

# ST. CLAIR HOUSING COMMISSION SECTION 8 ADMINISTRATIVE PLAN

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## SECTION 8 ADMINISTRATIVE PLAN

### INTRODUCTION:

The St. Clair Housing Commission administers a Section 8 tenant-based Housing Choice Voucher (HCV) assistance program that is funded by the federal government. The St. Clair Housing Commission administers this program within the jurisdiction of St. Clair, Macomb County, Lapeer County, and Sanilac County all within the state of Michigan.

The St. Clair Housing Commission's policies for the Section 8 tenant-based Housing Choice Voucher (HCV) assistance program are derived from many sources, including but not limited to, federal statutes, federal regulations, and guidance issued by HUD, as well as Federal, State and Local law. Industry practice may also be used to develop policy as long as it does not conflict with federal requirements.

### GENERAL STATEMENT:

The SCHC may convert to an electronic format for various modes of communication with applicants with respect to the application process and contact attempts during application/waiting list process, as well as various contacts with current residents regarding any and/or all necessary communication.

It is therefore necessary for the Participant family to provide an e-mail address to receive such communication. It is the responsibility of the Participant family to keep the SCHC updated with a current e-mail address. It is the responsibility of the Participant family keep the SCHC updated with a current e-mail address. The SCHC will not be liable for the Tenant not receiving communication due to invalid, outdated and/or expired e-mail addresses.

It should be understood that, throughout this policy, any reference made to a method of applying for program assistance, or applicants and/or current residents being contacted by any means (e.g., via mail, etc...) should also be interrupted to include the method of via electronic format.

#### 1.0 EQUAL OPPORTUNITY

##### 1.1 FAIR HOUSING

For full policy content, refer to "Equal Housing-Fair Housing-Civil Rights Compliance Policy".

(Including SCHC policy on HUDs Equal Access Rule)

##### 1.2 REASONABLE ACCOMMODATION

Sometimes people with disabilities may need a reasonable accommodation in order to take full advantage of the St. Clair Housing Commission housing programs and related services. When such accommodations are granted, they do not confer special treatment or advantage for the person with a disability; rather they make the program accessible to them in a way that would otherwise not be possible -due to their disability. This policy clarifies how people can request accommodations and the guidelines the St. Clair Housing Commission will follow in determining whether it is reasonable to provide a requested accommodation. Because disabilities are not always apparent the St. Clair Housing Commission will ensure that all applicants/tenants are aware of the opportunity to request reasonable accommodations.

## A. COMUNICATION

Anyone requesting an application will also receive a Request for Reasonable Accommodation form.

Notifications of reexamination, inspection, appointment, or eviction will include information about requesting a reasonable accommodation. Any notification requesting action by the tenant will include information about requesting a reasonable accommodation.

All decisions granting or denying requests for reasonable accommodations will be in writing.

## B. QUESTIONS TO ASK IN GRANTING THE ACCOMMODATION

1. Is the requestor a person with disabilities? For this purpose the definition of person with disabilities is different than the definition used for admission. The Fair Housing definition used for this purpose is:

A person with a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment. (The disability may not be apparent to others, i.e. a heart condition).

If the disability is apparent or already documented, the answer to this question is yes. It is possible that the disability for which the accommodation is being requested is a disability other than the apparent disability. If the disability is not apparent or documented, the St. Clair Housing Commission will obtain verification that the person is a person with a disability.

2. Is the requested accommodation related to the disability? If it is apparent that the request is related to the apparent or documented disability, the answer to this question is yes. If it is not apparent, the St. Clair Housing Commission will obtain documentation that the requested accommodation is needed due to the disability. The St. Clair Housing Commission will not inquire as to the nature of the disability.
3. Is the requested accommodation reasonable? In order to be determined reasonable, the accommodation must meet two criteria:
  - a. Would the accommodation constitute a fundamental alteration? The St. Clair Housing Commission's business is housing. If the request would alter the fundamental business that the St. Clair Housing Commission conducts that would not be reasonable. For instance, the St. Clair Housing Commission would deny a request to have the St. Clair Housing Commission do grocery shopping for a person with disabilities.
  - b. Would the requested accommodation create an undue financial hardship or administrative burden? Frequently the requested accommodation costs little or nothing. If the cost would be an undue burden, the St. Clair Housing Commission may request a meeting with the individual to investigate and consider equally effective alternatives.
4. Generally, the individual knows best what it is they need; however, the St. Clair Housing Commission retains the right to be shown how the requested accommodation enables the individual to access or use the St. Clair Housing Commission's programs or services.

If more than one accommodation is equally effective in providing access to the St. Clair Housing Commission's programs and services, the St. Clair Housing Commission retains the right to select the most efficient or economic choice.

The cost necessary to carry out approved requests, including requests for physical modifications, will be borne by the St. Clair Housing Commission if there is no one else willing to pay for the modifications. If another party pays for the modification, the St. Clair Housing Commission will seek to have the same entity pay for any restoration costs.

If the tenant requests as a reasonable accommodation that they be permitted to make physical modifications at their own expense, the St. Clair Housing Commission will generally approve such request if it does not violate codes or affect the structural integrity of the unit.

Any request for an accommodation that would enable a tenant to materially violate essential lease terms will not be approved, i.e., allowing nonpayment of rent, destruction of property, disturbing the peaceful enjoyment of others, etc.

Anyone requesting an application will also receive a Request for Reasonable Accommodation Form.

Notifications of reexamination, inspection, appointment, or termination of assistance will include information about requesting a reasonable accommodation. Any notification requesting action by the participant will include information about requesting a reasonable accommodation.

All decisions granting or denying requests will be in writing.

### 1.3 SERVICES FOR LIMITED ENGLISH PROFICIENCY (LEP) APPLICANTS AND PARTICIPANTS

The SCHC shall do its best, within reason, to assist people with Limited English Proficiency (LEP). This shall be accomplished by assessing the need of LEP persons using the four factors described in the January 22, 2007 Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons; Notice published in the Federal Register. The SCHC shall balance these factors in deciding what to do:

- A. The number of proportions of LEP persons served or encountered in the eligible service area;
- B. The Frequency with which LEP individuals come in contact with the program.
- C. The nature and importance of the program, activity, or service provided by the program; and
- D. The resources available to the SCHC and costs.

Depending upon what this analysis reveals, the SCHC may or may not prepare a Language Assess Plan (LAP). If a LAP is needed, the guidance outlined in the above referenced notice shall be utilized.

In addition, the SCHC will endeavor to have bilingual staff or access to people who speak languages other than English. Finally, the SCHC shall

utilize multi-lingual “I speak” cards to the maximum degree possible.” (“I speak” cards can be found at the Census Bureau’s website.)

#### 1.4 FAMILY/OWNER OUTREACH

The SCHC will monitor the characteristics of the population being served and the characteristics of the population as a whole in the SCHC’s jurisdiction. Target outreach efforts will be undertaken if a comparison suggests that certain populations are being under served.

The SCHC will publicize the availability and nature of the Public Housing Program for extremely low-income, very low and low-income families in a newspaper of general circulation, minority media, and any other suitable means.

To reach persons, who cannot or do not read the newspapers, the SCHC will distribute fact sheets to the broadcasting media and initiate personal contacts with members of the news media and community service personnel. The SCHC will also try to utilize public service announcements.

The SCHC will communicate the status of program availability to other service providers in the community and inform them of housing eligibility factors and guidelines so they can make proper referrals of their clients to the program.

The objective of this effort is to develop a waiting list that is representative of our low-income community. A particular emphasis will be placed on attracting eligible individuals and families least likely to apply for the Housing Choice Voucher Program.

The SCHC will hold briefings for owners who participate in or who are seeking information about the Section 8 Program. The briefing is intended to:

- A. Explain how the program works;
- B. Explain how the program benefits owners;
- C. Explain owners’ responsibilities (including lead-based paint) under the program. Emphasis is placed on quality screening and ways the SCHC helps owners do better screening; and
- D. Provide an opportunity for owners to ask questions, obtain written materials, and meet the SCHC staff.

The SCHC will particularly encourage owners of suitable units located outside of low-income or minority concentration to attend and become more involved in participating with the Housing Choice Voucher Program.

Examples of outreach that staff may conduct are (but not limited to):

- A. Send notices and informational brochures on an annual basis, all newly registered landlords through the City of St. Clair Rental Inspection Department on how the program can benefit them, and how to participate.
- B. Provide, through real estate agencies, our brochures to owners who have newly purchased rental properties.
- C. Host Informational Seminars to local landlords.
- D. Work with the City of St. Clair Community Development Department staff to encourage landlords participating with home improvement programs, with rental properties located outside of poverty/minority concentrated areas, to pursue the Section 8 Voucher Opportunity for properties, providing them with brochures, to informational seminars, and benefit briefings.
- E. Work with local landlord associations, providing program education to local landlords.

## 1.5 RIGHT TO PRIVACY

All adult members of both applicant and participant households are required to sign HUD Form 9886, Authorization for Release of Information and Privacy Act Notice. The Authorization for Release of Information and Privacy Act Notice states how family information will be released and includes the Federal Privacy Act Statement.

Any request for applicant or participant information will not be released unless there is a signed release of information request from the applicant or participant. This includes transmitting data to a Receiving Housing Authority under Portability.

## 1.6 REQUIRED POSTINGS

In each of its offices, the SCHC will post, in a conspicuous place and at a height easily read by all persons including persons with mobility disabilities, the following information:

- A. The Section 8 Administrative Plan
- B. Notice of the status of the waiting list (opened or closed).

- C. Address of all SCHC offices, office hours, telephone numbers, (including 711 for Telecommunications Relay Service (TRS)), and hours of operation
- D. Income Limits for Admission
- E. Informal Review and Informal Hearing Procedures
- F. Fair Housing Poster
- G. Equal Opportunity in Employment Poster
- H. The Agency's SEMAP score and designation.

## 2.0 ST. CLAIR HOUSING COMMISSION/OWNER RESPONSIBILITY-OBLIGATION OF THE FAMILY

This Section outlines the responsibilities and obligations of the SCHC, the Section 8 Owners/Landlords, and the participating families.

### 2.1 ST. CLAIR HOUSING COMMISSION RESPONSIBILITIES

- A. The SCHC will comply with the consolidated ACC, the application, HUD regulations and other requirements, and the SCHC'S Section 8 Administrative Plan.
- B. In administering the program, the SCHC will:
  1. Publish and disseminate information about the availability and nature of housing assistance under the program;
  2. Explain the program to owners and families, including both party's rights and responsibilities under the Violence Against Women Act (VAWA);
  3. Seek expanded opportunities for assisted families to locate housing outside areas of poverty or racial concentration;
  4. Encourage owners to make units available for leasing in the program, including owners of suitable units located outside areas of poverty or racial concentration;
  5. Affirmatively further fair housing goals and comply with equal opportunity requirements;
  6. Make efforts to help disabled persons find satisfactory housing;
  7. Receive applications from families, determine eligibility, maintain the waiting list, select applicants, issue a voucher to each selected family, and provide housing information to families selected;

8. Determine who can live in the assisted unit at admission and during the family's participation in the program;
9. Obtain and verify evidence of citizenship and eligible immigration status in accordance with 24 CFR part 5;
10. Review the family's request for approval of the tenancy and the owner/landlord lease, including the HUD prescribed tenancy addendum;
11. Inspect the unit before the assisted occupancy begins and at least biennially during the assisted tenancy;
12. Determine the amount of the housing assistance payment for a family;
13. Determine the maximum rent to the owner and whether the rent is reasonable;
14. Make timely housing assistance payments to an owner in accordance with the HAP contract;
15. Examine family income, size and composition at admission and during the family's participation in the program. The examination includes verification of income and other family information;
16. Establish and adjust SCHC utility allowance;
17. Administer and enforce the housing assistance payments contract with an owner, including taking appropriate action as determined by the SCHC, if the owner defaults (e.g., HQS violation);
18. Determine whether to terminate assistance to a participant family for violation of family obligations;
19. Conduct informal reviews of certain SCHC decisions concerning applicants for participation in the program;
20. Conduct informal hearings on certain SCHC decisions concerning participant families;
21. Provide sound financial management of the program, including engaging an independent public accountant to conduct audits.

