as well as a chart from the *HCV Guidebook* that summarizes asset inclusions and exclusions.

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

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

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

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).

- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash. Examples of acceptable costs include penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions.

Lump-Sum Receipts

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIIP FAQs].

Imputing Income from Assets [24 CFR 5.609(b)(3)], Notice PIH 2012-29

When net family assets are $5,000 or less, the CCHRD will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of $5,000, the CCHRD will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by an average passbook savings rate as determined by the CCHRD.

- Note: The HUD field office no longer provides an interest rate for imputed asset income. The "safe harbor" is now for The CCHRD to establish a passbook rate within 0.75 percent of a national average.
- The CCHRD must review its passbook rate annually to ensure that it remains within 0.75 percent of the national average.

The CCHRD will initially set the imputed asset passbook rate at the national rate established by the Federal Deposit Insurance Corporation (FDIC).

The CCHRD will review the passbook rate annually, in December of each year. The rate will not be adjusted unless the current rate is no longer within 0.75 percent of the national rate. If it is no longer within 0.75 percent of the national rate, the passbook rate will be set at the current national rate.

Determining Actual Anticipated Income from Assets

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

Withdrawal of Cash or Liquidation of Investments

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a

family member retires, the amount received by the family from a retirement investment plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement investment plan.

Jointly Owned Assets

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

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

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

Assets Disposed of for Less than Fair Market Value [24 CFR 5.603(b)]

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

Minimum Threshold

The CCHRD will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $1,000.

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

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

Separation or Divorce

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

Foreclosure or Bankruptcy

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

Family Declaration

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

Types of Assets

Checking and Savings Accounts

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

In determining the value of a checking account, the CCHRD will use the average monthly balance for the last two (2) months only if the asset is in excess of $5,000. If the asset is equal to or less than $5,000, the family's declaration of the amount of the asset will be used.

In determining the value of a savings account, the CCHRD will use the current balance provided on the family's declaration if it equals to or is less than $5,000.

In determining the anticipated income from an interest bearing checking or savings account, the CCHRD will multiply the value of the account by the current rate of interest paid on the account.

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

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

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

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

Equity in Real Property or Other Capital Investments

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

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

- Equity accounts in HUD homeownership programs [24 CFR5.603(b)]
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b)]
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCV GB, p. 5-25]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

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

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

Trusts

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

Revocable Trusts

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

Nonrevocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6-I.H. Lump-sum receipts are discussed earlier in this section.)

Retirement Accounts

Company Retirement/Pension Accounts

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

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

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate, except to the extent that it represents funds invested in the account by the family member. The balance in the account is counted as an asset only if it remains accessible to the family member.

IRA, Keogh, and Similar Retirement Savings Accounts

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

Personal Property

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

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

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

Necessary items of personal property are not considered assets [24 CFR 5.603(b)]. Necessary personal property consists of only those items not held as an investment, and may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.

Life Insurance

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

Periodic Payments

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

Periodic Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].

- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCV, p. 5-14]

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

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income. Additionally, any deferred disability benefits that are received in a lump sum or in prospective monthly amounts form the Department of Veterans Affairs are to be excluded from annual income24 CFR 5.609(c)(14)].

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

Treatment of Overpayment Deductions from Social Security Benefits

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

Periodic Payments Excluded from Annual Income

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

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

- Amounts paid by a state agency to a family with a member who has a developmental

disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)].

- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)].

- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)].

- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.

- Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.H.) [24 CFR 5.609c)(14)].

- Lump sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA)[24 CFR 5.609(c)(14)].

Payments in Lieu of Earnings

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G.)

Welfare Assistance

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]

The CCHRD must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

Covered Families

The families covered by 24 CFR 5.615 are those "who receive welfare assistance or other public assistance benefits ('welfare benefits') from a State or other public agency ('welfare agency') under a program for which Federal, State or local law requires that a member of the family must

participate in an economic self-sufficiency program as a condition for such assistance" [24 CFR 5.615(b)]

Imputed Income

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, the CCHRD must include in annual income "imputed" welfare income. The CCHRD must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

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

Offsets

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

Periodic and Determinable Allowances [24 CFR 5.609(b)(7)]

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

Alimony and Child Support

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

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

Regular Contributions or Gifts

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

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

provided to a family on a regular basis.

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

Additional Exclusions from Annual Income

Other exclusions contained in 24 CFR 5.609(c) and updated by FR Notice 5/20/14 that have not been discussed earlier in this chapter include the following:

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]
- Adoption assistance payments in excess of $480 per adopted child [24 CFR 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17)]. FR Notice 5/20/14]. HUD publishes an updated list of these exclusions periodically. It includes:

  (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
  (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC
  (c) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)

  (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
  (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
  (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
  (g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)
  (h) Deferred disability benefits from the Department of Veterans Affairs, whether

received as a lump sum or in monthly prospective amounts

(i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)

(j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))

(k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al.* v *Ken Salazar et al,* for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010.

(l) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)

(m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)

(n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))

(o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange*-product liability litigation, M.D.L. No. 381 (E.D.N.Y.)

(p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida

(q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)

(r) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)

(s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))

(t) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)

(u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109-249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those person with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109-249) (See Section 6-I.L. for exceptions.)

(v) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637 (d))

(w)Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)

(x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002

(y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013-30, "Exclusions from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))

(z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable isaster assistance provided by states, local governments and disaster assistance organizations

Adjusted Income

HUD regulations require any of five mandatory deductions for which a family qualifies be deducted from annual income. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611 [24 CFR 92.203(2)(c)].

> 5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity must deduct the following amounts from annual income:
> (1) $480 for each dependent;
> (2) $400 for any elderly family or disabled family;
> (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
> (i) Unreimbursed medical expenses of any elderly family or disabled family;
> (ii) 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; and
> (4) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

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

Anticipating Expenses

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

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

period. The CCHRD may require the family to provide documentation of payments made in the preceding year.

Dependent Deduction

An allowance of $480 is deducted from annual income for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

Elderly or Disabled Family Deduction

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

Medical Expenses Deduction [24 CFR 5.611(a)(3)(i)]

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income. The medical expense deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

Definition of Medical Expenses

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

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

Summary of Allowable Medical Expenses from IRS Publication 502	
Services of medical professionals Surgery and medical procedures that are necessary, legal, noncosmetic Services of medical facilities Hospitalization, long-term care, and in-home nursing services Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)	Substance abuse treatment programs Psychiatric treatment Ambulance services and some costs of transportation related to medical expenses The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) Cost and continuing care of necessary service animals Medical insurance premiums or the cost of a health maintenance organization

	(HMO)
Note: This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.	

The cost of medical marijuana is not considered a deductible medical expense.

Families That Qualify for Both Medical and Disability Assistance Expenses

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

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

Disability Assistance Expenses Deduction [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

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

Earned Income Limit on the Disability Assistance Expense Deduction

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

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

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

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

Eligible Disability Expenses

Examples of auxiliary apparatus are as follows: "Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other

family member to work".

Eligible Auxiliary Apparatus

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

Eligible Attendant Care

The family determines the type of attendant care that is appropriate for the person with disabilities.
Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

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

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

Payments to Family Members

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

Necessary and Reasonable Expenses

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

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

Families That Qualify for Both Medical and Disability Assistance Expenses

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

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

Child Care Expense Deduction

HUD defines *child care expenses* at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

Clarifying the Meaning of Child for This Deduction

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family's household, are included when determining the family's child care expenses [HCV GB, p. 5-29].

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

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

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

Seeking Work

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

Furthering Education

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

Being Gainfully Employed

If the childcare expense being claimed is to enable a family member to be gainfully employed,

the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Child Care Expense Deduction

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

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

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

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

Eligible Child Care Expenses

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

Allowable Child Care Activities

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

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

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

Necessary and Reasonable Costs

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

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

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

Calculating Family Share and Subsidy

TTP Formula [24 CFR 5.628]

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

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- A minimum rent between $0 and $50 that is established by the CCHRD

The CCHRD has authority to suspend and exempt families from minimum rent when a financial hardship exists

The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

Minimum Rent [24 CFR 5.630]

The minimum rent for this locality is $0.

Family Share [24 CFR 982.305(a)(5)]

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the CCHRD's applicable rent standard: The family will pay more than the TTP, The income used for this determination must have been verified no earlier than 60 days before the family's certificate was issued.

CCHRD Subsidy [24 CFR 982.505(b)]

The CCHRD will pay a monthly rental assistance payment (RAP) for a family that is equal to the lower of (1) the applicable rent standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

Utility Reimbursement [24 CFR 982.514(b)]
When the CCHRD subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits the CCHRD to pay the reimbursement to the family or directly to the utility provider.

The CCHRD will make utility reimbursements to the electric utility company(s) of their choice, and the family will be notified in writing.

Partial Month Calculations for Rental Assistance Payment
The partial month calculation for move-ins, move-outs and transfers are by dividing the monthly assistance amount by the actual number of days in the month and multiplying the result by actual number of days the resident lived in the unit.

Applying Rent standards [24 CFR 982.505]
The CCHRD's schedule of rent standards is used to calculate rental assistance payments for TBRA families. The CCHRD will base the rent standard on local market conditions . The rent standards are as follows:

	Rent Standards
0	$ 611
1	$ 775
2	$ 1,019
3	$ 1,333
4	$ 1,557
5	$ 1,790

Rent standard is defined as "the maximum monthly assistance payment for a family assisted in the certificate program (before deducting the total tenant payment by the family)" [24 CFR 982.4(b)].
The rent standard for a family is the lower of (1) the rent standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the CCHRD's subsidy standards [24 CFR 982.4(b)], or (2) the rent standard for the size of the dwelling unit rented by the family.

The CCHRD is required to pay a monthly rental assistance payment (RAP) for a family that is the *lower* of (1) the rent standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

If during the term of the RAP contract for a family's unit, the owner lowers the rent, The CCHRD will recalculate the RAP using the lower of the initial rent standard or the gross rent for the unit.

Changes in Rent standards
When the CCHRD revises its rent standards during the term of the RAP contract for a family's unit, it will apply the new rent standards in accordance with HUD regulations.

Changes in Family Unit Size

Irrespective of any increase or decrease in the rent standard, if the family unit size increases or decreases during the RAP contract term, the new family unit size must be used to determine the rent standard for the family beginning at the family's first regular reexamination following the change in family unit size.

Applying Utility Allowances [2014 Appropriations act]

The CCHRD established utility allowance schedule is used in determining family share and subsidy. CCHRD will use the lower of the family's certificate bedroom size or the unit size when establishing the family's utility allowance.

Utility Allowance Revisions

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

Under section 242 of the 2014 Appropriations Act effective July 01, 2014, the utility allowance for a family shall be the lower of: (1) The utility allowance amount for the family unit size; or (2) the utility allowance amount for the unit size the until rented by the family. The utility allowance will be implemented for current program participants at the next annual reexamination, provided that The CCHRD is able to provide a family with at least 60 days' notice prior to the reexamination.

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

(a) *Annual income means all amounts, monetary or not, which:*

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph (c) of this section.

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

(b) *Annual income includes, but is not limited to:*

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

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

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.311; and

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:(A) The amount of the allowance or grant exclusive of the amount

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1 Text of 45 CFR 260.31 follows.

specifically designated for shelter or utilities; plus
(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.
(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;
(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)
(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

HHS DEFINITION OF "ASSISTANCE"

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term "assistance" mean?

(a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).
(2) It includes such benefits even when they are:
(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and
(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).
(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.
(b) [The definition of "assistance"] excludes: (1) Nonrecurrent, short-term benefits that:
(i) Are designed to deal with a specific crisis situation or episode of need;
(ii) Are not intended to meet recurrent or ongoing needs; and
(iii) Will not extend beyond four months.
(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);
(3) Supportive services such as child care and transportation provided to families who are employed;
(4) Refundable earned income tax credits;
(5) Contributions to, and distributions from, Individual Development Accounts;
(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and
(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.609

c) *Annual income does not include the following:*

(1) Income from employment of children (including foster children) under the age of 18 years;
(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);
(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
(5) Income of a live-in aide, as defined in Sec. 5.403;
(6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;
(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
(8) (i) Amounts received under training programs funded by HUD;
(ii) 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);
(iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for The CCHRD or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of The CCHRD's governing board. No resident may receive more than one such stipend during the same period of time;
(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;
(9) Temporary, nonrecurring or sporadic income (including gifts);
(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;
(11) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);
(12) Adoption assistance payments in excess of $480 per adopted child;
(13) [Reserved]
(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.
(15) 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;
(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or
(17) Amounts specifically excluded by any other Federal statute 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 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See Section 6-I.M. for a list of benefits that qualify for this exclusion.]

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) 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 HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

Chapter 7

VERIFICATION

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230]

The CCHRD must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The CCHRD will not pass on the cost of verification to the family.

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

General Verification Requirements

Family Consent to Release of Information [24 CFR 982.516 AND 982.551, 24 CFR 5.230]

The family must supply any information that the CCHRD or HUD determines is necessary to the administration of the program and must consent to the CCHRD verification of that information [24 CFR 982.551].

Consent Forms

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the CCHRD may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

Penalties for Failing to Consent [24 CFR 5.232]

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

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

Requirements for Acceptable Documents

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

Print-outs from Web pages are considered original documents (source documents). The CCHRD staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.

File Documentation

The CCHRD must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the CCHRD has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

The CCHRD will document, in the family file, the following:

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

When the CCHRD is unable to obtain third-party verification, the CCHRD will document in the family file the reason that third-party verification was not available [24 CFR 982.516(a)(2)].

Up-Front Income Verification (UIV)

Up-front income verification (UIV) refers to the CCHRD's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to the CCHRD.