## 2.2 OWNERS RESPONSIBILITY

- A. The owner is responsible for performing all of the owner's obligations under the HAP contract and the lease, and tenancy addendum.
- B. The owner is responsible for;
  - 1. Performing all management and rental functions for the assisted unit, including selecting a voucher holder to lease the unit, and deciding if the family is suitable for tenancy of the unit (screening the tenant).
  - 2. Maintaining the unit in accordance with HQS, including performance of ordinary and extraordinary maintenance.
  - 3. Complying with equal opportunity requirements.
  - 4. Complying with the Housing Assistance Payments Contract (HAP).
  - 5. Preparing and furnishing to the SCHC information required under the HAP contract.
  - 6. Collecting from the family:
    - a. Any security deposit required under the lease.
    - b. The tenant contribution (the part of rent to owner not covered by the Housing Assistance Payment)
    - c. Any charges for unit damage by the family.
  - 7. Entering into a lease and enforcing tenant obligations under the lease.
  - 8. Paying for utilities and services (unless paid by the family under the lease).
  - 9. Including in the lease a clause that provides that engaging in drug related activity criminal activity on or near the premises by the tenant, household member, guest or any other person under the tenant's control is grounds for the owner to terminate tenancy. In addition, the lease must also provide that the owner may evict a family when the owner determines that a household member is illegally using a drug or when the owner determines that a pattern of illegal use of a drug interferes with the health, safety or right to peaceful enjoyment of the premises by other residents.
- C. For provisions on modifications to a dwelling unit occupied or to be occupied by a person with disabilities see 24 CFR 100.203.
- D. The owner is responsible for notifying the SCHC and the tenant in writing, within (60) days prior to any rent increase, or any other

changes to the terms of the existing lease, (i.e., term of lease, utility responsibility, etc...)

## 2.3 OBLIGATIONS OF THE PARTICIPANT

This Section states the obligations of a participant family under the program.

### A. Supplying required information.

1. The family must supply any information that the SCHC or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status. Information includes any requested certification, release, or other documentation.
2. The family must supply any information requested by the SCHC or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.
3. The family must disclose and verify Social Security Numbers and must sign and submit consent forms for obtaining information (if they have one).
4. Any information supplied by the family must be true and complete.

### B. HQS breach caused by the Family

The family is responsible for any HQS breach caused by the family or its guests.

### C. Allowing SCHC inspections.

The family must allow the SCHC to inspect the unit at reasonable times and after at least 3 (three) days' notice.

### D. Violation of Lease

The family may not commit any serious or repeated violation of the lease.

### E. Family Notice of Move or Lease Termination

The family must notify the SCHC and the owner before the family moves out of the unit or terminates the lease by a notice to the owner according to the Michigan Security Deposit Law.

### F. Owner Eviction Notice

The family must promptly give the SCHC a copy of any owner eviction notice it receives.

G. Use and Occupancy of the Unit

1. The family must use the assisted unit for a residence by the family. The unit must be the family's only residence.
2. The SCHC must approve the composition of the assisted family residing in the unit the family must promptly (within fourteen (14) calendar days) inform the SCHC of the birth, adoption, or court-awarded custody of a child. The family must request approval from the SCHC to add any other family member as an occupant of the unit. No other person (i.e., no one but members of the assisted family) may reside in the unit (except for a foster child/foster adult or live-in aide as provided in paragraph (4) of this Section).
3. The family must promptly (within fourteen (14) calendar days) notify the SCHC if any family member no longer resides in the unit.
4. If the SCHC has given approval, a foster child/foster adult or a live-in aide may reside in the unit. The SCHC has the discretion to adopt reasonable policies concerning residence by a foster child/foster adult or a live-in aide and defining when the SCHC consent may be given or denied. (See section 15.3)
5. Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit for residence by members of the family. Any business uses of the unit must comply with the lease, zoning requirements, and the affected household member must obtain all appropriate licenses.
6. The family must not sublease or let the unit.
7. The family must not assign the lease or transfer the unit.
8. Overnight adult visitors and additional adults living in units.
  - a. No adult person(s) other than those listed on the application and lease shall live/stay in a unit under this program other than on a temporary basis as herein described.
  - b. No person whose regular residence is within 200 miles of the Commission, or who does not have a regular

- residence, shall stay/live in a unit on this program for more than three (3) days in a 45-day period unless approval has been obtained from the Commission for a time of longer duration.
- c. No person whose regular residence is greater than 200 miles of Commission, shall stay/live in a unit on this program for more than two (2) weeks in a 45-day period unless approval has been obtained from the Commission for time of longer duration.
- d. If a tenant wishes to have an adult live/stay with them longer than the limits outlines in paragraph b. and c. above, or on a permanent basis, the tenant must first obtain approval from the landlord to have the additional person living in the unit. After this approval is obtained, and verified, the tenant must immediately notify the Commission of this action and provide the income of the additional adult proposed to live in the unit. The additional person applying to be added to the household will undergo the eligibility process, including a background check. If the SCHC determines that the person is eligible to be added to the household, the Commission will then approve the person to be added to the lease and HAP contract, calculate the new tenant payment and will notify the tenant and the landlord of the change in characteristics of the household and change in tenant payment. The written notification will also state the date when the additional adult can move into the unit.
- e. The intent of this section is to ensure that the Total Tenant Payment is accurately based on the total monthly income of all persons living/staying in that household. Failure to comply with any of the provisions of this paragraph will be considered as grounds for termination from the Section 8 Programs, repayment of the rent and possible prosecution under Section 35 (A) of the United States Criminal Code.

Absence of evidence of any other address will be considered verification that the visitor is living in the unit.

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

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

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

A child who is away at a school of higher education (not including pre-k through 12<sup>th</sup> grade) but lives with the family during school recesses will be considered to be a family member.

In a joint custody arrangement, if the parent/guardian program participant has at least 50% physical custody, and the child is living in the home the minor will be considered to be a family member.

- H. Absence from the Unit: Absence means that no member of the family is residing in the unit.

A family can be absent from their unit for periods of up to 60 days without SCHC approval, however, the tenant must contact the SCHC Management Office and provide contact information for the period of absence in case of an emergency.

Absences of more than 60 days must be approved by the SCHC. Absences between 61 -180 days may be approved by the SCHC for extenuating circumstances (i.e., illness, incarceration, etc.). All other Program Obligations must be met, or the risk of Program termination may occur.

The family must supply any information or certification requested by the SCHC to verify that the family is living in the unit, or relating to family absence from the unit, including any SCHC requested information or certification on the purposes of family absences. The family must cooperate with the SCHC for this purpose. The family must promptly (within fourteen (14) calendar days) notify the SCHC of its absence from the unit.

Authorized absences may include, but are not limited to:

1. Prolonged hospitalization;
2. Absences beyond the control of the family (i.e., death in the family, other family member illness);
3. Incarceration;
4. Other absences that are deemed necessary by the SCHC.

I. Interest in the Unit

The family may not own or have any interest in the unit. (Except for owners of manufactured housing, renting the manufactured homes space, or people using a HCV to purchase a home under the Housing Choice Voucher Program.)

J. Fraud and Other Program Violation

The members of the family must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program.

K. Crime by Family Members

The members of the family may not engage in drug-related criminal activity or other 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. The use of Marijuana is included in this ban.

L. Other Housing Assistance

An assisted family, or members of the family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy for the same unit or for a different unit, under any duplicate (as determined by HUD or in accordance with HUD requirements) Federal, State, or local housing assistance program.

M. Alcohol and/or Drug Abuse by Household Members

The members of the household must not abuse alcohol and/or drugs in any way that threatens the health, safety, or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

### 3.0 ELIGIBILITY FOR ADMISSION

#### 3.1 INTRODUCTION

There are six eligibility requirements for admission to the Section 8 program. Eligible applicants must:

- A. Qualifies as a family
- B. Has income within the income limits
- C. Must meet citizenship/eligible immigrant criteria
- D. Must provide documentation of Social Security numbers
- E. Must sign consent authorization documents

- F. Has a legal entity who can be held responsible for signing Program documents

In addition to the eligibility criteria, families must also meet the St. Clair Housing Commission's screening criteria in order to be admitted to the Section 8 Program.

### 3.2 ELIGIBILITY CRITERIA

- A. Family Status - All families must have a head of household, or co-heads of household.

A family includes a group of persons residing together and such a group includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity or marital status, as defined at 24 CFR 5.403:

1. A family with or without children. Such a family is defined as a group of 2 or more people.
  - a. Children temporarily absent from the home due to placement in foster care are considered family members.
  - b. Unborn children and children in the process of being adopted are considered family members for the purpose of determining bedroom size but are not considered family members for determining income limits.
2. An elderly family, which is:
  - a. A family whose head (including co-head), spouse, or sole member is a person who is at least 62 years of age;
  - b. Two or more persons who are at least 62 years of age living together; or
  - c. One or more persons who are at least 62 years of age living with one or more live-in aides.
3. A near-elderly family, which is:
  - a. A family whose head, spouse, co-head, or sole member is a person who is at least 50 years of age but below the age of 62;
  - b. Two or more persons, who are at least 50 years of age but below the age of 62, living together; or

- c. One or more persons, who are at least 50 years of age but below the age of 62, living with one or more live-in aides.
- 4. A disabled family, which is:
    - a. A family whose head, spouse, co-head, or sole member is a person with disabilities;
    - b. Two or more persons with disabilities living together; or
    - c. One or more persons with disabilities living with one or more live-in aides.
    - d. For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence.
  - 5. A displaced family, which is a family in which each member, or whose sole member, has been displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.
  - 6. A remaining member of a tenant family, which is a family member of an assisted family who remains in the unit when all other family members have left the unit. (Note: the member must have been on the lease and must have legal capacity.) If the remaining member of a tenant family is a minor or minors, it will be necessary for an adult to temporarily move into the unit to serve as a guardian for children residing in the unit. This adult must meet all requirements in accordance with the SCHC screening policies. Should this adult not meet the requirements of the SCHC's screening policies, the family will be given a reasonable time to find a replacement guardian or shall lose the assistance and be terminated from the program. The income received by this adult will be counted in determining family income except as where an exemption(s) may apply.
  - 7. A single person who may be an elderly person, displaced person, or a person with disabilities, a near elderly person, the remaining member of a tenant family, or any other single person.

**B. INCOME ELIGIBILITY:**

- 1. To be eligible to receive assistance a family shall, at the time the family initially receives assistance under the Section 8 Program shall be a low-income family that is:

- a. A very low-income or extremely-low income family;
  - b. A low-income family continuously assisted under the 1937 Housing Act; including families relocated from the Public Housing Program for the convenience of the agency. (Continuously assisted families are not counted against the income targeting requirements.)
  - c. A low-income family that meets additional eligibility criteria specified by the Housing Commission;
  - d. A low-income family or moderate-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing.
2. Income limits apply only at admission and are not applicable for continued occupancy; however, as income rises the assistance will decrease.
  3. The applicable income limit for issuance of a voucher is the highest income limit for the family size for areas within the Housing Commission's jurisdiction. The applicable income limit for admission to the program is the income limit for the area in which the family is initially assisted in the program. The family may only use the voucher to rent a unit in an area where the family is income eligible at admission to the program.
  4. Families who are moving into the SCHC's jurisdiction under portability and have the status of applicant rather than of participant at their initial Housing Commission, must meet the income limit for the area where they were initially assisted under the program.
  5. Families who are moving into the SCHC's jurisdiction under portability and are already program participants at their initial Housing Commission do not have to meet the income eligibility requirement for the SCHC program.
  6. Income limit restrictions do not apply to families transferring units within the SCHC Section 8 Program.

## C. CITIZENSHIP/ IMMIGRATION STATUS

### 1. LIMITS ON ASSISTANCE TO NON-CITIZENS

Eligibility for federal housing assistance is limited to U.S. citizens and applicants who have eligible immigration status. Eligible immigrants are persons who qualify for one of the

immigrant categories set forth in section 214 of the Housing and Community Development Act of 1980 (see 42 USC1436a(a), or a citizen of the Republic of Marshall Islands, the Federated States of Micronesia, or the Republic of Palau. However, people in the last category are not entitled to housing assistance in preference to any United States citizen or national resident within Guam. Persons claiming eligible immigration status must present appropriate immigration documents, which must be verified by the SCHC through the Immigration and Naturalization Service (INS).

Every applicant household for (and participant in) the Section 8 Housing Choice Voucher Program must sign a certification for every household member either claiming status as:

- a. A U.S. citizen, or
- b. An eligible alien, or
- c. Stating the individual's choice not to claim eligible status and acknowledge ineligibility.

## 2. DECLARATION OF U.S. CITIZENSHIP

For household member claiming U.S. citizenship, only a declaration (St. Clair Housing Commission Declaration of Section 214 Status form) signed by the household member (or in the case of a minor child, parent) is required by regulation, although the SCHC will require verification of citizenship by presentation of appropriate documentation. (i.e., U.S. passport, voter's registration card, birth certificate, social security card etc...)

## 3. DOCUMENTATION OF ELIGIBLE IMMIGRATION STATUS

Non-citizens claiming eligible immigration status must provide all of the following evidence:

- a. The signed declaration of eligible immigration status (St. Clair Housing Commission Declaration of Section 214 Status form);
- b. One of the INS documents specified in the rule.
- c. A signed verification consent form describing transmission and use of the information obtained

Families in which all members are citizens or have eligible immigration status are eligible for full housing assistance.

An applicant family without any citizens or members with eligible immigration status is not eligible for assistance.

All adults must be able to sign the lease. If the State of Michigan forbids individuals with ineligible immigration status from executing contracts (i.e., leases or other legal binding documents) then they are ineligible for this program.

Non-citizen students are not eligible to receive housing assistance. When a non-citizen student is accompanied by a non-citizen spouse and/or minor children, those family members are also ineligible for assistance. However, citizen spouses and the children of the citizen spouse and non-citizen student are eligible for assistance. When a household includes eligible and ineligible members it is treated as a “mixed family” as described below. A non-citizen student is defined as a bona fide student who:

- a. Is pursuing a course of study in this country
- b. Has a residence in another country outside of the United States that the person has no intention of abandoning; and
- c. Is admitted to this country temporarily, solely for the purpose of pursuing a course of study

#### 4. MIXED FAMILIES

Families that include members who are citizens or have eligible immigration status and members who do not have eligible immigration status (or select not to state that they have eligibility status) are referred to as “mixed families”.

A mixed family is eligible for prorated assistance. Prorated assistance is a calculation of subsidy based on the number of members who are citizens or have eligible immigration status. Calculating prorated assistance for mixed families is done in the following five (5) steps:

- a. Determine the gross rent for the unit (rent to owner plus the utility allowance.
- b. Determine the HAP, taking into consideration the income of all family members, regardless of their eligibility status.
- c. Divide the number of eligible family members (citizens and those with eligible immigration status) by the total number of members in the household.
- d. Multiply the HAP calculated in Step b. by the number calculated in Step c. to determine the family’s eligible subsidy portion.

- e. The amount of rent the family will pay will be the gross rent for the unit (Step a.) less the prorated HAP calculated in Step d.

## 5. NOTIFICATION REQUIREMENTS

At the time an application is filed, the SCHC will notify all applicants for assistance about the rule restricting assistance based on citizenship status and of the requirements to submit documentation of eligible status or to elect not to claim eligible status. The SCHC notice will state the following:

- a. Financial assistance is contingent upon the appropriate submission and verification of documentation of citizenship or eligibility Immigration Status.
- b. The types of documentation required and the time period for submission.
- c. As appropriate, assistance will be prorated, denied, or terminated based upon a final determination of eligibility after all appeals and if requested, an informal hearing.

## 6. SUBMISSION OF DOCUMENTATION

Documentation must be submitted by the time of the eligible determination. Once documents have been submitted and verified for an individual, citizenship documentation for that individual will not need to be collected again.

If the family certifies that the required evidence is temporarily unavailable and it needs more time, the SCHC may provide an extension of up to 30 days to submit evidence of eligible status, if the family has submitted the required declaration of eligible immigration status. To obtain an extension, the family must also certify that prompt and diligent efforts will be undertaken to obtain the evidence.

The SCHC will inform the family, in writing, whether its request for a time extension has been granted or denied. If granted, the notice will also stat the specific period of the extension. If the extension request is denied, the notice will explain the reason for the denial.

If all required documents have been provided by the family, assistance may not be denied or delayed solely because verification or requested hearings have not been completed.

If required documents have not been submitted by all family members, only prorated assistance may be provided until the required documents have been submitted by all family members.

New family members in currently participating households must submit documentation at the first interim or annual re-examination following occupancy.

If the SCHC suspects that an applicant or tenant has misrepresented his/her immigration status or altered or forged documents, it may refer the case to the HUD's Office of Inspector General for investigation.

All procedures will be applied in a uniform manner. No applicant or resident will be asked for additional information based on country of origin, speech, accent, language, or any other personal characteristic of the applicant or family member.

## 7. VERIFICATION OF ELIGIBLE IMMIGRATION STATUS

The SCHC will conduct primary verification of eligibility immigration status through the INS automated system, Systematic Alien Verification for Entitlements (SAVE). The SCHC will take the following steps to access SAVE:

- a. Complete and submit a Primary Verification User Access Code Agreement form before using SAVE for the first time.
- b. Each time, access the SAVE system by calling 1-800-365-7620.
- c. Use the assigned access code to enter the required information. One of the following messages will be received:
  - d. INS status confirmed; or
  - e. Institute Secondary Verification.
  - f. If the message is "Institute Secondary Verification", the SCHC will request a manual records search by completing form G-845S, Document Verification Request. This form must be sent to the INS along with photocopies of the original INS documents supplied by the applicant or currently assisted household member within 10 days of receiving the "Institute Secondary Verification" message.

- g. The SCHC is not liable for any action, delay, or failure of the INS in conducting the automated or manual verification.

## 8. DELAY, DENIAL, OR TERMINATION OF ASSISTANCE

The SCHC will not delay, deny, or terminate assistance of an applicant or currently assisted household if any of the following circumstances apply:

- a. At least one person in the household has submitted appropriate INS documents;
- b. The documents were submitted to the INS on a timely basis, but the verification process has not been completed;
- c. The family member in question, moves;
- d. The INS appeals process has not been completed;
- e. Assistance is prorated;
- f. Deferral of termination of assistance is granted; or
- g. For a program participant, the informal hearing process is not complete.

The SCHC must terminate assistance for at least 24 months if it determines that a family has knowingly permitted an ineligible person to live in the assisted unit without informing the SCHC.

Assistance may be denied for terminated when:

- a. Declaration of citizenship or eligible immigration status is not submitted by the specified deadline or any extension;
- b. Required documentation is submitted but INS primary and secondary verification does not verify immigration status and family does not pursue INS or SCHC appeal; or
- c. Required documentation is submitted but INS primary and secondary verification does not verify immigration status, and INS or SCHC appeal is pursued but decision(s) are rendered against the family.

When the SCHC decides to deny or terminate assistance; a written notice will be sent to the family, and it will include the following:

- a. A Statement that financial assistance will be denied or terminated and an explanation of why;
- b. Notification that the family may be eligible for prorated assistance if it is a mixed family;
- c. In the case of a currently assisted household, the procedures for obtaining relief under the preservation of family's provision, (e.g. temporary deferral or proration of assistance);
- d. The right to appeal the results of the secondary verification to the INS; and
- e. The right to request an informal hearing from the SCHC in lieu of an INS appeal or after an appeal.

In the case of applicants, the notice may advise that assistance may not be delayed until the conclusion of the INS appeal process but may be delayed during the informal hearing process.

## 9. INS APPEALS PROCESS

The SCHC must notify the family in writing if the secondary process does not confirm eligible immigration status. The notice must indicate whether assistance has been delayed, denied, or terminated; and inform the family of the right to an appeal with the INS.

If the family wants to exercise its right of appeal with the INS, it must take the following steps:

- a. Within 30 days from the date of the SCHC notification, submit a written request for an appeal with the INS.
- b. Include with this request a cover letter and any support documentation as well as a copy of the verification request form (Form G-845S) which was submitted by the SCHC for the secondary verification request.
- c. Provide the SCHC with a copy of the request or an appeal with the INS.

- d. Provide any additional documentation that the INS may request.

Within 30 days the INS must render its decision to the family and forward a copy to the SCHC.

## 10. FAIR HOUSING REQUIREMENTS

Careless implementation of the rule limiting assistance to non-citizens may result in inadvertent discrimination.

The SCHC will comply with all applicable civil rights and other fair housing laws and regulations. The Fair Housing Act prohibits discrimination on the basis of race, color, religion, sex, handicap, familial status, or national origin in the sale, rental, or advertising of dwellings, in the provision of brokerage services, or in the availability of residential real estate-related transactions. Such protected classes do not exclude persons who have or are perceived to have HIV/AIDS.

The SCHC will follow all required procedures and apply Program requirements consistently by protected class.

In implementing limits on assistance to non-citizens, the SCHC will also comply with Section 504 of the Rehabilitation Act, which prohibits discrimination on the basis of any handicap or perceived handicap. Where feasible, if an applicant or participant is not proficient in English, the SCHC will provide notices and documents related to these provisions in a language the individual understands.

## D. SOCIAL SECURITY NUMBER DISCLOSURE/DOCUMENTATION

To be eligible for program assistance, applicant, and participant household members (including live-aides, foster children and foster adults) must disclose his/her SSA assigned SSN and must provide acceptable evidence/documentation of each disclosed SSN. with the exception of the following individuals:

1. Those individuals who do not contend to have eligible U.S. citizenship or eligible immigration status (individuals who may be unlawfully present in the United States). These individuals in most instances would not be eligible for an SSN.
  - a. A family that consists of a single household member (including a pregnant individual) who does not have eligible U.S. citizenship or eligible immigration status **is not** eligible for housing assistance and cannot be housed.

- b. A family that consists of two or more household members and at least one member that has eligible U.S. citizenship or eligible immigration status, is classified as a mixed family, and **IS** eligible for prorated assistance in accordance with 24 CFR 5.520. The SCHC **will not** deny assistance to mixed families due to non-disclosure of an SSN by an individual who does not contend to have eligible immigration status.

Note: Financial assistance may only be provided to individuals with Eligible immigration status in accordance with 42 USC §1436a, which is generally evidenced by the individual providing his/her Green Card (Form I-551 – U.S. Permanent Residence Card) or other documentation approved by the Department of Homeland Security or noncitizens with refugee or asylee status.

2. Existing program participants who as of January 31, 2010 were 62 years of age or older (born on or before January 31, 1948), and have not previously disclosed a valid SSN. This exemption continues even if the individual moves to a new assisted unit.

If any family member of an applicant family indicates they have a Social Security Number, but cannot verify it, the family cannot be assisted until verification is provided. If the Social Security Number of each household member cannot be provided. If the Social Security number of each household member cannot be provided to the SCHC within 10 calendar days of it being requested, the family shall be removed from the waiting list. Within the 10-day period, if all household members have not disclosed their SSN at the time a voucher becomes available, the SCHC must offer the available voucher to the next eligible applicant family on the waiting list.

Note: An individual who previously declared to have eligible immigration or eligible citizenship status may **not** change his/her declaration to no longer contend to have eligible immigration 4 status to avoid compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance of these requirements.

Prior to admission, every family member, must provide the SCHC with a complete and accurate Social Security Number unless they do not contend eligible immigration status. New family members must provide this verification prior to being added to the lease. If the new family member became a member of the household within six (6) months prior to the date of voucher issuance and is under the age of six and has not been assigned a Social Security Number, the family shall have ninety (90) calendar days after starting to receive the assistance to provide a complete and accurate Social Security

Number. The SCHC shall grant one ninety (90) day extension for newly added family members under the age of six, if in its sole discretion it determines that the person's failure to comply was due to circumstances that could not have reasonably been foreseen and was outside the control of the person. If the Social Security Number is not provided within the time period required, the assistance shall be terminated.

If a person is already a program participant and has not disclosed his or her Social Security Number, it must be disclosed at the next re-examination or re-certification.

If an individual fails to provide the verification within the time allowed, the family will be denied assistance or will have their assistance terminated. The SCHC shall grant one ninety (90) day extension from termination if in its sole discretion it determines that the person's failure to comply was due to circumstances that could not have reasonably been foreseen and there is a reasonable likelihood that the person will be able to disclose a Social Security Number by the deadline.