There may be legitimate differences between the information provided by the family and UIV generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the CCHRD has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the CCHRD.

The CCHRD will inform all applicants and participants of its use of the following UIV resources during the admission and reexamination process:

- The Work Number
- Verify today.com
- Verifydirect.com
- Past-Employ.com

Third-Party Written and Oral Verification

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

"written third-party verification form." This is a standardized form used to collect information from a third party.

Written Third-Party Verification

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source. Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

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

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

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

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

As verification of earned income, the CCHRD will require the family to provide the two months of the most current, consecutive pay stubs.

Written Third-Party Verification Form

When upfront verification is not available and the family is unable to provide written third-party documents, the CCHRD must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks which may be reduced through the use of family-provided third-party documents.

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

Primary Documents

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

Imputed Assets

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

Self-Certification

Self-certification, or "tenant declaration", is used as a last resort when the CCHRD is unable to

obtain third-party verification to verify that the family does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the CCHRD and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a notary public.

Verifying Family Information

Verification of Legal Identity

The CCHRD will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicles identification card U.S. military discharge (DD 214) Current U.S. passport Current Employer identification card	Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified school records

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the CCHRD's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the CCHRD and be signed in the presence of a notary public.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the CCHRD has reason to doubt the identity of a person representing him or herself to be a participant.

Social Security Numbers [24 CFR 5.216]

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

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

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency,

which contains the name and SSN of the individual, along with other identifying information of the individual
- Such other evidence of the SSN as HUD may prescribe in administrative instructions

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

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

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

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

The CCHRD will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

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

The CCHRD will verify each disclosed SSN by:

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

Documentation of Age

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

If an official record of birth or evidence of social security retirement benefits cannot be provided, the CCHRD will require the family to submit other documents that support the reported age of

the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

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

Family Relationships

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

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

Marriage

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

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

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

Separation or Divorce

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

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

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

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

Absence of Adult Member

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

Foster Children and Foster Adults

Third-party verification from the state or local government agency responsible for the placement

of the individual with the family is required.

Verification of Student Status

General Requirements

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

- The family reports full-time student status for an adult other than the head or spouse.
- The family reports child care expenses to enable a family member to further his or her education.
- The family includes a student enrolled in an *institution of higher education.*

Documentation of Disability

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

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

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

Family Members Receiving SSA Disability Benefits

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

If the family is unable to provide the document(s), the CCHRD will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter they will be required to provide it to the CCHRD.

Family Members Not Receiving SSA Disability Benefits

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

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

Citizenship or Eligible Immigration Status [24 CFR 5.508]

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, or an eligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy [24 CFR 5.508(g)(5)].

U.S. Citizens and Nationals

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

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

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

Eligible Immigrants

Documents Required

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

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-2 at the end of this chapter summarizes documents family members must provide.

CCHRD Verification

For family members age 62 or older who claim to be eligible immigrants, proof of age is

required in the manner described in the 'documentation of age' section of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the CCHRD must verify immigration status with the United States Citizenship and Immigration Services (USCIS). The CCHRD will follow all USCIS protocols for verification of eligible immigration status.

Verification of Preference Status

The CCHRD must verify any preferences claimed by an applicant that determined placement on the waiting list.

Verifying Income and Assets

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

Earned Income

Tips

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

Wages

For wages other than tips, the family must provide originals of the two months of most current, consecutive pay stubs.

Business and Self Employment Income

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

- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.

- All schedules completed for filing federal and local taxes in the preceding year.
  If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

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

At any reexamination the CCHRD may request documents that support submitted financial

statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the CCHRD will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the CCHRD will require the family to provide documentation of income and expenses for this period and use that information to project income.

Periodic Payments and Payments in Lieu Of Earnings

Social Security/SSI Benefits

To verify the SS/SSI benefits of applicants, the CCHRD will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the CCHRD will help the applicant request a benefit verification letter from SSA's Website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213.Once the applicant has received the benefit verification letter they will be required to provide it to the CCHRD.

Alimony or Child Support

The methods the CCHRD will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it ***receives regular payments***, verification will be obtained in the following order of priority:

- Copies of the receipts and/or payment stubs for the 60 days prior to CCHRD request.
- Third-party verification form from the state or local child support enforcement agency
- Third-party verification form from the person paying the support
- Family's self-certification of amount received.

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

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

Note: Families are not required to undertake independent enforcement action.

Assets and Income from Assets

Assets Disposed of for Less than Fair Market Value

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

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

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

Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and the CCHRD verified this amount. Now the person reports that she has given this $10,000 to her son. The CCHRD has a reasonable estimate of the value of the asset; therefore, re-verification of the value of the asset is not necessary. Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the CCHRD will verify the value of this asset.

Net Income from Rental Property

The family must provide a current executed lease for the property that shows the rental amount or certification from the current tenant.

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

Retirement Accounts

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

Type of original document that will be accepted depends upon the family member's retirement status.

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

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

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

Zero Annual Income Status

The CCHRD will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, and earnings are not being received by families claiming to have zero annual income.

Student Financial Assistance

Any financial assistance, in excess of amounts received for tuition, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving assistance [24 CFR 5.609(b)(9) and FR 4/10/06].

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving assistance, the full amount of student financial assistance is excluded from annual income [24 CFR 5.609(c)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 3-2). Excluded amounts are verified only if, without verification, the CCHRD would not be able to determine whether or to what extent the income is to be excluded.

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

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

Verifying Mandatory Deductions

Dependent and Elderly/Disabled Household Deductions

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

Dependent Deduction

See Chapter 6 for a full discussion of this deduction. The CCHRD will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the

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

Elderly/Disabled Family Deduction

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 for a discussion of the deduction. The CCHRD will verify that the head or spouse is 62 years of age or older or a person with disabilities.

Medical Expense Deduction

Policies related to medical expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures.

Amount of Expense

Medical expenses will be verified through:

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

In addition, the CCHRD must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head or spouse is at least 62, or a person with disabilities. The CCHRD will verify that the family meets the definition of an elderly or disabled family provided in the eligibility chapter.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 for the CCHRD's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source. The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

Expenses Incurred in Past Years

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

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

Disability Assistance Expenses

Policies related to disability assistance expenses are found in chapter 6.

Amount of Expense

Attendant Care

The CCHRD will accept written third-party documents provided by the family. If family-provided documents are not available, the CCHRD will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelled checks.
- Third-party verification form signed by the provider, if family-provided documents are not available.
- If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months

Auxiliary Apparatus

Expenses for auxiliary apparatus will be verified through:

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

In addition, the CCHRD must verify that:

- The family member for whom the expense is incurred is a person with disabilities.
- The expense permits a family member, or members, to work as described in chapter 6.
- The expense is not reimbursed from another source as described in chapter 6.

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The CCHRD will verify that the expense is incurred for a person with disabilities.

Family Member(s) Permitted to Work

The CCHRD must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

The CCHRD will request third-party verification from a rehabilitation agency or medical doctor indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work. This documentation may be provided by the family.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

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

CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures discussed in this chapter. In addition, the CCHRD must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education. The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The CCHRD will verify that the child being cared for (including foster children) is under the age of 13.

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

The family (and the care provider) will be required to certify that the child care expenses are not paid or reimbursed to the family from any source.

Pursuing an Eligible Activity

The CCHRD must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

Information to be Gathered

The CCHRD will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

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

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

Furthering Education

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

Gainful Employment

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

Allowable Type of Child Care

The CCHRD will verify that the type of child care selected by the family is allowable, as described in Chapter 6.

The CCHRD will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The CCHRD will verify that the childcare provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable childcare costs can be deducted.

The actual costs the family incurs will be compared with the CCHRD's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the CCHRD will request additional documentation, as required, to support a determination that the higher cost is appropriate.

EXHIBIT 7-2: ACCEPTABLE CITIZENSHIP DOCUMENTATION

U.S. Birth Certificate	U.S. Certificate of Naturalization
U.S. Certificate of Birth abroad issued by the U.S. State Department	American Indian Card
Certificate of Birth abroad issued Department of the State	Current DDI or SSDI Award Letter
United States Passport	Bureau of Indian Affairs or Tribal Affidavit of Birth
A Foreign Passport with a United States VISA	A Tribal Certificate of Indian Blood or Native American Census Record
I-97 Form with photographs	U.S. Citizen Identification Card
Permanent Resident Card	Identification Card for Use of Resident Citizen in the United States
Verification from USCIS	U.S. Department of Justice Certificate of Citizenship
Refugee Travel Document	Identification Card for use of Resident Citizen
Northern Mariana ID	Alien Registration Receipt Card

Chapter 8

HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 Subpart I and 24 CFR 982.507]

HUD requires that all units occupied by families receiving TBRA assistance meet HUD's Housing Quality Standards (HQS) and permits the CCHRD to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and the CCHRD-established requirements.

All units must pass an HQS inspection prior to the approval of a lease and at least once every 12 months during the term of the contract and at other times as needed, to determine that the unit meets HQS.

HUD also requires the CCHRD to determine that rents for under the program are reasonable when compared to comparable unassisted units in the market area.

Physical Standards

Housing occupied by a family receiving tenant-based assistance must meet the requirements set for in 24 CFR 982.401. The CCHRD must inspect the housing initially and re-inspect it annually [24 CFR 982.209]. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors

A summary of HUD performance criteria is provided in Attachment 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

Tenant Preference Items

HUD requires the CCHRD to enforce minimum HQS but also recognizes that certain judgments about the acceptability of the unit are left to the family. For example, the CCHRD must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic appearance of the facilities is acceptable. Exhibit 8-2 summarizes those items that are considered tenant preferences.

Modifications to Provide Accessibility

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained.[24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to the CCHRD for review.

Additional Local Requirements

The CCHRD may impose variations to the HQS as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choice for families. HUD approval is required for variations to the HQS. HUD approval is not required if the variations are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

Thermal Environment

The heating system must be capable of maintaining an interior temperature of 55-85 degrees Fahrenheit between October 1 and May 1.

Clarifications of HUD Requirements

As permitted by HUD, the CCHRD has adopted the following specific requirements that elaborate on HUD standards.

Walls
In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced.

Windows
Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced.
Windows must be weather-stripped as needed to ensure a weather-tight seal.
Window screens must be in good condition (applies only if screens are present).

Doors
All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.
All interior doors must have no holes, have all trim intact, and be openable without the use of a key.

Floors
All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be resecured and made level. If they cannot be leveled, they must be replaced.
All floors must be in a finished state. Raw wood or unsealed concrete is not permitted.
All floors include, except for carpeted floors, some type of baseshoe, trim, or sealing for a "finished look." Vinyl baseshoe is permitted.

Sinks
All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.
All sinks must have functioning stoppers.

Toilets
All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

Security
If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

Life Threatening Conditions [24 CFR 982.404(a)]
HUD requires the CCHRD to define life-threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within 24 hours of CCHRD notification.

The following are considered life-threatening conditions:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of

falling
- Natural or LP gas or fuel oil leaks
- Any electrical problem or condition that could result in shock or fire
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.
- Absence of a working air conditioner or evaporative cooler when the outside temperature is 110 degrees or above.
- Utilities not in service
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit
- Non-operable smoke detectors

If an owner fails to correct life-threatening conditions as required by the CCHRD, the CCHRD will enforce the HQS in accordance with HUD requirements.

If a family fails to correct a family caused life threatening condition as required by the CCHRD, the CCHRD will enforce the family obligations.

The owner will be required to repair an inoperable smoke detector unless the CCHRD determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

Owner and Family Responsibilities [24 CFR 982.404]

Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:
- Tenant-paid utilities not in service
- Failure to provide or maintain appliances owned by the family
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear that result in a breach of the HQS. "Normal wear and tear" is defined as items, which could not be charged against the tenant's security deposit under state law or court practice.

Owner Responsibilities

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

Determination of Responsibility for Housing Quality Standard Violations

The Housing Quality Standards Inspector will make a determination of owner or family responsibility for the housing quality standards deficiencies found during the inspection. The owner or tenant may appeal the determination to the Housing Manager within three (3) working days of the inspection.

Special Requirements For Children with Environmental Intervention Blood Lead Level [24 CFR 35.1225]

If the CCHRD is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an assisted unit has been identified as having an environmental intervention blood lead level, the CCHRD must complete a risk assessment of the dwelling unit. The risk assessment must be completed in accordance with program requirements, and the result of the risk assessment must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the risk assessment report from the CCHRD, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the owner does not complete the "hazard reduction" as required, the dwelling unit is in violation of HQS and the CCHRD will take action.

The CCHRD reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 15.

Violation of HQS Space Standards [24 CFR 982.401, 24 CFR 982.403]

A dwelling unit must:

- Provide adequate space and security for the family
- Have at least one bedroom or living/sleeping room for each two persons

A unit that does not meet these HQS space standards is defined as *overcroweded.*

A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space [HCV GB p. 10-6]. A bedroom or living/sleeping room must have at least:

- One window
- Two electrical outlets in proper operating condition (permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets)

If the CCHRD determines that a unit is overcrowded because of an increase in family size or a change in family composition, the CCHRD must issue the family a new certificate and the family and the CCHRD must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the CCHRD must terminate the RAP contract in accordance with its terms.

The Inspection Process

Types of Inspections

The CCHRD conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections*. The CCHRD conducts initial inspections in response to a request from the family to approve a unit for participation in the TBRA program. The unit must pass the HQS inspection on or before the effective date of the RAP Contract.

- *Annual Inspections*. HUD requires the CCHRD to inspect each unit under lease at least annually to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.

- *Special Inspections.* A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.

Notice and Scheduling

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

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:00 a.m. and 7:00 p.m. Generally inspections will be conducted on business days only. In the case of a life threatening emergency, the CCHRD will give as much notice as possible, given the nature of the emergency.

Owner and Family Inspection Attendance

When a family occupies the unit at the time of inspection an adult family member must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

At initial inspection of a vacant unit, the CCHRD will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted, but is not required.

Initial HQS Inspection [24 CFR 982.401(a)]

Timing of Initial Inspections

The CCHRD will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA).

Inspection Results and Reinspections

If any HQS violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by the CCHRD for good cause. The CCHRD will reinspect the unit within 5 business days of the date the owner notifies the CCHRD that the required corrections have been made.

If the time period for correcting the deficiencies (or any CCHRD-approved extension) has elapsed, or the unit fails HQS at the time of the reinspection, the CCHRD will notify the owner and the family that the unit has been rejected and that the family must search for another unit. The CCHRD may agree to conduct a second reinspection, for good cause, at the request of the family and owner.

Following a failed reinspection, the family may submit a new Request for Tenancy Approval after the owner has made repairs, if they are unable to locate another suitable unit.

Utilities

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

If utility service is not available for testing at the time of the initial inspection, the CCHRD will not conduct the inspection.

After the initial inspection has passed, and the owner does not provide the utility service, the electric utility must be turned on only in the head of household's name before the execution of the Rental Assistance Payment Contract. Written documentation must be provided to the CCHRD that will verify that the electric utility is turned on only in the head of household's name.

It is important that the electricity is in the head of household's name because the CCHRD submits utility reimbursement payments to the electric company only in the head of household's name.

Appliances

If the family is responsible for supplying the stove and/or refrigerator, the CCHRD will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the RAP contract is executed by the CCHRD. The CCHRD will execute the RAP contract based upon a certification from the family that the appliances have been installed and are working. A confirmatory inspection will be scheduled within 30 days of RAP contract approval.

Scheduling the Inspection

If an adult family member cannot be present on the scheduled date, the family should request that the CCHRD reschedule the inspection. The CCHRD and family will agree on a new inspection date that generally should take place within 5 business days of the originally-scheduled date. The CCHRD may schedule an inspection more than 5 business days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, the CCHRD will automatically schedule a second inspection. If the family misses two scheduled inspections without CCHRD approval, the CCHRD will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

Special Inspections [HCV GB p. 10-30]

The CCHRD will conduct a special inspection if the owner, family, or another source reports HQS violations in the unit. If the reported condition is not life-threatening (i.e., the CCHRD would require the owner to make the repair within no more than 30 calendar days), then the CCHD must inspect the unit within 15 days of when the CCHRD received the complaint.

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

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

Enforcing Owner Compliance

If the owner fails to maintain the dwelling unit in accordance with HQS, the CCHRD must take prompt and vigorous action to enforce the owner obligations.

RAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by the CCHRD, HUD requires the CCHRD to abate rental assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.2(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family's responsibility.

The CCHRD will make all RAP abatements effective the first of the month following the expiration of the CCHRD specified correction period (including any extension).

The CCHRD will inspect abated units within 5 business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

During any abatement period the 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.

RAP Contract Termination

The maximum length of time that a RAP may be abated is 7 days. However, if the owner completes corrections and notifies the CCHRD before the termination date of the RAP contract, the CCHRD may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection. Reasonable notice of RAP contract termination by the CCHRD is 30 days.

Enforcing Family Compliance with HQS [24 CFR 982.404(b)]

Families are responsible for correcting any HQS violations. If the family fails to correct a violation within the period allowed by the CCHRD (and any extensions), the CCHRD will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner

may bill the family for the cost of the repair.

Rent Reasonableness [24 CFR 92.209]

No RAP contract can be approved until the CCHRD has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the TBRA program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

When Rent Reasonableness Determinations Are Required [24 CFR 92.209]

Owner-initiated Rent Determinations

The CCHRD must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The CCCC will assist the family with the negotiations upon request. At initial occupancy the CCHRD must determine whether the proposed rent is reasonable before a RAP Contract is signed. The owner must not change the rent during the initial lease term. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, the CCHRD may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises the CCHRD will consider unit size and length of tenancy in the other units.

The CCHRD will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

All rents adjustments will be effective the first of the month following 60 days after the CCHRD's receipt of the owner's request or on the date specified by the owner, whichever is later.

How Comparability is Established

The CCHRD to take into consideration the factors listed below when determining rent comparability. The CCHRD may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance

and improvements made.
- Amenities, services, and utilities included in the rent

Units that Must Not be Used as Comparables

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance.

Note: Notice PIH 2010-18, issued May 10, 2010, provides further guidance on the issue of what constitutes an assisted unit.

Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the CCHRD payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the CCHRD information regarding rents charged for other units on the premises.

Rent Reasonableness Methodology

How Market Data Is Collected

The CCHRD will collect and maintain data on market rents in the CCHRD's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries. The data will be updated on an ongoing basis and rent information that is more than 24 months old will be eliminated from the database.

How Rents Are Determined

The rent for a unit proposed for assistance will be compared to the rent charged for comparable units in the same market area. The CCHRD will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for TBRA assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for TBRA assistance, the CCHRD may make adjustments to the range of prices to account for these differences.

The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas).
Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-

bedroom unit than in a two-bedroom).

The adjustment must reflect the rental value of the difference – not its construction costs (e.g., it might cost $20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rents units are presumed to have functioning roofs).

When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of $500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $500 x 11 months = 5500/12 months = actual monthly rent of $488.

The CCHRD will notify the owner of the rent the CCHRD can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The CCHRD will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within 5 business days of the CCHRD's request for information or the owner's request to submit information.

EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS

Note: This document provides an Overview of HQS. For more detailed information see the following documents:

- 24 CFR 982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Sanitary Facilities
The dwelling unit must include sanitary facilities within the unit. The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

Food Preparation and Refuse Disposal
The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

Space and Security
The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons.

- Rooms used as a sleeping area (den, living room, family room, dining room, etc) will not be counted as a bedroom for purposes of higher contract rent.
- A room must be classified as a bedroom if that is the purpose for which it was designed and if it meets the HQS criteria for a living/sleeping room (i.e., at least one window and must be operable; smoke detector, two working outlets and one permanently installed light fixture.)
- A room will not be classified as a bedroom if it was not designed for that purpose.
- Bedrooms generally have closets and offer permanent privacy or semi-privacy in the form of surrounding walls and a door.

Thermal Environment
The unit must have a safe system for heating the dwelling unit. Air conditioning is not required but if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

Illumination and Electricity
Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

Structure and Materials
The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

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

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

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

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
- provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by the CCHRD
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices
- As part of ongoing maintenance ask each family to report deteriorated paint.

For units occupied by environmental intervention blood lead level (lead poisoned) children under six years of age, a risk assessment must be conducted (paid for by the CCHRD). If lead hazards are identified during the risk assessment, the owner must complete hazard reduction activities. See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

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

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

Yard Maintenance:

- Front, side or backyards shall not be allowed to become dry and overgrown. No dry weeds, grass, trees or bushes that present a hazardous condition. Such conditions will be rated 'FAIL'.
- Overgrown green grass, trees or bushes will be rated as a 'NOTABLE' item unless the Inspector deems any or all to be a hazardous condition.
- The ground shall be free of any hazardous debris. A hazardous condition would endanger the health or safety of the tenant.
- The HA recommends that the owner and the tenant enter into a written agreement regarding yard maintenance and submit a copy to the HA for the tenants file.

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

Smoke Detectors
Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).

Hazards and Heath/Safety
The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.

EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY

Note: This document provides an Overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Provided the minimum housing quality standards have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

(1) Sanitary Facilities. The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.

(2) *Food Preparation and Refuse Disposal.* The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.

(3) *Space and Security.* The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.

(4) *Energy conservation items.* The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.

(5) *Illumination and Electricity.* The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.

(6) *Structure and Materials.* Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.

(7) *Indoor Air.* Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present they must be in good condition.

(8) *Sanitary Conditions.* The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.

(9) *Neighborhood conditions.* Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and smoke detectors.

Chapter 9

GENERAL LEASING POLICIES

Chapter 9 covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the RAP contract.

In order for the CCHRD to assist a family in a particular dwelling unit, or execute a Rental Assistance Payments (RAP) contract with the owner of a dwelling unit, the CCHRD must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by the CCHRD and meet the Housing Quality Standards (HQS) [24 CFR 982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)]
- The owner must be an eligible owner, approvable by the CCHRD, with no conflicts of interest [24 CFR 982.306]

Tenant Screening

The CCHRD has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before the CCHRD approval of the tenancy, the CCHRD will inform the owner that screening and selection for tenancy is the responsibility of the owner. The CCHRD must also inform the owner or manager or his/her rights and obligations under the Violence against Women Act of 2013 (VAWA) [24 CFR 5.2005(a)(2)].

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

Requesting Tenancy Approval

After the family is issued a certificate, the family must locate an eligible unit, with an owner or landlord willing to participate in the TBRA program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request the CCHRD to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to the CCHRD:

- Completed Request for Tenancy Approval (RTA)
- Copy of the proposed lease,

The RTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the CCHRD to determine

whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the CCHRD has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RTA and the proposed lease must be submitted no later than the expiration date stated on the certificate.

The RTA must be signed by both the family and the owner.

The owner may submit the RTA on behalf of the family.

Completed RTA (including the proposed dwelling lease) must be submitted as hard copies, in-person, by mail, or by fax.

The family may not submit, and the CCHRD will not process, more than one (1) RTA at a time.

When the family submits the RTA the CCHRD will review the RTA for completeness.
If the RTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RTA, the CCHRD will notify the family and the owner of the deficiencies. Missing information and/or missing documents will only be accepted as hard copies, in-person, by mail, or by fax. The CCHRD will not accept missing information over the phone.

When the family submits the RTA and proposed lease, the CCHRD will also review the terms of the RTA for consistency with the terms of the proposed lease.

If the terms of the RTA are not consistent with the terms of the proposed lease, the CCHRD will notify the family and the owner of the discrepancies. Corrections to the terms of the RTA and/or the proposed lease will only be accepted as hard copies, in-person, by mail or by fax. The CCHRD will not accept corrections by phone.

Because of the time sensitive nature of the tenancy approval process, the CCHRD will attempt to communicate with the owner and family by phone, fax, or email. The CCHRd will use mail when the parties cannot be reached by phone, fax, or email.

Owner Participation

The CCHRD does not formally approve an owner to participate in the TBRA program. However, there are a number of criteria where the CCHRD may deny approval of an assisted tenancy based

on past owner behavior, conflict of interest, or other owner-related issues. There are also criteria for which the CCHRD must disapprove an owner. No owner has a right to participate in the TBRA program.

See Chapter 13 for a full discussion of owner qualification to participate in the TBRA program.

Eligible Units

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the TBRA program. Generally, a certificate-holder family may choose any available rental dwelling unit on the market in the CCHRD's jurisdiction. This includes the dwelling unit they are currently occupying.

Duplicative Assistance [24 CFR 982.352(c)]

A family may not receive the benefit of tenant-based assistance under the HOME program while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

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

Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.

Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the certificate issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the certificate issued to the family. See Chapter 5 for a full discussion of subsidy standards.

Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]
In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

Lease Agreement [24 CFR 92.209(g)
The family and the owner must execute a written dwelling lease agreement for the assisted unit. This written lease is a contract between the tenant family and the owner; the CCHRD is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

Lease Information [24 CFR 982.308(d)]
The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant:
- The unit rented (address, apartment number, and any other information needed to identify the contract unit)
- The term of the lease (initial term and any provisions for renewal)
- The amount of the monthly rent to owner
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family

Term of Assisted Tenancy [24 CFR 982.253(a),(b)(1-9)].
There must be a written lease between the tenant and the owner of rental housing assisted with HOME funds that is for a period of not less than one year, unless by mutual agreement between the tenant and the owner a shorter period is specified.

Prohibited lease terms. The lease may not contain any of the following provisions:

(1) *Agreement to be sued.* Agreement by the tenant to be sued, to admit guilt or to a judgment in favor of the owner in a lawsuit brought in connection with the lease;

(2) *Treatment of property.* Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The owner may dispose of this personal property in accordance with State law;

(3) *Excusing owner from responsibility.* Agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent;

(4) *Waiver of notice.* Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant;

(5) *Waiver of legal proceedings.* Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;

(6) *Waiver of a jury trial.* Agreement by the tenant to waive any right to a trial by jury;

(7) *Waiver of right to appeal court decision.* Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease;

(8) *Tenant chargeable with cost of legal actions regardless of outcome.* Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses; and

(9) *Mandatory supportive services.* Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered.

Security Deposit [24 CFR 92.209]

The CCHRD will allow the owner to collect any security deposit amount the owner determines is appropriate. Therefore, no modifications to the RAP contract will be necessary.

The CCHRD will provide a grant for security deposit not to exceed the equivalent of two month's rent for the unit. Only the prospective tenant may apply for HOME security deposit assistance. The security deposit will be paid directly to the landlord.

Separate Non-Lease Agreements between Owner and Tenant

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner as approved by the CCHRD minus the CCHRD's rental assistance payments to the owner.

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

The CCHRD permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are <u>not</u> customarily provided to unassisted families as part of the dwelling lease with those families, are <u>not</u> permanently installed in the dwelling unit and where the family has the sole option of <u>not</u> utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the

family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

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

Review of Lease

The CCHRD will review the dwelling lease for compliance with all applicable requirements.