The best verification of the Social Security Number is the original Social Security card. If the card is not available, the SCHC will accept an original document issued by a federal or state government agency, which contains the name of the individual and the Social Security Number of the individual, along with other identifying information of the individual or such other evidence of the Social Security Number as HUD may prescribe in administrative instructions.

(Refer to Section 10.0 for Acceptable methods of Verification)

## E. SIGNING CONSENT FORMS

1. In order to be eligible for admission and continued assistance, each member of the family who is at least 18 years of age, and each family head and spouse regardless of age, shall sign one or more consent forms, including the required HUD FORM 9886, "Authorization for Release of Information/Privacy Act Notice", at least annually.
2. The consent form must contain, at a minimum, the following:
  - a. A provision authorizing HUD or the SCHC to obtain from State Wage Information Collection Agencies (SWICAS) any information or materials necessary to complete or verify the application for participation or for eligibility for continued occupancy; and
  - b. A provision authorizing HUD or the SCHC to verify with previous or current employers' other sources of income

information pertinent to the family's eligibility for or level of assistance;

- c. A provision authorizing the commission and HUD to request income information from the IRS and the SSA for the sole purpose of verifying income information pertinent to the family's eligibility or level or benefits; and
- d. A statement allowing the SCHC to access the applicant/participants criminal records with law enforcement agencies; and
- e. A statement that the authorization to release the information requested by the consent form expires 15 months after the date the consent form is signed.

#### F. SUITABILITY FOR TENANCY/BACKGROUND CHECKS/SCREENING

The SCHC determines eligibility for participation and will also conduct criminal background checks on all adult household members, including live-in aides. This check will be made through Resources available to the SCHC which may include, but not limited to, I-CHAT, OTIS, Court Records, etc., and may also be made through state or local law enforcement when necessary.

If the individual has lived outside the local area, the SCHC may contact law enforcement agencies where the individual had lived or request a check through the FBI's National Crime Information Center (NCIC). The criminal background check will proceed after each adult member has signed a consent form designed by the SCHC. Any "privileged" information received as a result of the background check shall be used solely for screening purposes. The information shall be maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose(s) for which it was requested has been accomplished, and the period for filing a challenge to the SCHC's action has expired without a challenge, or the final disposition of any litigation has occurred.

In deciding whether to exercise their discretion to assist an individual or household that has engaged in criminal activity, the SCHC will consider all of the circumstances relevant to the particular admission or eviction decision, including but not limited to: the seriousness of the offending action; the effect that the denial of assistance of the entire household would have on family members not involved in the criminal activity; and the extent to which the participant has taken all reasonable steps to prevent or mitigate the criminal activity.

The SCHC will check with the State sex offender registration program and will ban for life any individual who is subject to a lifetime registration requirement, as defined in the Michigan Sex Offender's Registration Act, or the states act in which the registration requirement was ordered. Any individual who is subject to a registration requirement for less than "lifetime" will be reviewed on a case-by-case basis. The SCHC may utilize the Dru Sjodin National Sex Offender Database (which is hosted by the Department of Justice), located at: <http://www.nsopw.gov>, this searchable database, combines the data from individual state offender registries. In addition, during the certification and re-certification process, each household will be asked whether **any** member is subject to the lifetime registration requirement under a state registration program, including minors residing in the household. A false answer to this question may be grounds for the termination of assistance.

When criminal records are used for the purposes to deny admission for criminal activity as shown by the criminal record, or the Sex Offender Registration, the SCHC will notify the household of such action, and will provide the subject of the record, and the applicant with a copy of such information, and an opportunity to dispute the accuracy and the relevance of the record, in writing, within 14 calendar days. This opportunity will be provided before a denial of admission. The cost of obtaining the criminal record check will not be passed along to the applicant. (24 CFR 905 (d)) If the St. Clair Housing Commission does not receive the dispute within the allotted time, the applicant will be denied. Applicants that are denied housing will be given a "Notice of Occupancy Rights under the Violence Against Women Act" which provides information on their rights and responsibilities under the Violence Against Women Act (VAWA). A copy of the HUD-approved Certification form shall also be provided with the notice.

Additional screening is the responsibility of the owner. Upon the request of a prospective owner, the SCHC will provide to the owner the name address and phone number of the applicants current and any previous landlords that are known to the SCHC.

In addition, if an owner submits a request to the SCHC for criminal records concerning an adult member of an applicant household, signed consent forms, and the owner's standards for prohibiting admission, the SCHC must request the criminal conviction records from the appropriate law enforcement agency or agencies, as determined by the SCHC. If the SCHC receives criminal conviction records requested by the owner, the SCHC must determine whether criminal action by a household member, as shown by such criminal conviction records, may be basis for applicant screening, lease enforcement or eviction, as applicable in accordance with HUD regulations and the owner's criteria. The SCHC must notify the owner

whether such criminal conviction records concerning the household member, and of the determination whether such criminal conviction records may be a basis for applicant screening, lease enforcement, or eviction. However, the SCHC must not disclose the household member's criminal conviction record or the content of that record to the owner, but merely the fact of whether or not they comply with HUD regulations and the owner's criteria. The SCHC will charge owners a fee of \$50.00 for this service.

The same service shall be available to owners of federally assisted housing in their attempt to determine if an applicant is on the state sex offender list upon the request of the owner. Once again, the information itself will not be disclosed to the owner; the SCHC will merely apply the criteria the owner establishes. The fee for this service will be \$50.00.

New admissions of medical marijuana users are prohibited (this does not include FDA-approved marijuana synthetics). HUD has ruled that federal law preempts state law on this issue.

#### G. SPECIAL COLLEGE STUDENT ELIGIBILITY RULES (24 CFR 5.612)

No assistance shall be provided under section 8 of the 1937 Act to any individual who:

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

A student under age 24 who meets the additional criteria above, may still be income eligible for assistance in circumstances where an examination of the student's parents may not be relevant or where the student can demonstrate the absence of or, his or her independence from, parents. These circumstances include but are not limited to the consideration of the following:

1. The individual must be of legal contract age under state law.

2. The individual must have established a household separate from parents or legal guardians for at least one year prior to application, or the individual meets the US Department of Education's definition for an independent student. (See "Independent Student" in the glossary)
3. The individual must not be claimed as a dependent by parents or legal guardians pursuant to IRS regulations.
4. The individual must obtain a certification of the amount of financial assistance that will be provided by parents, signed by the individual providing the support. This certification is required even if no assistance will be provided.

The SCHC will verify to determine whether a student is independent for purposes of using the student's income alone for determining Section 8 eligibility (Student's Independence Verification requirements). Those items include:

1. Reviewing and verifying previous address information to determine evidence of a separate household,
2. Verifying the student meets the US Department of Education's definition of "independent student"; and
3. Reviewing prior year income tax returns to verify if a parent or guardian has claimed the student as a dependent (except if the student meets the Department of Education definition of "independent student" (See "Independent Student" in the glossary); and
3. Verifying income provided by a parent by requiring a written certification from the individual providing the support. Certification is also required if the parent is providing no support to the student. Financial assistance that is provided by persons not living in the unit is part of annual income. (except if the student meets the Department of Education definition of "independent student" (See "Independent Student" in the glossary);

**Note: HUD's regulations on College Student Eligibility Requirements do not affect students residing in a section 8 assisted unit with his or her parents or who reside with parents who are applying to receive Section 8 assistance.**

For purposes of calculating annual income, a student's financial assistance is considered income only in the context of the **student's** application for, or retention of section 8 assistance separately from the

student's parents. 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. 10001et seq.), from private sources, or from an institution of higher education as defined by the Higher education Act of 1965, shall be considered income to that individual, except that financial assistance described in this paragraph in not considered annual income for persons over age 23 with dependent children. (Financial assistance does not include loan proceeds for the purposes of determining income).

Notwithstanding the above, all other program eligibility requirements apply.

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

#### H. LEGAL ENTITY

Any family that is admitted to the Section 8 Program, must have a legal entity who can be held responsible for signing the documents necessary for participation in the Section 8 Housing Choice Voucher program.

This entity can be any of the following:

1. Head of Household who is at least 18 years of age
2. A legally emancipated minor (court/legal documentation must be provided)
3. A legal guardian or person appointed by the court for a Head of Household who is at least 18 years of age, but has been determined by court documentation, not able to be held legally responsible for themselves.

#### VIOLENCE AGAINST WOMEN ACT

No applicant for the Housing Choice Voucher Program who has been a victim of domestic violence, dating violence, sexual assault or stalking shall be denied admission into the program if they are otherwise qualified. Refer to Section 24.0 of this Policy for additional information on the Violence Against Women Act Policy.

### 4.0 MANAGING THE WAITING LIST

#### 4.1 OPENING AND CLOSING THE WAITING LIST

Opening of the waiting list will be announced with a public notice that applications for Section 8 will again be accepted. The public notice will state where, when, and how to apply. The notice will be published in a local newspaper of general circulation and also by any available minority media. The public notice will state any limitations to who may apply.

The notice will state that applicants already on waiting lists for other housing programs must apply separately for this program and such applicants will not lose their place on other waiting lists when they apply for public housing. The notice will include the Fair Housing logo and slogan and will be in compliance with Fair Housing requirements.

Closing of the waiting list will also be announced with a public notice. The public notice will state the date the waiting list will be closed. The public notice will be published in a local newspaper of general circulation and also by any available minority media.

#### 4.2 TAKING APPLICATIONS

Families wishing to receive program assistance under the Section 8 HCV Program will be required to complete an application for housing assistance.

A two-step process will be used. Under the two-step process, the SCHC will initially require the applicant family to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list. The Commission will screen and ensure that all verifications of all preferences, eligibility, suitability, and selection factors are current (less than 90 days old) in order to determine the family's final eligibility for program admission.

Applications will be available during regular business hours at:

400 South Third St. Clair MI 48079

Applications may also be available via online when the online application process is available by accessing the SCHC's website at:

[www.stclairhousing.org](http://www.stclairhousing.org)

(Please refer to the online application procedures)

Applications may also be mailed to interested families upon request.

Applications are taken to compile a waiting list. Due to the demand for housing in the St. Clair Housing Commission's jurisdiction, the St. Clair Housing Commission may take applications on an open enrollment basis, depending on the length of the waiting list.

When the Waiting list is open, completed applications will be accepted for all applicants.

Applications for certain targeted populations/preferences may be accepted during times when the waiting list is closed. Please see the Preferences Section for further information.

The SCHC will inform all applicants of the available waiting list preferences at the time of pre-application. The SCHC will give each applicant an opportunity to claim the preference by self-certification during the initial application process.

Applicants will be provided the opportunity to complete the information on form HUD-92006, Supplement to Application for Federally Assisted Housing. The form gives applicants the option to identify an individual or organization that the SCHC may contact and the reason(s) the individual or organization may be contacted. The applicants, if they choose to provide the additional contact information, must sign and date the form.

If the applicant chooses to have more than one contact person or organization, the applicant must make clear to the Housing Commission the reason each person or organization may be contacted. The SCHC will allow the applicant to complete a form HUD-92006 for each contact and indicating the reason the Housing Commission may contact the individual or organization. For example, the applicant may choose to have a relative as a contact for emergency purposes and an advocacy organization for assistance for tenancy purposes.

Those applicants who choose not to provide the contact information should check the box indicating that they “choose not to provide the contact information” and sign and date the form.

Applications may be returned in person at the St. Clair Housing Commission Main Office during open enrollment at 400 South Third St. Clair MI 48079 from 7:30 a.m. - 5:00 p.m., Monday through Thursday, as well as via online when online applications are available. Applications must be complete in order to be accepted by the SCHC for processing. If an application is incomplete, the SCHC will notify the family of the additional information required (provided contact information is available) and hold the application for a maximum of 10 calendar days from the date of notification of the additional information required.

All applications should be accompanied with a photo I.D.

The completed application will be dated, and time stamped upon its return to the St. Clair Housing Commission.

Upon receipt of the families completed application, the St. Clair Housing will make a preliminary determination of eligibility. The SCHC will notify the family in writing of the date and time of placement on the waiting list and the approximate amount of time before housing assistance may be offered, and of their responsibility to notify the SCHC in writing of any changes in their application status. If the SCHC determines the family to be ineligible, the family will be sent a notice and the notice will state the reasons therefore and offer the family the opportunity of an informal review of this determination.