If the dwelling lease is incomplete or incorrect, the CCHRD will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by mail, or by fax. The CCHRD will not accept missing and corrected information over the phone

Because the initial leasing process is time-sensitive, the CCHRD will attempt to communicate with the owner and family by phone, fax, or email. The CCHRD will use mail when the parties can't be reached by phone, fax, or email.

The CCHRD will not review the owner's lease for compliance with state/local law.

Tenancy Approval

After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, the CCHRD must promptly notify the family and owner whether the assisted tenancy is approved. Prior to approving the assisted tenancy and execution of a RAP contract, the CCHRD must ensure that all required actions and determinations, discussed in this chapter have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by the CCHRD and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable; the rent to be charged by the owner for the unit must is reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable rent standard for the family,; the owner is an eligible owner, not disapproved by the CCHRD, with no conflicts of interest [24 CFR 982.306]; the family and the owner have executed the lease and the lead-based paint disclosure information [24 CFR 982.305(b)].

The CCHRD will complete its determination within 10 business days of receiving all required information.

If the terms of the RTA/proposed lease are changed for any reason, including but not limited to negotiation with the CCHRD, the CCHRD will obtain corrected copies of the RTA and proposed lease, signed by the family and the owner.

Corrections to the RTA/proposed lease will only be accepted as hard copies, in-person, by mail, or by fax. The CCHRD will not accept corrections over the phone.

If the CCHRD determines that the tenancy cannot be approved for any reason, the owner and the family will be notified in writing and given the opportunity to address any reasons for disapproval. The CCHRD will instruct the owner and family of the steps that are necessary to obtain approval of the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued certificate.

If the tenancy is not approvable due to rent affordability or rent reasonableness, the CCHRD or CCCC will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued certificate.

RAP Contract Execution

The RAP contract is a written agreement between the CCHRD and the owner of the dwelling unit. Under the RAP contract, the CCHRD agrees to make rental assistance payments to the owner on behalf of the family, and the owner agrees to comply with all program requirements as stated in the RAP contract.

If the CCHRD has given approval for the family of the assisted tenancy, the owner and the CCHRD must execute the RAP contract.

The term of the RAP contract must be the same as the term of the lease. The CCHRD is permitted to execute a RAP contract even if the funding currently available does not extend for the full term of the RAP contract.

The CCHRD must make a best effort to ensure that the RAP contract is executed before the beginning of the lease term. Regardless, the RAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

The CCHRD may not pay any rental assistance payment to the owner until the RAP contract has been executed. If the RAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the CCHRD will pay rental assistance payments after execution of the RAP contract (in accordance with the terms of the RAP contract), to cover the portion of the lease term before execution of the RAP contract (a maximum of 60 days).

Any RAP contract executed after the 60 day period is void, and the CCHRD may not pay any rental assistance payment to the owner.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the CCHRD.

The owner and the CCHRD will execute the RAP contract. The CCHRD will not execute the RAP contract until the owner has submitted IRS form W-9. The CCHRD will ensure that the owner receives a copy of the executed RAP contract.

Changes in Lease or Rent

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the CCHRD a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, the CCHRD approval of tenancy and execution of a new RAP contract are not required for changes in the lease. However, under certain circumstances, the execution of a new lease and RAP contract are required. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances
- Changes in lease provisions governing the term of the lease
- The family moves to a new unit, even if the unit is in the same building or complex

In these cases, if the TBRA assistance is to continue, the family must submit a new Request for Tenancy Approval (RTA) along with a new dwelling lease containing the proposed changes. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of the rent to owner, the owner must notify the CCHRD at least 60 days before any such changes go into effect. The CCHRD will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is <u>not</u> found to be reasonable, the owner must either reduce the requested rent increase, or terminate the tenancy in accordance with the terms of the lease. No rent increase is permitted during the initial term of the lease.

Where the owner is requesting a rent increase, the CCHRD will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

Rent increases will go into effect on the first of the month following the 60 day period after the owner notifies the CCHRD of the rent change or on the date specified by the owner, whichever is later.

Chapter 10

MOVING WITH CONTINUED ASSISTANCE

Allowable Moves

HUD lists five regulatory conditions and the statutory condition under VAWA in which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in this chapter.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.314(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the CCHRD a copy of the notice at the same time [24 CFR 982.314(d)(1)].

- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 92.253].If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give the CCHRD a copy of the termination agreement.

- The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family. The family must give the CCHRD a copy of any owner eviction notice.

- The family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member [24 CFR 982.314(b)(4)]. This condition applies even when the family has moved out of its unit in violation of the lease, with or without prior notification to the CCHRD, if the family or family member who is the victim reasonably believed that he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.314(b)(4), 24 CFR 982.353(b)]. If a family requests permission to move with continued assistance based on ac claim that the move is necessary to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, the CCHRD will request documentation in accordance with chapter 15.

  The CCHRD reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the family or family member will suffice. In such cases the CCHRD will document the waiver in the family's file.

- The CCHRD has terminated the assisted lease for the family's unit for the owner's

breach.

- The CCHRD determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, the CCHRD must issue the family a new certificate, and the family and CCCC must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the CCHRD must terminate the RAP contract for the family's old unit in accordance with the RAP contract terms and must notify both the family and the owner of the termination. The RAP contract terminates at the end of the calendar month that follows the calendar month in which the CCHRD gives notice to the owner.

Restrictions on Moves

A family's right to move is generally contingent upon the family's compliance with program requirements. There are two conditions under which the CCHRD may deny a family permission to move.

Denial of Moves

Insufficient Funding

The CCHRD will deny a family permission to move on grounds that the CCHRD does not have sufficient funding for continued assistance

The CCHRD will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

Grounds for Denial or Termination of Assistance

The CCHRD may deny a family permission to move if it has grounds for denying or terminating the family's assistance.

If the CCHRD has grounds for denying or terminating a family's assistance, the CCHRD will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances.

Moving Process

If a family wishes to move to a new unit, the family must notify the CCHRD and the owner before moving out of the old unit or terminating the lease on notice to the owner.

Reexamination of Family Income and Composition

For families approved to move to a new unit within the CCHRD's jurisdiction, the CCHRD will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan.

Certificate Issuance and Briefing

For families approved to move to a new unit within the CCHRD's jurisdiction, the CCHRD will issue a new certificate within 10 business days of the CCHRD's written approval to move. No briefing is required for these families. The CCHRD will follow the policies set forth in Chapter 5 on certificate term, extension, and expiration. If a family does not locate a new unit within the

term of the certificate and any extensions, the family may remain in its current unit with continued certificate assistance if the owner agrees and the CCHRD approves. Otherwise, the family will lose its assistance.

Rental Assistance Payments

When a family moves out of an assisted unit, the CCHRD may not make any rental assistance payment to the owner for any month **after** the month the family moves out. The owner may keep the rental assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last rental assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit is not considered to constitute a duplicative housing subsidy.

Chapter 11

REEXAMINATIONS

The CCHRD is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result.

Annual Reexaminations

The CCHRD must conduct a reexamination of family income and composition and determine income eligibility at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated.

Eligible as low-income families

Scheduling Annual Reexaminations

The CCHRD will begin the annual reexamination process 90-120 days in advance of its scheduled effective date. Generally, the CCHRD will schedule annual reexamination effective dates to coincide with the family's anniversary date.

> *Anniversary date* is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).
>
> If the family moves to a new unit, the CCHRD will perform a new annual reexamination. The CCHRD also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

Families are required to participate in an annual reexamination interview, which must be attended by the head of household or spouse. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the CCHRD to request a reasonable accommodation (see Chapter 2).

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

If the family is unable to attend a scheduled interview, the family should contact the CCHRD in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, the CCHRD will send a second notification with a new interview date and appointment time.

If a family fails to attend two scheduled interviews without CCHRD approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and the CCHRD must execute a certification attesting to the role and assistance provided by any such third party.

Conducting Annual Reexaminations

As part of the annual reexamination process, families are required to provide updated information to the CCHRD regarding the family's income, expenses, and composition.

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a CCHRD-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documents or forms related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

Families who have extenuating circumstances or are elderly will be permitted to complete their reexamination by mail. A request for an exception must be submitted in writing and will be reviewed and approved by management on a case-by-case basis.

At the annual reexamination, the CCHRD will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. The CCHRD will use the Chandler Police Department Sex Offender database to verify the information provided by the tenant.

If the CCHRD proposes to terminate assistance based on lifetime sex offender registration information, the CCHRD must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. (See Chapter 12.)

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the CCHRD has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age

- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the Housing Quality Standards (HQS) (see Chapter 8), the CCHRD must issue the family a new certificate, and the family and CCCC must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the CCHRD must terminate the RAP contract in accordance with its terms.

Criminal background screening

The CCHRD is authorized to perform criminal background checks during the annual recertification/reexamination to determine if a member of a participant's household is subject to a lifetime registration requirement under any State sex offender registration program. Additionally, the CCHRD must ask whether the tenant, or any member of the tenant's household, is subject to a lifetime registered sex offender registration requirement in any state. The CCHRD may not pass along to the applicant the costs of a criminal records check.

Each household member age 18 and over will be required to execute a consent form for criminal background check as part of the annual update process

The CCHRD will perform criminal background checks through local law enforcement or use the Dru Sjodin National Sex Offender database for all adult household members.

If the recertification screening reveals that the tenant has falsified information or otherwise failed to disclose criminal history on his/her full application and/or recertification forms, the CCHRD will pursue termination of assistance.

Effective Dates

In general, an *increase* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and RAP contract, and no 30-day notice is required.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 15.

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and RAP contract.

If the family causes a delay in processing the annual reexamination, d*ecreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the CCHRD by the date specified, and this delay prevents the CCHRD from completing the reexamination as scheduled.

Interim Reexaminations

Family circumstances may change between annual reexaminations. HUD and the CCHRD policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the CCHRD must process interim reexaminations to reflect those changes. HUD regulations also permit the CCHRD to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted.

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition changes. The CCHRD must complete the interim reexamination within a reasonable time after the family's request.

Changes in Family and Household Composition

All families must notify the CCHRD of any change within 10 business days of its occurrence (e.g., If the resident or any member of the family became employed, the start date of employment would start the count of 10 business days). The changes must be submitted in writing by using our 'Change Report Form'. The copy of the form must be time and date stamped by the CCHRD to be considered valid. The copy of the form will be provided to the participant.

The CCHRD will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members <u>Not</u> Requiring CCHRD Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require the CCHRD approval. However, the family is required to notify the CCHRD of the addition within 10 business days of its occurrence.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request the CCHRD approval to add a new family member or other household member (live-in aide or foster child).

When any new family member is added, the CCHRD must conduct a reexamination to determine any new income or deductions associated with the additional family member, and to make appropriate adjustments in the family share of the rent and the RAP payment.

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), the CCHRD must issue the family a new certificate, and the family and CCCC must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the CCHRD must terminate the family's RAP contract in accordance with its terms.

Families must request the CCHRD approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for no longer than a total of 14 days within a 12-month period, and therefore no longer qualifies as a "guest". Requests must be made in writing and approved by the CCHRD prior to the individual moving into the unit.

The CCHRD will not approve the addition of new family or household members other than a significant other to the household, by birth, adoption, court-awarded custody, or marriage unless the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by the CCHRD. A request for an exception must be submitted in writing and will be reviewed and approved by management on a case-by-case basis.

The CCHRD will not approve the addition of a new family or household member unless the individual meets the CCHRD's eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7).

The CCHRD will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If the CCHRD determines an individual meets the CCHRD's eligibility criteria and documentation requirements, the CCHRD will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued a certificate and will be required to move.

If the CCHRD determines that an individual does not meet the CCHRD's eligibility criteria or documentation requirements, the CCHRD will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The CCHRD will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

The family will not receive approval to add a separate family (two or more persons) to the household.

Departure of a Family or Household Member

Families must promptly notify the CCHRD if any family member no longer lives in the unit. Because household members are considered when determining the family unit (certificate) size, the CCHRD also needs to know when any live-in aide, foster child, or foster adult ceases to

reside in the unit.

If a household member ceases to reside in the unit, the family must inform the CCHRD in writing within 10 business days of its occurrence and provide the new residential address of the family member who is being removed. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the CCHRD within 10 business days.

Changes Affecting Income or Expenses

Interim reexaminations can be scheduled either because the CCHRD has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the CCHRD may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

The CCHRD-Initiated Interim Reexaminations

The CCHRD-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the CCHRD. They are not scheduled because of changes reported by the family.

The CCHRD will conduct interim reexaminations in each of the following instances:

> For families receiving the Earned Income Disallowance (EID), the CCHRD will conduct an interim reexamination at the start and conclusion of the second 12 month exclusion period (50 percent phase-in period).
>
> If the family has reported zero income, the CCHRD will conduct an interim reexamination every month as long as the family continues to report that they have no income. The family will provide a notarized affirmation of zero income, complete a zero income budgeting worksheet and questionnaire. A review of the checking and saving bank statements will be conducted to observe the cost expenditures and deposits.
>
> If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the CCHRD will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.
>
> If at the time of the annual reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the CCHRD will conduct an interim reexamination.
>
> The CCHRD may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud

complaint.

Family-Initiated Interim Reexaminations

The CCHRD must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses.

Required Reporting

Families are required to report all increases in earned and unearned income, including new employment within 10 business days of its occurrence. The changes must be submitted in writing by using our 'Change Report Form'. The copy of the form must be time and date stamped by the CCHRD to be considered valid. The copy of the form will be provided to the participant.

Processing the Interim Reexamination

Method of Reporting

The family must notify the CCHRD of changes in writing. Generally, the family will not be required to attend an interview for an interim reexamination. However, if the CCHRD determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the CCHRD will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from the CCHRD. This time frame may be extended for good cause with CCHRD approval. The CCHRD will accept required documentation by mail, by fax, or in person.