The applicant may at any time report changes in their application status including changes in family composition, income, and address or preference factor. All changes must be in writing, dated, and signed by the applicant. The Commission will note them on the application file and will update them on the Waiting List, when required.

Applicants will also be given the opportunity to update their HUD Form 92006 if applicable and if they so desire.

Persons with disabilities who require a reasonable accommodation in completing an application may call the St. Clair Housing Commission to make special arrangements. Telecommunication services for the Deaf are available through the State of Michigan's "Michigan Relay Service".

All applicants and/or families already on a waiting list will be provided with the option of having their names placed on any and all open waiting lists maintained by the SCHC. If the SCHC adds new programs, such as a project-based voucher program, the SCHC will notify existing participants and new applicants by utilizing the same means it would use in opening its waiting list under 24 CFR 982.206(a) such as by (1) advertising through local and minority newspapers and the internet; (2) local postings at the SCHC, post offices, libraries, and community centers; and (3) outreach to social service organizations that may serve the same clientele that will be occupying the PBV units. Please note that the SCHC will not notify each family on the tenant-based waiting list by individual notice.

#### 4.3 ORGANIZATION OF THE WAITING LIST

The St. Clair Housing Commission shall administer a community wide waiting list which will be maintained in accordance with the following guidelines:

- A. The application will be a permanent file;
- B. All applications will be maintained in order of date and time of application; and according to any preferences the applicant may be entitled to.
- C. Any significant contacts between the SCHC and the applicant will be documented in the applicant file.

Note: The waiting list cannot be maintained by bedroom size under current HUD regulations.

#### 4.4 FAMILIES NEARING THE TOP OF THE WAITING LIST

When a family is approaching the top of the waiting list, the family will be invited to an interview and the verification process will begin. It is at this point in time that the family's preferences will be verified. If the family no longer qualifies to be near the top of the list, the family's name will be returned to the appropriate spot on the waiting list or removed from the waiting list (placed inactive) where appropriate. The SCHC must notify the family in writing of this determination and give the family the opportunity for an informal review.

Once the preferences have been verified, the family will complete a full application, present Social Security number information, citizenship/eligible immigrant information, and sign the Consent for Release of Information forms.

Applicants will also be given the opportunity to update their HUD Form 92006 if applicable and if they so desire.

#### 4.5 MISSED APPOINTMENTS

All applicants who fail to keep a scheduled appointment with the St. Clair Housing Commission shall be considered as being no longer interested and will be sent a notice of termination of the process for determining eligibility and removed from the waiting list.

If the applicant contacts the St. Clair Housing Commission within a reasonable amount of time of missing the appointment (usually no more than 7 calendar days), the St. Clair Housing Commission will allow the family to reschedule. Generally, no more than one opportunity will be given to reschedule without good cause, and no more than two opportunities will be given for good cause. When good cause exists for missing an appointment, the St. Clair Housing Commission will work closely with the family to find a more suitable time. Applicants will be offered the right to an informal review before being removed from the waiting list.

#### 4.6 PURGING THE WAITING LIST

The SCHC may update and purge its waiting list as needed to ensure that the pool of applicants reasonably represents the interested families for whom the SCHC has current information, i.e., applicants address, family composition, income category and preferences.

#### 4.7 REMOVAL OF APPLICANTS FROM THE WAITING LIST

The SCHC will not remove an applicant's name from the waiting list unless:

- A. The applicant requests that the name be removed;
- B. The applicant fails to respond to a written request for information or a request to declare their continued interest in the program as requested by the Commission; or fails to keep 2 or more appointments without good cause.
- C. The applicant does not meet either the eligibility or suitability criteria for the program.
- D. The applicant has been issued a voucher.

The reason for all removals from the waiting list shall be carefully documented in the applicant's file. Applicant files will be retained for a minimum of 3 years after an application has been placed inactive (5 year minimum for applications placed inactive for citizenship/immigration status).

#### 4.8 GROUNDS FOR DENIAL (24 CFR 982.552, and .553)

Denial of assistance for an applicant may include any or all of the following:

- \*Denying listing the application on the waiting list
- \*Denying or withdrawing a Voucher
- \*Refusing to enter into a HAP contract or approve a Lease
- \*Refusing to process or provide assistance under portability procedures

The SCHC will deny assistance to Applicants who:

- A. Do not meet any one or more of the eligibility criteria;
- B. Do not supply information or documentation required by the application process, including failure to sign and submit consent forms for obtaining necessary information and documentation.
- C. Fail to respond to a written request for information or a request to declare their continued interest in the program;
- D. Fail to complete any aspect of the application or lease-up process;
- E. Have a family member who was evicted or terminated from federally assisted housing within the past five (5) years of the projected date of admission because of drug-related criminal activity involving the illegal manufacture, sale, distribution, or possession with the intent to manufacture, sell, and/or distribute a controlled substance as defined in Section 102 of the Controlled Substance Act. 21 U.S.C. 802;

The time limits are based on the date of eviction or termination, not the date the crime was committed. However, the SCHC may admit the household if the SCHC determines:

1. The evicted household member who engaged in drug related criminal activity has successfully completed a supervised drug rehabilitation program, approved by the SCHC; or
  2. The circumstances leading to the eviction no longer exist, (for example, the criminal household member is imprisoned or otherwise no longer in the household.)
- F. Have a family member who has been evicted or terminated from a federally assisted program for serious or repeated violations of the program in the last 12 months.
- G. Have a family member who is currently engaging in the illegal use of a drug;
- For purposes of this policy, a household member is “currently engaged in” the above behavior if the behavior is recent enough to justify a reasonable belief that the behavior is current.
- H. Have a household member whose illegal drug use or pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
- I. Have a household member who has ever been convicted of drug related criminal activity for the manufacturing or producing methamphetamine (speed) on the premises of federally assisted housing. (Denied for life)
- J. SEX OFFENDERS:
1. Lifetime registration requirement under a state sex offender registration program will be denied for life.
  2. Registration requirements for anything less than a lifetime registration requirement under a state sex offender registration program will be reviewed on a case-by-case bases, and a determination made based on the degree of conviction and any other pertinent information.
- K. Have a household member whose abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
- L. Have a household member who is a fugitive felon, parole

violator, or a person fleeing to avoid prosecution, or custody, or confinement after conviction for a crime, or attempt to commit a crime that is a crime under the law of the place from which the individual flees;

- M. Have a family member who has been convicted of a crime, with description and denial terms from the date of disposition or the date of sentencing, which ever date is provided/verified and or later as follows:

<u>Legal Conviction Description</u>		<u>Term of Denial</u> (All from the date of Disposition or the date of sentencing, which ever date is provided/verified and or later)
<b>MISDEMEANOR CONVICTIONS</b> (EXCEPT AS SPECIFIED OTHER WISE IN THIS POLICY)	<b>NON-DRUG/NON-VIOLENT CRIMINAL RELATED</b>	N/A
	<b>DRUG RELATED</b>	<b>3 YEARS</b> from the date of Disposition or the date of sentencing, which ever date is provided/verified and or later
	<b>VIOLENT CRIMINAL RELATED</b>	<b>3 YEARS</b> from the date of Disposition or the date of sentencing, which ever date is provided/verified and or later
<b>FELONY CONVICTIONS</b> (EXCEPT AS SPECIFIED OTHER WISE IN THIS POLICY)	<b>NON-DRUG/NON-VIOLENT CRIMINAL RELATED</b>	The greater of:  <b>3 YEARS</b> from the date of Disposition or the date of sentencing, which ever date is provided/verified and or later,
	<b>DRUG RELATED</b>	The greater of:  <b>7 YEARS</b> from the date of Disposition or the date of sentencing, which ever date is provided/verified and or later,  or;  <b>3 YEARS</b> from the end date of a sentenced prison/jail/probation term for the conviction.

	VIOLENT CRIMINAL RELATED	The greater of:  7 YEARS from the date of Disposition or the date of sentencing, which ever date is provided/verified and or later,  or;  3 YEARS from the end date of a sentenced prison/jail/probation term for the conviction.
	MURDER/ATTEMPTED MURDER	The greater of:  10 YEARS from the date of Disposition or the date of sentencing, which ever date is provided/verified and or later,  or;  3 YEARS from the end date of a sentenced prison/jail/probation term for the conviction.
	MAINTAINING A DRUG HOUSE IN FEDERALLY ASSISTED HOUSING	The greater of:  10 YEARS from the date of Disposition or the date of sentencing, which ever date is provided/verified and or later,  or;  3 YEARS from the end date of a sentenced prison/jail/probation term for the conviction.
	ALCOHOL - 3 ALCOHOL RELATED CONVICTIONS WITHIN THE PAST 5 YEARS	If previously denied, applicant family can be considered if/when none of the 3 convictions have a date of disposition within the last 24 months.

- N. The SCHC determines there is a reason to believe a household member has a history of criminal activity by any household member involving crimes of physical violence against persons or property, and any other criminal activity including drug-related criminal activity that would adversely affect the health, safety, or well-being of other tenants or staff, or cause damage to the property or if the person is a perpetrator in the violence against women act (See “Verification of Domestic Violence, Dating Violence, Sexual Assault or Stalking” for additional information).
- O. Currently owes rent or other amounts to any Housing Commission in connection with the public housing or Section 8 Programs.

- P. Have committed fraud, bribery, or any other corruption in connection with any Federal housing assistance program, including the intentional misrepresentation of information related to their housing application or benefits derived there from;
- Q. Have engaged in or threatened abusive or violent behavior towards any SCHC staff (including a SCHC employee, contractor, or agent) or residents;
- R. FOR SITUATIONS INVOLVING THE USE OF MEDICAL MARIJUANA: New admissions of medical marijuana users are prohibited (this does not include FDA-approved marijuana synthetics). HUD has ruled that federal law preempts state law on this issue.

For denying an admission based on any criminal activity, an arrest record, alone, will not serve as sufficient evidence of criminal activity that can support an adverse admission decision. Before the SCHC denies admission to an individual or household on the basis of criminal activity by a household member or guest, it will determine that the relevant individual actually engaged in such activity.

An arrest record can trigger an inquiry into whether there is sufficient evidence to determine that a person engaged in disqualifying criminal activity but is not itself evidence on which to base a determination. The SCHC can utilize other evidence, such as police reports detailing the circumstances of the arrest, witness statements, and other relevant documentation to assist them in making a determination that disqualifying conduct occurred. Reliable evidence of a conviction for criminal conduct that would disqualify an individual for tenancy may also be the basis for determining that the disqualifying conduct in fact occurred.

If any household member is involved with a pending case in any of the situations listed above, the application will be put on “Hold”, and no further processing of the application will be done until the SCHC has been provided adequate written documentation of the final determination/outcome. Once adequate written documentation has been provided, processing will continue based upon the information provided. If the SCHC does not receive adequate written documentation of the final determination/outcome within 2 weeks of the final determination/outcome, the application will be placed inactive, and it will be necessary to re-apply.

In any pending case of drug related or violent criminal activity, if legal conviction occurs in any of the situations listed above, policy for denial based upon drug related or violent criminal activity must be followed. In determining whether to deny assistance because of action or failure to act by members of the family, the SCHC may consider all relevant circumstances. (See section 17.2, D., “Consideration of Circumstances”)

When criminal records are used for the purposes to deny admission (or termination of participation) for criminal activity as shown by the criminal record, or the Sex Offender Registration, the SCHC will notify the household of the proposed action, and will provide the subject of the record, and the applicant or tenant, with a copy of such information, and an opportunity to dispute the accuracy and the relevance of the record. This opportunity will be provided before a denial of admission (or termination of participation). The cost of obtaining the criminal record check will not be passed along to the tenant participant. (24 CFR 905 (d)) The tenant has fourteen (14) calendar days to dispute the accuracy and relevance of the record in writing. If the St. Clair Housing Commission does not receive the dispute within the allotted time, the applicant will be denied.

The fact that an applicant is or has been a victim of domestic violence, dating violence, sexual assault or stalking is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance or admission. The SCHC will require verification in all cases where an applicant claims protection against an action proposed to be taken by the SCHC involving such an individual. Types of acceptable verifications are outlined in Section 24.4 of this Section 8 Administrative Plan and must be submitted within 14 calendar days after receipt of the SCHC's written request for verification.