Effective Dates

If the family share of the rent is to *increase*:

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

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 15.

If the family share of the rent is to *decrease*:

The decrease will be effective on the first day of the month following the month in which the change was reported and all required documentation was submitted; however, all required documentation must be received by the 20th calendar day of the month to allow adequate time for processing.

In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

Recalculating Family Share and Subsidy amount

After gathering and verifying required information for an annual or interim reexamination, the CCHRD must recalculate the family share of the rent and the subsidy amount, and notify the family and owner of the changes. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

Changes in Rent standards and Utility Allowances

In order to calculate the family share of the rent and RAP amount correctly, changes in rent standards, subsidy standards, or utility allowances may need to be updated and included in the CCHRD's calculations.

Rent standards

The family share of the rent and RAP calculations must use the correct rent standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located. See Chapter 6 for information on how to select the appropriate rent standard.

When the CCHRD changes its rent standards or the family's situation changes, new rent standards are applied at the *first annual* reexamination following the effective date of the rent standard change.

If the family moves to a new unit, or a new RAP contract is executed due to changes in the lease (even if the family remains in place) the current rent standard applicable to the family will be used when the new RAP contract is processed.

Subsidy Standards

If there is a change in the family unit size that would apply to a family during the RAP contract term, either due to a change in family composition, or a change in the CCHRD's subsidy standards (see Chapter 5), the new family unit size must be used to determine the rent standard amount for the family at the family's *first annual* reexamination following the change in family unit size.

Utility Allowances

The family share of the rent and RAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the CCHRD's utility allowance schedule. When there are changes in the utility arrangement with the owner, the CCHRD must use the utility allowances in effect at the time the new lease and RAP contract are executed.

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

Notification of New Family Share and RAP Amount

The CCHRD must notify the owner and family of any changes in the amount of the RAP payment. The notice will include the following information:

- The amount and effective date of the new RAP payment
- The amount and effective date of the new family share of the rent
- The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding the CCHRD's determination of their annual or adjusted income, and the use of such income to compute the rental assistance payment (see Chapter 16).

Discrepancies

During an annual or interim reexamination, the CCHRD may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the CCHRD may discover errors made by the CCHRD. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.

Chapter 12

TERMINATION OF ASSISTANCE AND TENANCY

Grounds for Termination of Assistance

HUD requires the CCHRD to terminate assistance for certain actions and inactions of the family and when the family no longer requires assistance due to increases in family income. HUD permits the CCHRD to terminate assistance for certain other actions or inactions of the family. In addition, a family may decide to withdraw from the program and terminate their TBRA assistance at any time by notifying the CCHRD.

Family No Longer Requires Assistance [

As a family's income increases, the amount of the CCHRD rental assistance payment decreases. If the amount of assistance provided by the CCHRD is reduced to zero the family's assistance terminates automatically 180 days after the last RAP payment.

If a participating family receiving zero assistance experiences a change in circumstances that would result in a RAP payment to the owner, the family must notify the CCHRD of the change and request an interim reexamination before the expiration of the 180-day period.

Family Chooses To Terminate Assistance

The family may request that the CCHRD terminate rental assistance payments on behalf of the family at any time.

The request to terminate assistance should be made in writing and signed by the head of household and spouse, if applicable. Before terminating the family's assistance, the CCHRD will follow the notice requirements in this chapter.

Termination of Assistance

Eviction

The CCHRD will terminate assistance whenever a family is evicted from a unit assisted under the TBRA program for a serious or repeated violation of the lease. As discussed further in this chapter, incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. In such cases the CCHRD will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may

terminate assistance or take any of the alternative measures described in this chapter. In making its decision, the CCHRD will consider the factors described in this chapter. Upon consideration of such factors, the CCHRD may, on a case-by-case basis, choose not to terminate assistance.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used is whether the reason for the eviction was through no fault of the tenant or guests.

Failure to Provide Consent

The CCHRD will terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a regular or interim reexamination. See Chapter 7 for a complete discussion of consent requirements.

Failure to Document Citizenship

The CCHRD must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the CCHRD, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

Failure to Disclose and Document Social Security Numbers

The CCHRD will terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

The CCHRD will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

Methamphetamine Manufacture or Production

The CCHRD will terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

Lifetime Registered Sex Offenders

Should the CCHRD discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the CCHRD must immediately terminate assistance for the household member.

In this situation, the CCHRD must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the CCHRD must terminate assistance for the household.

Death of the Sole Family Member

The CCHRD must immediately terminate program assistance for deceased single member households.

Death of the Head of Household with Remaining Members of the Tenant Family

The CCHRD must terminate program assistance when the head of household is deceased. The remaining member of the tenant family will not continue with the rental assistance unless the tenant family was part of the household when eligibility was determined/approved.

Illegal Drugs and Alcohol Abuse

Any household member is currently engaged in any illegal use of a drug, or has a pattern of llegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

Any 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 residents

Currently engaged in is defined as any use of illegal drugs during the previous six months. The CCHRD will consider the use of a controlled substance or alcohol to be a pattern if there is more than once incident during the previous six months.

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Drug-related criminal activity is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

Violent Criminal Activity

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

Family Obligations

Any household member has violated the family's obligation.

Unproven allegations or arrests that did not result in convictions will not be used as evidence of criminal activity, drug-related or violent criminal activity. In addition, the program will not consider expunged/purged/sealed convictions as evidence of criminal activity.

In making its decision to terminate assistance, the CCHRD will consider alternatives and other factors as described in this chapter. Upon consideration of such alternatives and factors, the

CCHRD may, on a case-by-case basis, choose not to terminate assistance.

State laws purporting to legalize medical marijuana directly conflict with the admission and continued requirements of the Quality Housing and Work Responsibility Act of 1998 ("Public Housing Reform Act") and are thus subject to preemption. [September 24, 1999 HUD Letter Re: Medical Use of Marijuana].

Fraud, Bribery or any Other Corrupt or Criminal Activity

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

Debt owed to the CCHRD

If the family breaches the terms of a repayment agreement entered into with the CCHRD.

Threatened Violent or Abusive Behavior

A family member has engaged in or threatened violent or abusive behavior toward the CCHRD or CCCC personnel.

Abusive or violent behavior towards CCHRD personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate assistance, the CCHRD will consider alternatives and other factors as described in this chapter. Upon consideration of such alternatives and factors, the CCHRD may, on a case-by-case basis, choose not to terminate assistance.

Family Absence from the Unit

If the family is absent from the unit for more than 30 consecutive calendar days, the family's assistance will be terminated.

Insufficient Funding

The CCHRD may terminate RAP contracts if the CCHRD determines, in accordance with HUD requirements, that funding is insufficient to support continued assistance for families in the program.

Alternatives to Termination of Assistance

Change in Household Composition

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon the CCHRD request.

Repayment of Family Debts

If a family owes amounts to the CCHRD, as a condition of continued assistance, the CCHRD

will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the CCHRD of the amount owed. See Chapter 15 for policies on repayment agreements.

Criteria for Deciding to Terminate Assistance

Evidence

Unproven allegations or arrests that did not result in convictions will not be used as evidence of criminal activity, drug-related or violent criminal activity. In addition, the program will not consider expunged/purged/sealed convictions as evidence of criminal activity.

In making its decision to terminate assistance, the CCHRD will consider alternatives and other factors as described in this chapter. Upon consideration of such alternatives and factors, the CCHRD may, on a case-by-case basis, choose not to terminate assistance.

Consideration of Circumstances

The CCHRD will consider the following factors when making its decision to terminate assistance:

- The seriousness of the case, especially with respect to how it would affect other residents.
- The effects that termination of assistance may have on other members of the family who were not involved in the action or failure to act.
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or a victim of domestic violence, dating violence, sexual assault, or stalking.
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

The CCHRD may require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

Reasonable Accommodation

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

Terminating Related to Domestic Violence, Dating Violence, Sexual Assault, or Stalking

This section describes the protections against termination of assistance that the Violence against Women Act of 2013 (VAWA) provides for victims of domestic violence, dating violence, sexual assault, and stalking. For general VAWA requirements, key VAWA definitions, and the CCHRD policies pertaining to notification, documentation, and confidentiality, see chapter 15 of this plan.

VAWA Protections against Termination

VAWA provides four specific protections against termination of TBRA assistance for victims of domestic violence, dating violence, sexual assault, or stalking. (*Note:* The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the TBRA program as do the limitations discussed under the next heading.)

First, VAWA provides that the CCHRD may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the CCHRD, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.314(b)(4)].

Second, it provides that an incident or incidents of actual or threatened domestic violence, 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 assistance of the victim [24 CFR 5.2005(c)(1)].

Third, it provides that criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or affiliated individual or other individual is the actual or threatened victim of the domestic violence, dating violence, sexual assault, or stalking [24 CFR 5.2005(c)(2)].

Fourth, it gives the CCHRD the authority to terminate assistance to any tenant 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 [24 CFR 5.2009(a)].

Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]

VAWA does not limit the authority of the CCHRD to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, sexual assault, or stalking so long as the THE CCHRD does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(1)].

Likewise, VAWA does not limit the authority of the CCHRD to terminate the assistance of a victim of domestic violence, dating violence, sexual assault, or stalking if the CCHRD can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance [24 CFR 5.2005(d)(2)].

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a CCHRD to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR 5.2005(d)(3)].

In determining whether a program participant who is a victim of domestic violence, dating violence, sexual assault, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the CCHRD will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault, or stalking
- Whether the threat is a physical danger beyond a speculative threat
- Whether the threat is likely to happen within a short period of time
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the participant wishes to contest the CCHRD's determination that he or she is an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

***Documentation of Abuse* [24 CFR 5.2007]**

When an individual facing termination of assistance for reasons related to domestic violence, dating violence, sexual assault, or stalking claims protection under VAWA, the CCHRD will request that the individual provide documentation supporting the claim in accordance with the policies in chapter 15 of this plan.

The CCHRD reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the CCHRD will document the waiver in the individual's file.

Terminating the Assistance of a Domestic Violence Perpetrator [24 CFR 5.2005(c)]

Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide protection for perpetrators. VAWA gives the CCHRD the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who

engages in criminal acts of physical violence against family members or others…without terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant." [24 CFR 5.2009(a)]. This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state, or other federal law to the contrary. However, if the CCHRD chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance. This means that the CCHRD must follow the same rules when terminating assistance to an individual as it would when applicability of VAWA to HUD program].

The CCHRD will terminate assistance to a family member if the CCHRD determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, non-culpable family members.

In making its decision, the CCHRD will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066) or other documentation of abuse submitted to the CCHRD by the victim in accordance with this section and chapter 15.

The CCHRD may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member. If the CCHRD does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.

Confidentiality Requirements [24 CFR 5.2007 (a) (1) (v)]

All information provided to the CCHRD regarding domestic violence, dating violence, sexual assault, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared data base nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

Termination Notice

Whenever a family's assistance will be terminated, the CCHRD will send a written notice of the determination to the family and to the owner. The CCHRD will also send a form HUD-50066 to the family with the termination notice. The notice will state the date on which the termination will become effective. This date generally will be at least 30 calendar days following the date of the termination notice, but exceptions will be made whenever HUD rules, other CCHRD policies, or the circumstances surrounding the termination require.

When the CCHRD notifies an owner that a family's assistance will be terminated, the CCHRD will, if appropriate, advise the owner of his/her right to offer the family a separate, unassisted lease.

Whenever the CCHRD decides to terminate a family's assistance because of the family's action or failure to act, the CCHRD will include in its termination notice the VAWA information described in chapter 15 of this plan and a form HUD-50066. The CCHRD will request that a family member wishing to claim protection under VAWA notify the CCHRD within 10 business

days.

Termination of Tenancy by the Owner

Termination of an assisted tenancy is a matter between the owner and the family; the CCHRD is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy. Termination of tenancy for certain reasons will also result in termination of assistance as discussed in this section.

Grounds for Owner Termination of Tenancy [24 CFR 92.253(c)]

During the term of the lease, the owner may not terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted with HOME funds, except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local law; for completion of the tenancy period for transitional housing or failure to follow any required transitional housing supportive services plan; or for other good cause. Good cause does not include an increase in the tenant's income or refusal of the tenant to purchase the housing. To terminate or refuse to renew tenancy, the owner must serve written notice upon the tenant specifying the grounds for the action at least 30 days before the termination of tenancy.

Serious or Repeated Lease Violations

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking and the victim is protected from eviction by the Violence against Women Act of 2013. A serious lease violation includes failure to pay rent or other amounts due under the lease. However, the CCHRD's failure to make a RAP payment to the owner is not a violation of the lease between the family and the owner.

Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

Eviction

If the eviction action is finalized in court, the owner must provide the CCHRD with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

Effect of Termination of Tenancy on the Family's Assistance

If a termination is not due to a serious or repeated violation of the lease, and if the CCHRD has no other grounds for termination of assistance, the CCHRD may issue a new certificate so that the family can move with continued assistance (see Chapter 10).

EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS

Following is a listing of a participant family's obligations under the TBRA program:

- The family must supply any information that the CCHRD or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.

- The family must supply any information requested by the CCHRD or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.

- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.

- Any information supplied by the family must be true and complete.

- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.
  Damages beyond normal wear and tear will be considered to be damages, which could be assessed against the security deposit.

- The family must allow the CCHRD to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.

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

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

- The family must notify the CCHRD and the owner before moving out of the unit or terminating the lease. The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the CCHRD at the same time the owner is notified.