#### 4.9 NOTIFICATION OF NEGATIVE ACTIONS

Any applicant whose name is being removed from the waiting list for reasons other than not declaring a continued interest in program assistance will be notified by the SCHC, in writing, that they have fourteen (14) calendar days from the date of the written correspondence to present mitigating circumstances or request an informal review. The letter will also indicate that their name will be removed from the waiting list if they fail to respond within the time frame specified. The SCHC system of removing applicant names from the waiting list will not violate the rights of person with disabilities. If an applicant claims that their failure to respond to a request for information or updates was caused by a disability, the SCHC will verify that there is in fact a disability and the disability caused the failure to respond and provide a reasonable accommodation. An example of a reasonable accommodation would be to reinstate the applicant on the waiting list based on the date and time of the original application.

If a letter is returned by the Post Office without a forwarding address, the applicant will be removed without further notice and the envelope will be maintained in the file. If a letter is returned with a forwarding address, it will be re-mailed to the address indicated by the Post Office.

If an applicant is removed from the waiting list for failure to respond, they will not be entitled to reinstatement unless extenuating circumstances such as being hospitalized, incarcerated, in a drug rehab program, or in some other way incapacitated and unable to respond. Written documentation must be

presented to verify the extenuating circumstances or the reason they were not able to respond.

The waiting list will be purged in accordance with section 4.6 of this policy, to ensure that the waiting list is current and accurate. The mailing will ask for current information and confirmation of continued interest.

Notices will be made available in accessible format upon the request of a person with a disability.

#### 4.10 INFORMAL REVIEW

If the SCHC determines that an applicant does not meet the criteria for receiving Section 8 assistance, the SCHC will promptly provide the applicant with written notice of the determination. The notice must contain a brief statement of the reason(s) for the decision, and state that the applicant may request an informal review of the decision with fourteen (14) calendar days of the denial. The SCHC will describe how to obtain the informal review. The informal review process is described in Section 17.2 of this Plan.

### 5.0 SELECTING FAMILIES FROM THE WAITING LIST

#### 5.1 WAITING LIST ADMISSIONS AND SPECIAL ADMISSION (24 CFR 982.203 and 982.304)

The SCHC may admit an applicant for participation in the program either as a special admission or as a waiting list admission.

If HUD awards funding targeted for/towards families with specific characteristics or families living in specific unit types, the SCHC will admit these families under a Special Admission. The SCHC may admit a family that is not on the waiting list, or without considering the family's position on the waiting list. If this occurs, the SCHC will maintain records demonstrating the family was admitted with HUD-targeted assistance. When one of these targeted Housing Choice Vouchers turns over, it shall be issued to applicants with the same specific characteristics, if required, as the targeted program guidelines describe.

The following are examples of types of program funding that may be targeted for a family with specific characteristics or living in a specified unit type.

- A. A family displaced because of demolition or disposition of a public housing project;
- B. A family residing in a multi-family rental housing project when HUD sells, forecloses, or demolishes the project;

- C. For housing covered by the Low-Income Housing Preservation and Resident Homeownership Act of 1990;
- D. A non-purchasing family residing in a project subject to a homeownership program;
- E. A family displaced because of mortgage prepayment or voluntary termination of a mortgage insurance contract with HUD;
- F. A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term; and
- G. A non-purchasing family residing in a HOPE 1 or HOPE 2 project.
- H. Mainstream Voucher Program Funding
- I. Foster Youth Initiative Voucher Funding

In the case of a federally declared disaster, the SCHC reserves the right for its Executive Director to suspend its preference system for whatever duration the Executive Director feels is appropriate and to admit victims of the disaster to the program instead of those normally admitted.

Except for Special Admissions, participants will be selected from the SCHC waiting list in accordance with this policy.

Any applicant who is homeless at the time of admission will be reported to HUD on the 50058.

## 5.2 PREFERENCES (24CFR982.207)

In accordance with the SCHC's Annual Plan, the SCHC will select families from the waiting list based on the following preferences based on local housing needs and priorities.

### A. Elderly/Disabled/w/Dependents Preference - 4 POINTS

Applicants who meet one, or all, of the following are eligible for this preference:

1. Elderly Household - head or co-head is over 62 yrs. of age or older
2. Disabled/handicapped Household - head or co-head is handicapped or disabled
3. Dependents - Family has dependents

### B. Residency Preference - 2 POINTS

Applicants who live in St. Clair County are eligible for this preference.

Use of this residency preference does not have the purpose or effect of delaying or otherwise denying admission to the program based on the race, color, ethnic origin, gender, religion, disability, or age of any member of an applicant family.

This residency preference will also be equally extended to:

1. Applicants who are working, or who have been notified that they are hired to work in St. Clair County. The SCHC will not deny a local preference, nor otherwise exclude or penalize a family in admission to the program, solely because the family resides in public housing.

The SCHC will inform all applicants of the available preferences and will give each applicant an opportunity to show that they qualify for any/all of the preferences available at the time of application and at any time thereafter that such preferences become available.

### 5.3 SELECTION FROM THE WAITING LIST

Based upon the preferences in section 5.2 and point values assigned to each preference, applicants with the most cumulative points will be offered assistance first.

The date and time of application will be noted and utilized to determine the sequence within the preferences prescribed in 5.2.

Notwithstanding the above, if necessary to meet the statutory requirement that 75% of newly admitted families in any fiscal year be families who are extremely low-income, the SCHC retains the right to skip higher income families on the waiting list to reach extremely low-income families. This measure will only be taken if it appears the goal will not otherwise be met. To ensure this goal is met, the SCHC will monitor incomes of newly admitted families and the income of the families on the waiting list.

If there are not enough extremely low-income families on the waiting list we will conduct outreach on a non-discriminatory basis to attract extremely low-income families to reach the statutory requirement.

The SCHC's waiting list committee shall meet to monitor all contacts to comply with any statutory requirements and housing policy.

### 6.0 ASSIGNMENT OF BEDROOM SIZES (SUBSIDY STANDARDS)

The SCHC will issue a Housing Choice Voucher for a particular bedroom size – the bedroom size is a factor in determining the family's level of assistance. The following Subsidy Standard guidelines will determine each family's unit size without

over crowing or over-housing in accordance with HUD's HQS Occupancy Standards:

Number of bedrooms	Number of Persons	
	Minimum	Maximum
0	1	2
1	1	4
2	2	6
3	3	8
4	4	10
5	5	12
6	6	14

These standards are based on the assumption that the living room can be used as a living/sleeping area, and that each bedroom will accommodate no more than two (2) persons.

In determining bedroom size, the SCHC will include the presence of children to be born to a pregnant woman, children who are in the process of being adopted, children whose custody is being obtained, children who are temporarily away at school, or children who are temporarily in foster-care, and children whose custody can be verified to be 51% or more (determined on a case by case basis with consideration of documentation deemed acceptable by the Housing Commission).

Bedroom size, for the purposes of determining a family's subsidy level, will also be determined using the following guidelines:

- A. Children of the same sex will share a bedroom, unless separated by an age difference of 10 years or more.
- B. Foster children will be included in determining unit size.
- C. Live-in Aides will generally be provided a separate bedroom. No additional bedrooms are provided for the live-in aide's family. (See 15.3, A. for more information on consideration of Live-in aides.)
- D. Space will not be provided for a family member who will be absent most of the time, such as a member who is away in the military.
- E. Persons of different generations with an age difference of at least 10 years will not be required to share a bedroom.

- F. Space may be provided for a child who is away at a school of higher education (not including pre-k through 12<sup>th</sup> grade) but lives with the family during school recesses.
- G. Single person families shall be allocated one bedroom.
- H. A family that consists of a pregnant woman only, and no other persons, must be treated as a two (2) person family.
- I. Adults and children will not be required to share a bedroom.

The SCHC will grant exceptions to normal Subsidy standards when a family requests a larger size than the guidelines allow and documents a need for a reasonable accommodation, or other medical reason why the large size is necessary (within fourteen (14) calendar days, in writing) See 24CFR 982.403 (a)(b).

The family unit size will be determined by the SCHC in accordance with the above guidelines and will determine the maximum rent subsidy for the family; however, the family may select a unit that may be large or smaller than the family unit size. If the family selects a smaller unit, the unit must meet HQS occupancy requirements (see 12.0, B), the payment standard for the smaller size will be used to calculate the subsidy. If the family selects a large size, the payment standard for the family unit size will determine the maximum subsidy.

## 6.1 BRIEFING

When the SCHC selects a family from the waiting list, the family will be invited to participate in a briefing explaining how the program works. The briefing may be conducted in person, by mail, by telephone, conference call, webcast, or video call. (Please see notice PIH 2020-32 or successor notice for guidance on remote briefing requirements.) In order to receive a Housing Choice Voucher the family is required to complete the briefing process. If the family cannot participate in the original scheduled briefing, the family may participate in a rescheduled session. If the family fails to participate in the second briefing without good cause, the family will be denied admission.

If the applicant with a disability required auxiliary aids to gain full benefit from the briefing, the SCHC will furnish such aids where doing so would not result in a fundamental alteration of the nature of the program or in an undue financial or administrative burden. In determining the most suitable auxiliary aid, the SCHC will give primary consideration to the requests of the applicant. Families unable to attend a briefing due to a disability may request a reasonable accommodation such as having the briefing presented at an alternate location.

The briefing will cover at least the following subjects:

- A. A description of how the program works;

- B. Family and owner responsibilities;
- C. Where the family may rent a unit, including inside and outside the SCHC jurisdiction and any information on selection a unit that HUD provides;
- D. Types of eligible housing;
- E. An explanation of how portability works, including how the family's assistance can be affected through re-screening by the Receiving Housing Authority, changes in the subsidy and payment standards, and other elements of the portability process that could affect the family's assistance; The SCHC will not discourage the family from choosing to live anywhere in or outside its jurisdiction under portability procedures, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order;
- F. An explanation of the advantages of living in an area that does not have a high concentration of poor families, including maps that show locations of housing opportunities outside areas of poverty or minority concentration, both within and outside its jurisdiction and neighboring its jurisdiction; has assembled information about job opportunities, schools, transportation, and other services in these areas;
- G. An explanation that the family share of rent may be not exceed 40% of the family's monthly adjusted income if the gross rent exceeds the applicable payment standard when the family initially rents a unit and the fact that the family is responsible for payment of any security deposit required.
- H. For a welfare-to-work family, the SCHC will include specification of any local obligations of a welfare-to-work family and an explanation that failure to meet these obligations is grounds for the SCHC to deny or terminate assistance.
- I. In briefing a family that includes any disabled person(s) the SCHC will take appropriate steps to ensure effective communication in accordance with 24 CFR 8.6.
- J. An explanation of the information contained in the Housing Choice Voucher Briefing Packet.