- The family must promptly give the CCHRD a copy of any owner eviction notice.

- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.

- The composition of the assisted family residing in the unit must be approved by the CCHRD. The family must promptly notify the CCHRD in writing of the birth, adoption, or court-awarded custody of a child. The family must request the CCHRD approval to add any other family member as an occupant of the unit.

  The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The CCHRD will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify the CCHRD in writing if any family member no longer lives in the unit.

- If the CCHD has given approval, a foster child or a live-in aide may reside in the unit. The CCHRD has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when the CCHRD consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 and Chapter 11.

- The family must not sublease the unit, assign the lease, or transfer the unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- The family must supply any information requested by the CCHRD to verify that the family is living in the unit or information related to family absence from the unit.

- The family must promptly notify the CCHRD when the family is absent from the unit. Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the CCHRD at the start of the extended absence.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease.

- The family must not own or have any interest in the unit.

- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program.

- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises.

- An assisted family or member of the family must not receive TBRA program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.

- A family must not receive TBRA program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the CCHRD has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities.

Chapter 13

OWNERS

Owners play a major role in the TBRA program by supplying decent, safe, and sanitary housing for participating families.

The term "owner" refers to any person or entity with the legal right to lease or sublease a unit to a participant in the TBRA program. The term "owner" includes a principal or other interested party, such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations.

Owners in the TBRA program

Owner Recruitment

CCCC is responsible for ensuring that low-income families have access to all types and ranges of affordable housing in the CCHRD's jurisdiction. A critical element in fulfilling this responsibility is for the CCCC to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the CCHRD's jurisdiction, are willing to participate in the TBRA program.

To accomplish this objective, CCCC must identify and recruit new owners to participate in the program.

Owner Responsibilities

The basic owner responsibilities in the TBRA program are outlined in the regulations as follows:

- Compliance with all of the owner's obligations under the Rental Assistance Payments (RAP) contract and the lease
- Performing all management and rental functions for the assisted unit, including selecting a certificate-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit
- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance
- Complying with equal opportunity requirements
- Preparing and furnishing to the CCHRD information required under the RAP contract
- Collecting the security deposit, the tenant rent, and any charges for unit damage by the family.

- Enforcing tenant obligations under the dwelling lease
- Paying for utilities and services that are not the responsibility of the family as specified in the lease
- Allow reasonable modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]
- Complying with the Violence against Women Reauthorization Act of 2013 (VAWA) when screening prospective tenants or terminating the tenancy of a family (see 24 CFR Part 5, Subpart L; 24 CFR 982.310(h)(4); and 24 CFR 982.452(b)(1)).

Owner Qualifications

The CCHRD does not formally approve an owner to participate in the TBRA program. However, there are a number of criteria where the CCHRD may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the TBRA program.

Owners Barred from Participation

The CCHRD must not approve the assisted tenancy if the CCHRD has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct the CCHRD not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

Leasing to Relatives

The CCHRD will not approve a tenancy if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The CCHRD may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the TBRA program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

Conflict of Interest

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

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

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The CCHRD must submit a waiver request to the appropriate HUD office for

determination.

Where the CCHRD has requested a conflict of interest waiver, the CCHRD may not execute the RAP contract until HUD has made a decision on the waiver request.

Owner Actions That May Result in Disapproval of a Tenancy Request
The CCHRD will refuse to approve a request for tenancy if any of the following are true:

- The owner has violated obligations under a RAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in any drug-related criminal activity or any violent criminal activity;
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for any other federal housing program;
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents, of employees of the CCHRD, or of owner employees or other persons engaged in management of the housing; (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity
- The owner has a history or practice of renting units that fail to meet state or local housing codes;
- The owner has not paid state or local real estate taxes, fines, or assessment

In considering whether to disapprove owners for any of the discretionary reasons listed above, the CCHRD will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others.

Legal Ownership of Unit
The CCHRD will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g.,

deed of trust, proof of taxes for most recent year).

Non-Discrimination

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the TBRA program and the RAP contract with the CCHRD.

The owner must cooperate with the CCHRD and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the RAP contract with the CCHRD.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements.

RAP Contracts

The RAP contract represents a written agreement between the CCHRD and the owner of the dwelling unit occupied by a TBRA assisted family. The contract spells out the owner's responsibilities under the program, as well as the CCHRD's obligations. Under the RAP contract, the CCHRD agrees to make rental assistance payments to the owner on behalf of the family approved by the CCHRD to occupy the unit.

When the CCHRD has determined that the unit meets program requirements and the tenancy is approvable, the CCHRD and owner must execute the RAP contract. See chapter 9 for a discussion of the leasing process, including provisions for execution of the RAP contract.

RAP Contract Payments

During the term of the RAP contract, and subject to the provisions of the RAP contract, the CCHRD must make monthly rental assistance payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the RAP payment for the first month is prorated for a partial month.

The amount of the rental assistance payment is determined according to the policies described in Chapter 6, and is subject to change during the term of the RAP contract. The CCHRD must notify the owner and the family in writing of any changes in the rental assistance payment.

Rental assistance payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly rental assistance payment by the CCHRD is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant, and the rental assistance payment is equal to the rent to owner as specified in the lease.

The family is not responsible for payment of the rental assistance payment, and the CCHRD is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the rent to owner and the rental assistance payment. The owner may not demand or accept any rent payment from the

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

If the owner receives any excess rental assistance from the CCHRD, the excess amount must be returned immediately. If the CCHRD determines that the owner is not entitled to all or a portion of the rental assistance payment, the CCHRD may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other contract.

Owner Certification of Compliance

Unless the owner complies with all provisions of the RAP contract, the owner is not entitled to receive rental assistance payments under the RAP contract.

By endorsing the monthly check from the CCHRD, the owner certifies to compliance with the terms of the RAP contract. This includes certification that the owner is maintaining the unit and premises in accordance with HQS; that the contract unit is leased to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the RAP term.

Late Rental Assistance Payments

The CCHRD is responsible for making rental assistance payments promptly when due to the owner, in accordance with the terms of the RAP contract. After the first two calendar months of the RAP contract term, the RAP contract provides for late penalties if the CCHRD fails to make the rental assistance payment on time.

Penalties for late rental assistance payments can only be imposed if 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants; 2) it is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted family for late payment of the family's share of the rent.

The CCHRD is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the CCHRD's control. In addition, late payment penalties are not required if the CCHRD intentionally delays or denies payment as a remedy to an owner breach of the RAP contract.

Termination of Rental Assistance Payments

The CCHRD must continue making rental assistance payments to the owner in accordance with the RAP contract as long as the tenant continues to occupy the unit and the RAP contract is not violated.

RAP payments terminate when the RAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to

reside in the unit, the CCHRD must continue to make rental assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

The owner must inform the CCHRD when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform the CCHRD when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide the CCHRD with a copy of such judgment or determination.

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, the CCHRD will continue to make rental assistance payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform the CCHRD of the date when the family actually moves from the unit or the family is physically evicted from the unit.

Breach of RAP Contract

Any of the following actions by the owner constitutes a breach of the RAP contract:

- If the owner violates any obligations under the RAP contract including failure to maintain the unit in accordance with HQS
- If the owner has violated any obligation under any other RAP contract under TBRA
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulation for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan
- If the owner has engaged in drug-related criminal activity
- If the owner has committed any violent criminal activity

If the CCHRD determines that a breach of the RAP contract has occurred, it may exercise any of its rights and remedies under the RAP contract.

The CCHRD rights and remedies against the owner under the RAP contract include recovery of any RAP overpayment, suspension of rental assistance payments, abatement or reduction of the rental assistance payment, termination of the payment or termination of the RAP contract. The CCHRD may also obtain additional relief by judicial order or action.

The CCHRD must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The CCHRD must provide the owner with written notice of any reduction in rental assistance payments or the termination of the RAP contract.

Before the CCHRD invokes a remedy against an owner, the CCHRD will evaluate all

information and documents available to determine if the contract has been breached.

If relevant, the CCHRD will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, the CCHRD will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior RAP contract violations.

RAP Contract Term and Terminations

The term of the RAP contract runs concurrently with the term of the dwelling lease beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The RAP contract and the rental assistance payments made under the RAP contract terminate if:

- The owner or the family terminates the lease;
- The lease expires;
- The CCHRD terminates the RAP contract;
- The CCHRD terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the rental assistance payment for the month when the family moves out of the unit.
- 180 calendar days have elapsed since the CCHRD made the last rental assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by the CCHRD;
- The CCHRD elects to terminate the RAP contract.
- Available program funding is not sufficient to support continued assistance for families in the program;
- The unit does not meet HQS size requirements due to change in family composition;
- The unit does not meet HQS
- The family breaks up
- The owner breaches the RAP contract

If the CCHRD terminates the RAP contract, the CCHRD will give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a RAP contract is terminated, no further RAP payments may be made under that contract.

In all cases, the RAP contract terminates at the end of the calendar month that follows the

calendar month in which the CCHRD gives written notice to the owner. The owner is not entitled to any rental assistance payment after this period, and must return to the CCHRD any rental assistance payment received after this period.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the RAP contract for the assisted unit terminates. A new RAP contract would be required.

When the family moves from an assisted unit into a new unit, the term of the RAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy.

Change in Ownership / Assignment of the RAP Contract

The RAP contract cannot be assigned to a new owner without the prior written consent of the CCHRD.

An owner under a RAP contract must notify the CCHRD in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the CCHRD. The assignment will be approved only if the new owner is qualified to become an owner under the TBRA program according to the policies in this chapter.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the RAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the CCHRD finds acceptable. The new owner must provide the CCHRD with a copy of the executed agreement.

The CCHRD must receive a signed, written request from the existing owner stating the name and address of the new RAP payee and the effective date of the assignment in order to change the RAP payee under an outstanding RAP contract.

Within 10 business days of receiving the owner's request, the CCHRD will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to the CCHRD that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed;
- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification
- Number and Certification, or the social security number of the new owner;
- The effective date of the RAP contract assignment;
- A written agreement to comply with the terms of the RAP contract; and
- A certification that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the RAP contract, or fails to provide the necessary documents, the CCHRD will terminate the RAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, the CCHRD will process the leasing in accordance with the policies in chapter 9.

Chapter 14

PROGRAM INTEGRITY

The CCHRD is committed to ensuring that subsidy funds made available to the CCHRD are spent in accordance with HUD requirements.

Preventing Errors and Program Abuse

To ensure that the CCHRD's TBRA program is administered according to the highest ethical and legal standards, the CCHRD will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The CCHRD will discuss program compliance and integrity issues during the briefing sessions described in Chapter 5.

The CCHRD will provide each applicant and participant with a the publication a copy of "Is Fraud Worth It?" (form HUD-1141-OIG, which explains the types of actions a family must avoid and the penalties for program abuse).

The CCHRD will place a warning statement about the penalties for fraud (as described in18 U.S.C. 1001 and 1010) on key forms and form letters that request information from a family or owner.

The CCHRD staff will be required to review and explain the contents of all HUD- and CCHRD-required forms prior to requesting family member signatures.

At every regular reexamination, the CCHRD staff will explain any changes in HUD regulations or CCHRD policy that affect program participants.

The CCHRD will provide each CCHRD employee with the necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. P*rogram abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

Detecting Errors and Program Abuse

In addition to taking steps to prevent errors and program abuse, the CCHRD will use a variety of activities to detect errors and program abuse.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all recipients that expend $500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of the CCHRD activities and notifies the CCHRD of errors and potential cases of program abuse.

The CCHRD will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the CCHRD's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

The CCHRD will encourage staff, program participants, and the public to report possible program abuse.

Investigating Errors and Program Abuse

When the CCHRD will Investigate

The CCHRD will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the CCHRD to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The CCHRD will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

Consent to Release of Information

The CCHRD may investigate possible instances of error or abuse using all available CCHRD and public records. If necessary, the CCHRD will require TBRA families to sign consent forms for the release of additional information.

Analysis and Findings

The CCHRD will base its evaluation on a preponderance of the evidence collected during its investigation.

> *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence
>
> For each investigation the CCHRD will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the CCHRD, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. In the case of family-caused errors or program abuse, the CCHRD will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, the CCHRDwill take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

The CCHRD will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the CCHRD determined the error or program abuses, (3) the remedies to be employed, and (4) the families right to appeal the results through the informal review or hearing process, if applicable (see Chapter 15).

Corrective Measures and Penalties

Subsidy Under- or Overpayments

A subsidy under- or overpayment includes (1) an incorrect rental assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the CCHRD must promptly correct the RAP, family share, and any utility reimbursement prospectively.

Increases in the family share will be implemented on the first of the month following a written 30-day notice.

Any decreases in family share will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family or owner is required to reimburse the CCHRD or the CCHRD is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

Family-Caused Errors and Program Abuse

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the CCHRD to use incorrect information provided by a third party.

Family Reimbursement to the CCHRD

In the case of family-caused errors (unintentional error or omission) the family will be required

to repay any excess subsidy received. The CCHRD may, but is not required to, offer the family a repayment agreement in accordance with Chapter 15. If the family fails to repay the excess subsidy, the CCHRD will terminate the family's assistance in accordance with the policies in Chapter 12.

In the case of family program abuse or fraud, see penalties for program abuse below.