## 6.2 PACKET

During the briefing, the SCHC will give the family an information packet covering at least the following subjects:

- A. The term of the Housing Choice Voucher, the SCHC's policy on extensions and how suspensions of the voucher term works under HUD regulation, and the procedure for requesting an extension;
- B. Information on how the SCHC determines the housing assistance payment and total tenant payment for the family;
- C. Information on how the payment standard is determined, exception payment standard rent areas, and the utility allowance schedule;
- D. How the SCHC determines the maximum rent for an assisted unit;
- E. Where the family may lease a unit, including an explanation of how portability works and an explanation of how portability works, including information on how the family's assistance can be affected through re-screening by the Receiving Housing Authority, changes in the subsidy and payment standards, other elements of the portability process that could affect the family's assistance and a list of names, addresses and phone numbers of contact persons at neighboring housing authorities;
- F. The HUD-required tenancy addendum that provides the language that must be included in any assisted lease, and a sample contract;
- G. The request for approval of the tenancy form and an explanation of how to request SCHC approval of a unit;
- H. A statement of the SCHC's policy on providing information to prospective owners. This policy requires applicants to sign disclosure statements allowing the SCHC to provide prospective owners with the family's current and prior addresses and the names and addresses of the landlords for those addresses. (This policy has been incorporated onto the Request for Tenancy Approval Form, which they sign).
- I. The SCHC's subsidy standards, including when the SCHC will consider granting exceptions to the standards, such as for a reasonable accommodation to a person with disabilities;
- J. Materials, (e.g., The HUD brochure "A Good Place to Live") on how to select a unit and any additional information on selecting a unit that HUD provides;
- K. The HUD-required lead-based paint brochure;
- L. Information on Federal, State, and local equal opportunity laws; the brochure "Fair Housing: It's Your Right;" and a copy of the housing discrimination complaint form

- M. A list of landlords or other resources (such as newspapers, organizations, and online search tools) known to the SCHC who may be willing to lease a unit to the family or help the family find a unit, including owners with properties located outside areas of poverty or minority concentration;
- N. Notice that if the family includes a person with disabilities, the family may request a current list of accessible units known to the SCHC that may be available, and also that they may request an exception payment standard when needed as a reasonable accommodation;
- O. The family's obligations under the program;
- P. The grounds upon which the SCHC may terminate assistance because of the family's action or inaction;
- Q. St. Clair SCHC informal hearing procedures, including when the St. Clair SCHC is required to provide the opportunity for an informal hearing, and information on how to request a hearing; and
- R. An explanation of rights afforded to the Housing Choice Voucher participants under the Violence Against Women Act; and
- S. A written explanation of the advantages of living in an area that does not have a high concentration of poor families,

### 6.3 ISSUANCE OF HOUSING CHOICE VOUCHER; REQUEST FOR APPROVAL OF TENANCY

Once all family information has been verified, their eligibility determined, their subsidy calculated, and they have attended the family briefing, the SCHC will issue the Housing Choice Voucher. At the point the family begins their search for a unit.

When the family finds a unit that the owner is willing to lease under the program, the family and the owner will complete and sign the "Request for tenancy Approval" form and submit the proposed lease and the required HUD Tenancy Addendum before the expiration of the Housing Choice Voucher. The SCHC will review the request, the lease, and the HUD required tenancy addendum and make an initial determination of approval of tenancy according to State and local laws. The SCHC may assist the family in negotiating changes that may be required for the tenancy to be approvable. Once it appears the tenancy may be approvable, the SCHC will schedule an appointment to inspect the unit within 15 days after the receipt of inspection request from the family and owner. The 15-day period is suspended during any period the unit is unavailable for inspection. The SCHC will promptly notify the owner and the family whether the unit and tenancy are approvable.

During the initial stage of qualifying the unit, the SCHC will provide the prospective owner with information regarding the program. Information will include SCHC and owner responsibilities for screening and other essential program elements. Upon request, the SCHC will provide the owner with the family's current and prior address as shown in the SCHC records along with the name and address (if known) of the landlords for those addresses.

Additional screening is the responsibility of the owner.

#### 6.4 TERM OF THE HOUSING CHOICE VOUCHER 24CFR 982.303, 982.54 (d.) (11)

The initial term of the Housing Choice Voucher will be 60 days and will be stated on the Housing Choice Voucher.

At the discretion of the SCHC, the SCHC may grant one or more extensions of the term, but the initial term plus any extensions will not exceed one hundred eighty (180) calendar days from the initial date of issuance, with the exception for purposes of a reasonable accommodation. To obtain an extension, the family must make a request in writing prior to the expiration date. A statement of the efforts the family has made to find a unit must accompany the request. If the family documents their efforts and additional time can reasonably be expected to result in success, the SCHC may grant the length of request sought by the family or 60 days, whichever is less. Any extension(s) of the voucher term will be granted by notice to the family.

If the family includes a person with disabilities and the family requires an extension due to the disability, the SCHC will grant an extension allowing the family the full one hundred eighty (180) calendar days search time. If the SCHC determines that additional search time would be a reasonable accommodation, the SCHC will approve an additional extension. Any extension(s) of the voucher term will be granted by notice to the family.

Upon submittal of a completed request for approval of tenancy form, the SCHC will suspend the term of the Housing Choice Voucher. The term will be in suspension until the date the SCHC provides written notice that the request has been approved or denied. This policy allows families the full term (60 days, or more with extensions) to find a unit, not penalizing them for the period during which the SCHC is taking action on their request. A family may submit a second request for approval of tenancy before the SCHC finalizes action on the first request. In this case the suspension will last from the date of the first submittal through the SCHC's action on the second submittal. No more than two requests will be concurrently considered.

If a family's Housing Choice Voucher term expires with or without an extension, the family is no longer eligible for housing assistance. They are free to re-apply to the Housing Choice Voucher program and start over again at the bottom of the waiting list. If the waiting list is closed, they must wait until the SCHC is once again accepting applicants for the Section 8 program. They will be treated exactly like all other new applicants for the program.

## 6.5 LEASE AND TENANCY

The tenant and owner must enter and execute a written lease for the unit. The lease must be in the standard form the owner uses in the locality for rental to unassisted tenants. The HAP contract prescribed by HUD contains the owner's certification that, if the owner uses a standard lease form for rental to unassisted tenants, that lease form is used for the assisted unit as well. If the owner does not use a standard form of lease to unassisted tenants, another form of lease may be used.

A. The lease must include the following information:

1. Names of the owner and tenant(s);
2. Unit address;
3. Term of the lease, including initial term and provisions for renewal;
4. Amount of monthly rent to owner;
5. Specification of what utilities and appliances the owner must supply and what utilities and appliances the family must supply;
6. HUD form 52641-A "Tenancy Addendum"

B. The SCHC's role in reviewing the lease is limited. The SCHC will review the lease for the following conditions and approve the lease if all of these conditions are met:

1. The unit is eligible (i.e., meets occupancy/bedroom requirements for family size, passes a HQS inspection etc...)
2. The lease meets section "A." above.
3. The rent to owner is reasonable
4. The family's share of rent does not exceed 40% of the household's monthly adjusted income.
5. The prospective owner has not been found to be debarred, suspended or subject to a limited denial of participation by HUD or the SCHC
6. There are no conflicts of interest
7. The family continues to meet all eligibility and screening criteria

The SCHC may deny the Request for Tenancy Approval if it is determined that it does not meet the requirements

C. The initial lease term must be for at least one year, except the SCHC may approve a shorter term if that would improve housing opportunities for the tenant and is the prevailing local market practice. During the initial term, the owner may not raise the rent to owner, except when permitted by special rules for subsidized units. The SCHC may approve the tenancy and execute a HAP contract even if there is less than one year remaining from the beginning of the lease term and the end of the last expiring funding increment under the consolidated ACC. The lease must include provisions for its renewal.

Upon expiration of the initial lease term, the lease will continue on a month-to-month basis unless otherwise stated in the lease, provided that the family continues to meet all eligibility and screening criteria.

The lease term runs concurrently with the HAP contract term. If the lease terminates, the HAP contract terminates. Whenever the owner elects to execute a new lease, a new HAP contract is also required.

The SCHC will prepare the Housing Assistance Payments contract when the unit is approved for tenancy. Generally, the landlord, simultaneously with the signing of the lease and the HUD required Tenancy Addendum, will execute the HAP contract. Upon receipt of the executed lease and the signed HAP contract by the landlord, the SCHC will execute the HAP contract. The SCHC will not pay any housing assistance to the owner until the contract is executed.

In no case will the contract be executed later than sixty (60) calendar days after the beginning of the lease term. Any contract executed after the sixty (60) calendar day period will be void and the SCHC will not pay housing assistance to the owner.

The SCHC will encourage the term of the new lease or contract for a new unit to begin on the first day of the month following the month in which the participant moves out of his/her previously assisted unit, however, the effective date of the new lease can begin on the later of:

1. The date the unit passes the HQS inspection; or
2. The date the family takes possession of the unit; or
3. The date the previous lease is legally rescinded either by a Mutual Rescission of Lease, or a written thirty (30) calendar day notice.

- D. A request in writing must be received by the SCHC and the SCHC make a determination whether to approve the addition of any family member, before being added to the household and lease. (See Section 15.3, INTERIM RE-EXAMINATIONS)

#### 6.6 ST. CLAIR HOUSING COMMISSION DISAPPROVAL OF OWNER (24 CFR 982.306)

The SCHC will deny participation by an owner at the direction of HUD (one who has been debarred, suspended, or subject to a limited denial of participation) at the direction of HUD, an owner will also be denied if:

- A. The federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act, or other federal equal opportunity requirements and such action is pending; or

- B. A court administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements

The SCHC will also deny the owner's participation for any of the following reasons:

- A. The owner has violated any obligations under a Section 8 Housing Assistance Payments Contract;
- B. The owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program;
- C. The owner has engaged in drug-related criminal activity or any violent criminal activity (within the parameters of Section 4.8 M Term of Denial);
- D. The owner has a history or practice of non-compliance with HQS for units leased under Section 8 or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other Federal housing program;
- E. The owner has a history or practice of renting units that fail to meet State or local codes; or
- F. The owner has not paid State or local real estate taxes, fines, or assessments;
- G. The owner refuses (or has a history of refusing) to evict families for drug-related or violent criminal activity, or for activity that threatens the health, safety or right of peaceful enjoyment of the:
  1. Premises by tenants, SCHC employees or owner employees; or
  2. Residences by neighbors.
- H. If the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family of an applicant seeking the initial use of a Housing Choice Voucher (currently shopping) unless the SCHC determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities;
- I. Other conflicts of interest under Federal, State and Local law.

Nothing in this policy is intended to give any owner any right to participate in the Program.

For purposes of this section, "owner" includes principal or other interested parties.

When the SCHC decides not to execute HAP contracts with an owner for reasons described in the administrative plan, the decision affects prospective (future) contracts. Participants residing in units belonging to the identified owner may or may not be asked to move solely because of a decision to disapprove the owner, depending on the circumstances.

## 6.7 INELIGIBLE/ELIGIBLE HOUSING (24 CFR 982.352)

### A. Ineligible Housing

The following types of housing cannot be assisted under a Section 8 Tenant-Based Program:

1. A public housing or Indian housing unit;
2. A unit receiving project-based assistance under Section 8 of the 1937 ACT (42 U.S.C. 1437f);
3. Nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services;
4. College or other school dormitories;
5. Units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions;
6. A unit occupied by its owner or by a person with any interest in the Unit. (This restriction does not apply to cooperatives or to assistance on behalf of a manufactured homeowner lease a manufactured home space; or shared housing for reasonable for reasonable accommodations);

### B. PHA-Owned Housing

A unit that is owned, or substantially controlled, by the SCHC, may be assisted under the SCHC Section 8 Voucher Program if all of the following conditions are satisfied:

1. The SCHC informs the family both orally and in writing that the family has the right to select any eligible unit available for lease, and the SCHC owned unit is freely selected by the family without pressure or steering from the SCHC or its representatives.
2. The unit is not ineligible housing (see paragraph 6.7, A. of this section.)

3. During assisted occupancy, the family does not benefit from any form of housing subsidy that is prohibited under paragraph 6.7, C. of this section.)
4. An independent entity must be obtained to perform the following services:
  - a. Determination of rent reasonableness in accordance with 24 CFR 982.507. The independent entity will communicate the rent reasonableness determination to the family and the SCHC.
  - b. Assist the family to negotiate the rent to owner in accordance with 24 CFR 982.506.
  - c. Inspect the unit to ensure compliance with HQS 24 CFR 982.305(a) and 24 CFR 982.405, (except that 24 CFR 982.405(e) does not apply, because the SCHC, as the owner, will be paying for the initial and re-inspections of the unit). The independent entity will communicate the results of the inspection to the family and the SCHC.
5. The independent entity uses to perform these functions must be approved by HUD. The independent entity may be the unit of general local government of the SCHC jurisdiction or may be a HUD approved independent entity.
6. The SCHC may compensate the independent entity from ongoing administrative fee income for the services performed. No other program receipts can be used to compensate, and the family may not be charged any fee for any of the services provided by the independent entity.

C. Prohibition against other housing Subsidy

A family may not receive the benefit of tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy for the same unit or for a different unit:

1. Public or Indian Housing assistance;
2. Other Section 8 assistance (including other tenant-based assistance);
3. Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974)
4. Section 101 Rent Supplement;
5. Section 236 rental assistance payments;
6. Tenant-based assistance under the HOME Program;

7. Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
8. Any state or local subsidy;
9. Section 202 Supportive Housing for persons with disabilities;
10. Section 811 Supportive Housing for persons with disabilities;
11. Section 202 projects for non-elderly persons with disabilities (Section 162 assistance);
12. Any other duplicate 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.