CCHRD Reimbursement to Family
The CCHRD will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

Prohibited Actions
An applicant or participant in the federally assisted housing program must not knowingly:
- Make a false statement [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

Any of the following will be considered evidence of family program abuse:

- Payment to the owner in excess of amounts authorized by the CCHRD for rent, security deposit, and additional services
- Offering bribes or illegal gratuities to the CCHRD Board of Commissioners, employees, contractors, or other CCHRD representatives
- Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the CCHRD on the family's behalf
- Use of a false name or the use of falsified, forged, or altered documents
- Intentional misreporting of family information or circumstances (e.g. income, family composition)
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income)
- Admission of program abuse by an adult family member

The CCHRD may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse
In the case of program abuse caused by a family the CCHRD may, at its discretion, impose any of the following remedies. The CCHRD may:

- require the family to repay excess subsidy amounts paid by the CCHRD, as described earlier in this section.
- require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants).
- deny or terminate the family's assistance following the policies set forth in

Chapter 3 and Chapter 12 respectively.

- refer the family for state or federal criminal prosecution.

Owner-Caused Error or Program Abuse

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate rental assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

Owner Reimbursement to the CCHRD

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the CCHRD any excess subsidy received. The CCHRD may recover overpaid amounts by withholding rental assistance payments due for subsequent months, or if the debt is large, the CCHRD may allow the owner to pay in installments over a period of time.

In cases where the owner has received excess subsidy, the CCHRD will require the owner to repay the amount owed in accordance to Chapter 15.

Prohibited Owner Actions

An owner participating in the TBRA program must not:

- Make any false statement [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

Any of the following will be considered evidence of owner program abuse:

- Charging the family rent above or below the amount specified by the CCHRD
- Charging a security deposit other than that specified in the family's lease
- Charging the family for services that are provided to unassisted tenants at no extra charge
- Knowingly accepting rental assistance payments for any month(s) after the family has vacated the unit
- Knowingly accepting incorrect or excess rental assistance payments
- Offering bribes or illegal gratuities to the CCHRD Board of Commissioners, employees, contractors, or other CCHRD representatives
- Offering payments or other incentives to an TBRA family as an inducement for the family to make false or misleading statements to the CCHRD
- Residing in the unit with an assisted family

Remedies and Penalties

When the CCHRD determines that the owner has committed program abuse, the CCHRD may take any of the following actions:

- Require the owner to repay excess rental assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 15.
- Terminate the RAP contract (See Chapter 13).
- Bar the owner from future participation in any CCHRD programs.
- Refer the case to state or federal officials for criminal prosecution.

CCHRD-Caused Errors or Program Abuse

The responsibilities and expectations of the CCHRD staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a CCHRD staff member that are considered errors or program abuse related to the TBRA program. Additional standards of conduct may be provided in the City of Chandler personnel policy.

CCHRD-caused incorrect subsidy determinations include (1) failing to correctly apply TBRA rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect certificate size to a family, and (3) errors in calculation.

Repayment to the CCHRD

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by the CCHRD staff.

Prohibited Activities

Any of the following will be considered evidence of program abuse by the CCHRD staff:

- Failing to comply with any TBRA program requirements for personal gain
- Failing to comply with any TBRA program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the CCHRD
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of the CCHRD activities, policies, or practices
- Misappropriating or misusing CCHRD funds
- Destroying, concealing, removing, or inappropriately using any records related to the TBRA program
- Committing any other corrupt or criminal act in connection with any federal housing program

Chapter 15

PROGRAM ADMINISTRATION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan.

Utility Allowances

The established utility allowance schedule is used in determining family share and subsidy. The CCHRD must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

The CCHRD will adopt the utility allowance schedule that the CCHRD uses for its Section 8 Housing Choice Voucher program.

Utility and Security Deposit [24 CFR 92.209]

The CCHRD will provide a grant for the following deposits:

Utility Deposit

The utility deposit grant will be provided for electricity, gas and water. Only the prospective tenant may apply for HOME utility deposit assistance. The utility deposit grant will be paid directly to the utility providers.

The utility deposit for the electricity will be paid by phone. The utility deposit for gas and water will be paid when the bill is submitted by the participant.

Security Deposit to the Landlord

The security deposit grant will not exceed the equivalent of two month's rent for the unit. Only the prospective tenant may apply for HOME security deposit assistance. The security deposit will be paid directly to the landlord.

Informal Reviews and Hearings

Both applicants and participants have the right to disagree with, and appeal, certain decisions of the CCHRD that may adversely affect them. The CCHRD decisions that may be appealed by applicants and participants are discussed in this section.

The process for applicant appeals of the CCHRD decisions is called the "informal review." For participants, the appeal process is called an "informal hearing." The CCHRD will include informal review procedures for applicants, and informal hearing procedures for participants in their administrative plans.

Informal Reviews

Informal reviews are provided for program applicants. An applicant is someone who has applied

for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a "minimum hearing requirement", and need not be as elaborate as the informal hearing requirements. (Federal Register Volume 60, No. 127, (3 July 1995);

Decisions Subject to Informal Review

The CCHRD will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes denying listing on the CCHRD waiting list; denying or withdrawing a certificate; and refusing to enter into a RAP contract or approve a lease.

Informal reviews are *not* required for the following reasons:

- General policy issues or class grievances
- A determination of the family unit size under the subsidy standards
- A CCHRD determination not to grant approval of the tenancy
- A CCHRD determination that the unit is not in compliance with the HQS
- A CCHRD determination that the unit is not in accordance with the HQS due to family size or composition

Notice to the Applicant

The CCHRD will give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the CCHRD decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

Scheduling an Informal Review

A request for an informal review must be made in writing and delivered to the CCHRD either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the CCHRD's denial of assistance.

The CCHRD will schedule and send written notice of the informal review within 10 business days of the family's request.

Informal Review Procedures

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of the CCHRD.

Informal Review Decision

The CCHRD will notify the applicant of the CCHRD's final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, the CCHR will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the notice to the family.
- The validity of the grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be

overturned.

- The validity of the evidence. The CCHRD will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the CCHRD will uphold the decision to deny assistance.

If the facts prove the grounds for denial, and the denial is discretionary, the CCHRD will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The CCHRD will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

Informal Hearings for Participants

The CCHRD will offer an informal hearing for certain CCHRD determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the CCHRD's TBRA program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the CCHRD's decisions related to the family's circumstances are in accordance with the law, HUD regulations and policies.

The CCHRD is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a RAP contract or approve a lease
- Terminating rental assistance payments under an outstanding RAP contract
- Refusing to process or provide assistance under portability procedures

Decisions Subject to Informal Hearing

Circumstances for which the CCHRD must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the rental assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the CCHRD utility allowance schedule
- A determination of the family unit size under the CCHRD's subsidy standards
- A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the CCHRD's

subsidy standards, or the CCHRD determination to deny the family's request for exception from the standards

- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under the CCHRD policy and HUD rules

Circumstances for which an informal hearing is not required are as follows:

- General policy issues or class grievances
- Establishment of the CCHRD schedule of utility allowances for families in the program
- A CCHRD determination not to approve an extension or suspension of a certificate term
- A CCHRD determination not to approve a unit or tenancy
- A CCHRD determination that a unit selected by the applicant is not in compliance with the HQS
- A CCHRD determination that the unit is not in accordance with HQS because of family size
- A determination by the CCHRD to exercise or not to exercise any right or remedy against an owner under a RAP contract

Informal Hearing Procedures

Notice to the Family

When the CCHRD makes a decision that is subject to informal hearing procedures, the CCHRD must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the CCHRD must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to the CCHRD's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

In cases where the CCHRD makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

- The proposed action or decision of the CCHRD.
- A brief statement of the reasons for the decision including the regulatory reference.

- The date the proposed action will take place.
- A statement of the family's right to an explanation of the basis for the CCHRD's decision.
- A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.
- A deadline for the family to request the informal hearing.
- To whom the hearing request should be addressed.
- A copy of the CCHRD's hearing procedures.

Scheduling an Informal Hearing

When an informal hearing is required, the CCHRD must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

A request for an informal hearing must be made in writing and delivered to the CCHRD either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the CCHRD's decision or notice to terminate assistance.

The CCHRD will schedule and send written notice of the informal hearing to the family within 10 business days of the family's request.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict, which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the CCHRD may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the CCHRD within 24 hours of the scheduled hearing date, excluding weekends and holidays. The CCHRD will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Pre-Hearing Right to Discovery

Participants and the CCHRD are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any the CCHRD documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the CCHRD does not make the document available for examination on request of the family, the CCHRD may not rely on the document at the hearing.

The CCHRD hearing procedures may provide that the CCHRD must be given the opportunity to examine at the CCHRD offices before the hearing, any family documents that are directly relevant to the hearing. The CCHRD must be allowed to copy any such document at the CCHRD's expense. If the family does not make the document available for examination on request of the CCHRD the family may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

The family will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of the CCHRD documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

The family will be allowed to have a copy of the informal hearing tape at a prepaid cost of $5.00 per tape.

The CCHRD must be given an opportunity to examine at the CCHRD offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, the CCHRD will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date.

Participant's Right to Bring Counsel
At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

Informal Hearing Officer
Informal hearings will be conducted by a person or persons approved and contracted by the CCHRD, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

Attendance at the Informal Hearing
Hearings may be attended by a hearing officer and the following applicable persons:

- A CCHRD representative and any witnesses for the CCHRD
- The participant and any witnesses for the participant
- The participant's counsel or other representative
- Any other person approved by the CCHRD as a reasonable accommodation for a person with a disability

Conduct at Hearings
The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer. All hearings will be recorded

Evidence
The CCHRD and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

Any evidence to be considered by the hearing officer must be presented at the time of the

hearing. There are four categories of evidence.

1. **Oral evidence**: the testimony of witnesses
2. **Documentary evidence**: a writing which is relevant to the case, for example, a letter written to the CCHRD. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.
3. **Demonstrative evidence**: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.
4. **Real evidence**: A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either the CCHRD or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

Hearing Officer's Decision

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family.

In rendering a decision, the hearing officer will consider the following matters:

- **The CCHRD's Notice to the Family**: The hearing officer will determine if the reasons for the CCHRD's decision are factually stated in the notice.
- **Discovery:** The hearing officer will determine if the CCHRD and the family were given the opportunity to examine any relevant documents in accordance with the CCHRD policy.
- **The CCHRD Evidence to Support the CCHRD Decision**: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the CCHRD's conclusion.
- **Validity of Grounds for Termination of Assistance (when applicable)**: The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and CCHRD policies. If the grounds for termination are not specified in the regulations or in compliance with CCHRD policies, then the decision of the CCHRD will be overturned.

The hearing officer will issue a written decision to the family and the CCHRD no later than 10 business days after the hearing. The report will contain the following information:

- **Hearing information:**
  - Name of the participant
  - Date, time and place of the hearing
  - Name of the hearing officer
  - Name of the CCHRD representative and
  - Name of family representative (if any).
- **Background**: A brief, impartial statement of the reason for the hearing.
- **Summary of the Evidence**: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.
- **Findings of Fact:** The hearing officer will include all findings of fact
- **Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the CCHRD's decision.
- **Order:** The hearing report will include a statement of whether the CCHRD's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the CCHRD to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct the CCHRD to restore the participant's program status.

Procedures for Rehearing or Further Hearing

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the CCHRD will take effect and another hearing will not be granted.

CCHRD Notice of Final Decision

The CCHRD is not bound by the decision of the hearing officer for matters in which the CCHRD is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to federal, state or local laws.

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

If the hearing officer's decision conflicts with or contradicts HUD regulation, requirements, or are otherwise contrary to Federal, State or local laws a "Notice of Final Decision" including the hearing officer's report, will be mailed to the participant and their representative. This notice will

be sent by first-class mail, postage pre-paid with an affidavit of mailing enclosed. The participant will be mailed the original "Notice of Final Decision" and a copy of the proof of mailing. A copy of the "Notice of Final Decision" along with the original proof of mailing will be maintained in the CCHRD's file.

Owner or Family Debts to the CCHRD

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the CCHRD holds the owner or participant liable to return any overpayments to the CCHRD.

The CCHRD will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

When an owner or participant refuses to repay monies owed to the CCRD, the CCHRD will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil law suit
- State income tax set-off program

Repayment Policy

Owner Debts to the CCHRD

Any amount due to the CCHRD by an owner must be repaid by the owner within 30 days of the CCHRD determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future RAP payments, the CCHRD will reduce the future RAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future RAP payments the CCHRD may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by the CCHRD.

If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the CCHRD will ban the owner from future participation in the program and pursue other modes of collection.

Family Debts to the CCHRD

Any amount owed to the CCHRD by a TBRA family must be repaid by the family. If the family is unable to repay the debt within 30 days, the CCHRD will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the CCHRD will terminate assistance in accordance with the policies in Chapter 12 and pursue other modes of collection.

Repayment Agreement

The term r*epayment agreement* refers to a formal written document signed by a tenant or owner and provided to the CCHRD in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

General Repayment Agreement Guidelines for Families

Payment Thresholds

The CCHRD has established the following thresholds for repayment of debts:

- Amounts between $3,000 and more must be repaid within 18-36 months.
- Amounts between $1,000 and $2,999 must be repaid within 12-18 months.
- Amounts between $501 and $999 must be repaid within 6-10 months.
- Amounts under $500 must be repaid within 3-6 months.

The minimum monthly amount of monthly payment for any payment agreement is $50. Any payment agreement in excess of 36 months requires the approval from the Housing Manager.

Execution of the Agreement

Any repayment agreement between the CCHRD and a family must be signed and dated by the CCHRD and by the head of household and spouse (if applicable).

Due Dates

All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

Late or Missed Payments

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the CCHRD, the CCHRD will send the family a delinquency notice giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the CCHRD will terminate assistance in accordance with the policies in Chapter 12.

No Offer of Repayment Agreement

The CCHRD will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family.

Record Keeping

The CCHRD must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the CCHRD must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

Record Retention [24 CFR 92.508 and 24 CFR 92.253]
During the term of each assisted lease, and for at least five years after the period of rental assistance terminates.

Records Management and Safeguarding Sensitive Personally Identifiable Information [PIH Notice 2014-10]
The CCHRD must maintain applicant and participant files and information in accordance with the regulatory requirements described below. The CCHRD is responsible for safeguarding personally identifiable information required by HUD and preventing potential breaches of this sensitive data. Personally Identifiable Information (PII) is defined in OMB M-07-16 as "... information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as a date and place of birth, mother's maiden name, etc." Examples of sensitive personal identifiable information includes social security or driver's license numbers, medical records, and financial account numbers such as credit or debit card numbers.

All applicant and participant information will be kept in a secure location and access will be limited to authorized the CCHRD staff.

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

When discussing sensitive PII on the telephone, the CCHRD staff will confirm that they are speaking to the right person before discussing the information and inform him/her that the discussion will include sensitive information. The CCHRD staff will not leave messages containing sensitive PII on voicemail.

The CCHRD staff will avoid discussing sensitive PII if there are unauthorized personnel, contractors, or guests in the adjacent cubicles, rooms, or hallways who may overhear their conversation.

When faxing sensitive PII, the CCHRD staff will use the date stamp function, confirm the fax number, verify that the intended recipient is available, and confirm that he/she has received the fax. The CCHRD staff will, before faxing sensitive PII, coordinate with the recipient so that the information is not left unattended on the receiving end.

The CCHRD staff will request a written statement from the receiving the CCHRD documenting that the intended recipient is available to receive the fax and they understand the information will not be left unattended on the receiving end.

The CCHRD staff will not transmit sensitive PII via an unsecured information system (e.g., electronic mail, internet, or electronic bulletin board) without first encrypting the information.

The City of Chandler does not have encrypting capabilities for information systems; therefore, the CCHRD staff will not use information systems (e.g., electronic mail, internet, or electronic

bulletin board) to transmit sensitive PII.

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the CCHRD may release the information collected.

Criminal Records

The CCHRD may only disclose the criminal conviction records which the CCHRD receives from a law enforcement agency to officers or employees of the CCHRD, or to authorized representatives of the CCHRD who have a job-related need to have access to the information.

Medical/Disability Records

The CCHRD is not permitted to inquire about the nature or extent of a person's disability. The CCHRD may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the CCHRD receives a verification document that provides such information, the CCHRD should not place this information in the tenant file. The CCHRD should destroy the document.

Violence Against Women Act (VAWA): Notification, Documentation, Confidentiality

Definitions [24 CFR 5.2003]

As used in VAWA:

- The term *bifurcate* means to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - The length of the relationship
    - The type of relationship
    - The frequency of interaction between the persons involved in the relationship

  The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the

domestic or 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 *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
  - Any other individual, tenant or lawful occupant living in the household of that individual.
- The term *sexual assault* means:
  - Any nonconsensual sexual act prescribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent
- The term *stalking* means:
  - To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or
  - To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and
  - In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

NOTIFICATION [24 CFR 5.2005(a)]

Notification to Public

The CCHRD adopts the following policy to help ensure that all actual and potential beneficiaries of its TBRA program are aware of their rights under VAWA.

The CCHRD will post the following information regarding VAWA in its offices and on its Web site. It will also make the information readily available to anyone who requests it.

A summary of the rights and protections provided by VAWA to TBRA program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (see sample notices in Exhibits 15-1 and 15-2)

The definitions of *domestic violence*, *dating violence*, *sexual assault,* and *stalking* provided in VAWA (included in Exhibits 15-1 and 15-2)

An explanation of the documentation that the CCHRD may require from an individual who claims the protections provided by VAWA (included in Exhibits 15-1 and 15-2)

- A copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking
- A statement of the CCHRD's obligation to keep confidential any information that it receives from a victim unless (a) the CCHRD has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information (included in Exhibits 16-1 and 16-2)

- The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibits 16-1 and 16-2)
- Contact information for local victim advocacy groups or service providers

Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]

The CCHRD will provide all applicants with information about VAWA at the time they request an application for housing assistance. The CCHRD will also include information about VAWA in all notices of denial of assistance.

The CCHRD will provide all participants with information about VAWA at the time of admission and at annual reexamination. The CCHRD will also include information about VAWA in notices of termination of assistance.

The VAWA information provided to applicants and participants will consist of the notice in Exhibit 15-1 and a copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, and Stalking.

Notification to Owners and Managers [24 CFR 5.2005(a)(2)]

The CCHRD will provide owners and managers with information about their rights and obligations under VAWA when they begin their participation in the TBRA program and at least annually thereafter.

The VAWA information provided to owners will consist of the notice in Exhibit 15-2 and a copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, and Stalking.

Documentation [24 CFR 5.2007]

The CCHRD presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The CCHRD may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the CCHRD's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

(1) A completed and signed HUD-approved certification form (HUD-50066, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim

(2) A federal, state, tribal, territorial, or local police report or court record

(3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional. Acceptable documentation also includes a record

of an administrative agency, and documentation from a mental health professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The CCHRD may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [VAWA final rule].

Any request for documentation of domestic violence, dating violence, sexual assault, or stalking will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The CCHRD may, in its discretion, extend the deadline for 10 business days. Any extension granted by the CCHRD will be in writing.

Conflicting Documentation [24 CFR 5.2007(e)]

If presented with conflicting certification documents (two or more forms HUD-50066) from members of the same household, the CCHRD will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(b)(2) or (3) and by following any HUD guidance on how such determinations should be made.

Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]

If the CCHRD accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, sexual assault, or stalking, the CCHRD will document acceptance of the statement or evidence in the individual's file.

Failure to Provide Documentation [24 CFR 5.2007(c)]

In order to deny relief for protection under VAWA, the CCHRD must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the CCHRD may allow, the CCHRD may deny relief for protection under VAWA.

Confidentiality [24 CFR 5.2007(b)(4)]

All information provided to the CCHRD regarding domestic violence, dating violence, sexual assault, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence. This means that the CCHRD (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the CCHRD will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

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Exhibit 15-1

NOTICE
TO APPLICANTS AND RESIDENTS
REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)

A federal law that went into effect in 2013 protects individuals who are victims of domestic violence, dating violence, and stalking. The name of the law is the Violence against Women Act, or "VAWA." This notice explains your rights under VAWA.

Protections for Victims

If you are eligible for a HOME TBRA assistance program, the CCHRD cannot deny you rental assistance solely because you are a victim of domestic violence, dating violence, sexual assault, or stalking.

If you are the victim of domestic violence, dating violence, sexual assault, or stalking, you cannot be terminated from the TBRA or evicted based on acts or threats of violence committed against you. Also, criminal acts directly related to the domestic violence, dating violence, sexual assault, or stalking that are caused by a member of your household or a guest can't be the reason for evicting you or terminating your rental assistance if you were the victim of the abuse.

Reasons You Can Be Evicted

You can be evicted and your rental assistance can be terminated if the housing authority or your landlord can show there is an *actual* and *imminent* (immediate) threat to other tenants or employees at the property if you remain in your housing. Also, you can be evicted and your rental assistance can be terminated for serious or repeated lease violations that are not related to the domestic violence, dating violence, sexual assault, or stalking committed against you. The housing authority and your landlord cannot hold you to a more demanding set of rules than it applies to tenants who are not victims.

Removing the Abuser from the Household

Your landlord may split the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the assisted unit. Also, the housing authority can terminate the abuser's Section 8 rental assistance while allowing you to continue to receive assistance. If the landlord or housing authority chooses to remove the abuser, it may not take away the remaining tenants' rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, your landlord must follow federal, state, and local eviction procedures.

Moving to Protect Your Safety

The housing authority may permit you to move and still keep your rental assistance, even if your current lease has not yet expired. The housing authority may require that you be current on your rent or other obligations in the housing assistance program. The housing authority may ask you to provide proof that you are moving because of incidences of abuse.

Proving That You Are a Victim of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

The housing authority and your landlord can ask you to prove or "certify" that you are a victim of domestic violence, dating violence, sexual assault, or stalking. The housing authority and your landlord must give you at least 14 business days (i.e. Saturdays, Sundays, and holidays do not count) to provide this proof. The housing authority and your landlord are free to extend the deadline.

There are three ways you can prove that you are a victim:

- Complete the certification form given to you by the housing authority or your landlord. The form will ask for your name, the name of your abuser, the abuser's relationship to you, the date, time, and location of the incident of violence, and a description of the violence. You are only required to provide the name of the abuser if it is safe to provide and you know their name.
- Provide a statement from a victim service provider, attorney, or medical professional who has helped you address incidents of domestic violence, dating violence, sexual assault, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both you and the professional must sign the statement, and both of you must state that you are signing "under penalty of perjury."
- Provide a police or court record, such as a protective order.

If you fail to provide one of these documents within the required time, the landlord may evict you, and the housing authority may terminate your rental assistance.

Confidentiality

The housing authority and your landlord must keep confidential any information you provide about the violence against you, unless:

- You give written permission to the housing authority or your landlord to release the information.
- Your landlord needs to use the information in an eviction proceeding, such as to evict your abuser.
- A law requires the housing authority or your landlord to release the information.

If release of the information would put your safety at risk, you should inform the housing authority and your landlord.

VAWA and Other Laws

VAWA does not limit the housing authority's or your landlord's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking.

For Additional Information

If you have any questions regarding VAWA, please contact your housing specialist at (480) 782-3200.

For help and advice on escaping an abusive relationship, call the National Domestic Violence Hotline at 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).

Definitions

For purposes of determining whether a public housing applicant or tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines ***domestic violence*** to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- 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

VAWA defines ***dating violence*** as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

VAWA defines ***sexual assault*** as "any nonconsensual sexual act prescribed by Federal, tribal or State law including when the victim lacks capacity to consent" (42 U.S.C. 13925(a)).

VAWA defines ***stalking*** as (A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person OR (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person AND (B) 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.

I have received a copy of the Notice regarding Violence Against Women Act.

APPLICANT/TENANT PRINTED NAME: _____

APPLICANT/TENANT SIGNATURE:

_____

DATE: _____

EXHIBIT 15-2: NOTICE TO OWNERS AND MANAGERS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)

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NOTICE
TO OWNERS AND MANAGERS PARTICIPATING IN THE TBRA PROGRAM
REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)

A federal law that went into effect in 2013 protects individuals who are victims of domestic violence, dating violence, and stalking. The name of the law is the Violence against Women Act, or "VAWA." This notice explains your rights under VAWA.

Protections for Victims
You cannot refuse to rent to an applicant solely because he or she is a victim of domestic violence, dating violence, sexual assault, or stalking.

You cannot evict a tenant who is the victim of domestic violence, dating violence, sexual assault, or stalking based on acts or threats of violence committed against the victim. Also, criminal acts directly related to the domestic violence, dating violence, sexual assault, or stalking that are caused by a household member or guest cannot be cause for evicting the victim of the abuse.

Permissible Evictions You can evict a victim of domestic violence, dating violence, sexual assault, or stalking if you can demonstrate that there is an *actual or imminent* (immediate) threat to other tenants or employees at the property if the victim is not evicted. Also, you may evict a victim for serious or repeated lease violations that are not related to the domestic violence, dating violence, sexual assault, or stalking. You cannot hold a victim of domestic violence, dating violence, sexual assault, or stalking to a more demanding standard that tenants who are not victims.

Removing the Abuser from the Household
You may split the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the unit. If you choose to remove the abuser, you may not take away the remaining tenants' rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, you must follow federal, state, and local eviction procedures.

Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
If a tenant asserts VAWA's protections, you can ask the tenant to certify that he or she is a victim of domestic violence, dating violence, sexual assault, or stalking. You are not required to demand official documentation and may rely upon the victim's statement alone. If you choose to request certification, you must do so in writing and give the tenant at least 14 business days to provide documentation. You are free to extend this deadline. A tenant can certify that he or she is a victim by providing any one of the following three documents:

- A completed, signed HUD-approved certification form. The most recent form is HUD-50066. This form is available at the housing authority or online at http://www.hud.gov/offices/adm/hudclips/forms/hud5.cfm.
- A statement from a victim service provider, attorney, or medical professional who has helped the victim address incidents of domestic violence, dating violence, sexual assault, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both the victim and the professional must sign the statement under penalty of perjury.
- A police or court record, such as a protective order.

If the tenant fails to provide one of these documents within 14 business days, you may evict the tenant if authorized by otherwise applicable law and lease provisions.

Confidentiality

You must keep confidential any information a tenant provides to certify that he or she is a victim of domestic violence, dating violence, sexual assault, or stalking. You cannot enter the information into a shared database or reveal it to outside entities unless:

- The tenant provides written permission releasing the information.
- The information is required for use in an eviction proceeding, such as to evict the abuser.
- Release of the information is otherwise required by law.

The victim should inform you if the release of the information would put his or her safety at risk.

VAWA and Other Laws

VAWA does not limit your obligation to honor court orders regarding access to or control of the property. This includes orders issued to protect the victim and orders dividing property among household members in cases where a family breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking.

Additional Information

- If you have any questions regarding VAWA, please contact your housing representative.
- HUD Notice PIH 2006-42 contains detailed information regarding VAWA's certification requirements. The notice is available at http://www.hud.gov/offices/adm/hudclips/notices/pih/06pihnotices.cfm.
- For a discussion of VAWA's housing provisions, see the preamble to the final VAWA rule, which is available at http://www.gpo.gov/fdsys/pkg/FR-2010-10-27/pdf/2010-26914.pdf.