If a property has both HUD issued project-based assisted units and market rate units, housing choice vouchers can be utilized in the market rate units, but not the project-based units. In this situation, rent reasonableness will dictate that the rent for the housing choice voucher unit will equal the HUD-approved rent (the basic rent) for the project-based units as long as it is within the SCHC's payment standards. Also, the SCHC's utility allowance schedule will be utilized in setting the rent, not the property's utility schedule. Finally, the SCHC will re-certify everyone living in a property utilizing tenant-based housing choice vouchers and the landlord will be responsible for the re-certification of those residing in the property using project-based vouchers.

#### D. Special Housing Types

The SCHC will not approve a lease for any of the following special housing types, except as a reasonable accommodation for a family with disabilities or with the approval of the Executive Director. (See chapter 13 - "Special Housing Types")

1. Congregate housing
2. Group Homes
3. Shared Housing
4. Cooperative Housing
5. Single room Occupancy Housing

The SCHC will approve leases for the following housing types:

1. Single Family Dwellings
2. Apartments
3. Manufactured Housing Space Rental - (Does not apply to Manufactured Housing that is owned by the family who rents only the Manufactured home space (lot rent)).

## 6.8 SECURITY DEPOSIT (24CFR 982.313)

The owner may collect a security deposit from the tenant in an amount not in excess of amounts charged in private market practice and not in excess of amounts charged by the owner to unassisted tenants.

When the tenant moves out of the dwelling unit, the owner, subject to State or local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid rent payable by the tenant, damages to the unit or for other amounts the tenant owes under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount, if any, used to reimburse the owner, the owner must refund promptly the full amount of the unused balance to the tenant, in compliance with state and local law.

If the security deposit is not sufficient to cover amounts the tenant owes under the lease, the owner may seek to collect the balance from the tenant.

## 6.9 JURISDICTION

The SCHC geographical jurisdiction is St. Clair, Sanilac, Lapeer, and Macomb Counties. This the area in which the SCHC has the authority under state and local law to administer the Housing Choice Voucher Program.

If a family opts to move out of the SCHC's jurisdiction and meets the criteria to do so, they may utilize the portability option under the Housing Choice Voucher Program. (See Section 8, PORTABILITY)

## 7.0 MOVES WITH CONTINUED ASSISTANCE

Participating families are allowed to move to another unit after the initial term of the lease (generally twelve (12) months/one year) has expired, if proper notice is given by the participant family, or if the landlord and the participant have mutually agreed to terminate the lease, or if the SCHC has terminated the HAP contract. The SCHC will issue the family a new Housing Choice Voucher if the family does not owe the SCHC or any other SCHC money, has not violated a Family Obligation, has not moved or been issued a Housing Choice Voucher within the last twelve (12) months within an initial lease term, and if the SCHC has sufficient funding for continued assistance. If the move is necessitated for extraordinary circumstances, the SCHC may consider allowing more than one move in a twelve (12) month period. This policy is consistent with civil right laws and regulations.

The St. Clair Housing Commission may deny a move to a unit with a higher HAP payment should funding not be available.

## 7.1 WHEN A FAMILY MAY/MAY NOT MOVE

For families already participating in the Certificate and Housing Choice Voucher Program, the SCHC will allow the family to move to a new unit if:

- A. The assisted lease for the old unit has terminated;
- B. The owner has given the tenant a notice to vacate, has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the tenant; or
- C. The tenant has given notice of lease termination (if the tenant has a right to terminate the lease on notice to the owner).
- D. The family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault or stalking, as provided in 24 CFR part 5, subpart L, and the move is needed to protect the health or safety of the family or family member. The SCHC will not terminate assistance if the family, with or without prior notification to the SCHC, already moved out of a unit in violation of the lease, if such 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 dwelling unit.

For families already participating in the Housing Choice Voucher Program, the SCHC will not allow the family to move to a new unit if:

- A. The family is not income eligible in the receiving agency's jurisdiction; or
- B. The family has moved out of their unit in violation of the lease unless the reason for the move is to protect a victim of VAWA who is otherwise in full compliance with all other program requirements and reasonable believed to be in imminent danger from the abuser.

For families already participating in the Housing Choice Voucher Program, the SCHC may deny a family's request to move to a new unit:

- A. If the family violates any family obligations under the program;
- B. If any member of the family has been evicted from federally assisted housing in the last five years;
- C. If a PHA has ever terminated assistance under the program for any member of the family;
- D. If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program;

- E. If the family currently owes rent or other amounts to the SCHC or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act;
- F. If the family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease;
- G. If the family breaches an agreement with the SCHC to pay amounts owed to a SCHC, or amounts paid to an owner by a PHA. (The SCHC, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a PHA or amounts paid to an owner by a PHA. The PHA may prescribe the terms of the agreement.);
- H. If a family participating in the FSS program fails to comply, without good cause, with the family's FSS contract of participation;
- I. If the family has engaged in or threatened abusive or violent behavior toward SCHC personnel;
- J. If a welfare-to-work (WTW) family fails, willfully and persistently, to fulfill its obligations under the welfare-to-work voucher program;
- K. If the family has been engaged in criminal activity or alcohol abuse
- L. If the family does not comply with SCHC policy on the timing and frequency of moves.
- M. If the family is not eligible to portability due to being a nonresident when admitted to the program; or
- N. If the SCHC has insufficient funding for continued assistance to the family.
  - 1. A voucher cannot be rescinded if the SCHC has approved a move, subsequently finds out a funding shortfall will occur and the family cannot remain in its old unit (e.g. the unit has already been leased to another family).
  - 2. Under portability, an initial housing authority cannot terminate a portability unit because it is not a party to the HAP contract.

## 7.2 PROCEDURES REGARDING FAMILY MOVES

Families considering transferring to a new unit will be scheduled to a mover's briefing. All families who are moving, including any families moving into or

out of the SCHC's jurisdiction, will be required to attend a mover's briefing prior to the SCHC entering a new HAP contract on their behalf.

This briefing is intended to provide the following:

- A. A refresher on program requirements and the family's responsibilities. Emphasis will be on giving proper notice and meeting all lease requirements, such as leaving the unit in good condition;
- B. Information about finding suitable housing and the advantages of moving to an area that does not have a high concentration of poor families;
- C. Payment standards, exception payment standard rent areas, and the utility allowance schedule;
- D. An explanation that the family share of rent may not exceed 40% of the family's monthly adjusted income if the gross rent exceeds the applicable payment standard;
- E. Portability requirements and opportunities;
- F. An explanation and copies of the forms required to initiate and complete the move; and
- G. All forms and brochures provided to applicants at the initial briefing.
- H. Information regarding the necessary re-examination of annual income to be conducted within 30 days prior to the effective date of the move.

Families are required to give proper written notice of their intent to terminate the lease. In accordance with HUD regulations, no notice requirement may exceed sixty (60) calendar days. During the initial term, families may not end the lease unless they and the owner mutually agree to end the lease. If the family moves from the unit before the initial term of the lease ends without the owner's and the Housing Commission's approval, it will be considered a serious lease violation and subject the family to termination from the program.

The family is required to give the SCHC a copy of the notice to terminate the lease at the same time as it gives the notice to the landlord. A family's failure to provide a copy of the lease termination notice to the SCHC will be considered a violation of Family Obligations and may cause the family to be terminated from the program.

A family who gives notice to terminate the lease must mail the notice by certified mail or have the landlord or his agent sign a statement stating the date and time received. The family will be required to provide the certified mail receipt and a copy of the lease termination notice to the SCHC, or a

copy of the lease termination notice and the signed statement stating the date and time the notice was received. If the landlord or his/her agent does not accept the certified mail receipt, the family will be required to provide the receipt and envelope showing that the attempt was made.

The family must provide all necessary documentation and verifications needed to complete an annual income re-examination within 30 days prior to the effective date of the move.

Failure to follow the above procedure may subject the family to termination from the program.

\*New leases can only become effective in accordance with section 6.5 of this Administrative Plan.

## 8.0 PORTABILITY (24 CFR 982.353 THROUGH 982.355)

### 8.1 GENERAL PORTABILITY POLICIES OF THE ST. CLAIR HOUSING COMMISSION

A family whose head or spouse has a domicile (legal residence) or works in the jurisdiction of the SCHC at the time the family first submits its application for participation in the program to the SCHC may lease a unit anywhere in the jurisdiction of the SCHC or outside the SCHC jurisdiction as long as there is another entity operating a tenant-based Housing Choice Voucher program covering the location of the proposed unit.

If the head or spouse of the assisted family does not have a legal residence or work in the jurisdiction of the SCHC at the time of its application, the family will not have any right to lease a unit outside of the SCHC jurisdiction for a 12-month period beginning when the family is first admitted to the program. During this period, the family may only lease a unit located in the jurisdiction of the SCHC. This does not apply when the family or a member of the family is or had 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.

A family's eligibility to exercise the portability option is to be determined by the Initial Housing Authority.

If a family chooses to port to another housing authority's jurisdiction, the Initial Housing Authority shall inform the family that it may be re-screened by the Receiving Housing Authority and may lose its assistance if the family fails to meet the Receiving Housing Authority's screening criteria.

Families participating in the Housing Choice Voucher Program will not be allowed to move more than once in any 12-month period and under no circumstances will the SCHC allow a participant to improperly break a lease. Under extraordinary circumstances the SCHC may consider allowing more

than one move in a 12-month period. This does not apply when the family or a member of the family is or had 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.

Families may only move to a jurisdiction where a Housing Choice Voucher Program is being administered. If more than one housing authority operates a Housing Choice Voucher in the jurisdiction where the participant is moving, the participant may choose which housing authority the participant wants to administer the voucher.

For income targeting purposes, the family will count towards the initial Housing Commission's goals unless the receiving Housing Commission absorbs the family. If absorbed, the admission will count towards the receiving Housing Commission's goals.

If a family has moved out of their assisted unit in violation of the lease, the SCHC will not issue a Housing Choice Voucher, and will terminate assistance in compliance with Section 18.0, Termination of the Lease and Contract. This will not apply if the family has complied with all program requirements and the family has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, 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 assisted dwelling unit.

Any of the above general policies will be waived by the SCHC in order to help participants who are compliant with their existing leases but who reasonably believe they need to move to protect the health and/or safety of a victim of domestic violence, dating violence, sexual assault or stalking. In order to exercise this waiver, the participant shall provide the SCHC with appropriate verification. Types of acceptable verifications are outlined in Section 24.4 of this Section 8 Administrative Plan, and must be submitted within 14 calendar days after receipt of the Housing Commission's written request for verification.

To the degree possible, portability moves will be utilized to affirmatively further fair housing.

## 8.2 INCOME ELIGIBILITY

- A. A family must be income-eligible in the area where the family first lease a unit with assistance in the Housing Choice Voucher Program.
- B. If a portable family is already a participant in the Initial Housing Commission's Housing Choice Voucher Program, income eligibility is not re-determined.

## 8.3 PORTABILITY: ADMINISTRATION BY RECEIVING HOUSING COMMISSION

- A. When a family utilizes portability to move to an area outside the Initial Housing Commission jurisdiction, another Housing Commission (the Receiving Housing Commission) must administer assistance for the family if that Housing Commission has a tenant-based program covering the area where the unit is located.
- B. A Housing Commission with jurisdiction in the area where the family wants to lease a unit must issue the family a Housing Choice Voucher. If there is more than one such Housing Commission, the family may choose which Housing Commission shall become the Receiving Housing Commission. The Initial Housing Authority shall provide the family with the appropriate contact information for the Receiving Housing Authority.
- C. The St. Clair Housing Commission may deny portability to an area with higher payment standards and/or administrative fees should funding not be available.

#### 8.4 PORTABILITY PROCEDURES

- A. When the St. Clair Housing Commission is the Initial Housing Commission:
  - 1. The St. Clair Housing Commission will brief the family on the process that must take place to exercise portability. The family will be required to attend an applicant or movers briefing.
  - 2. The St. Clair Housing Commission will determine whether the family is income-eligible in the area where the family wants to lease a unit if the family is not already a program participant and otherwise eligible to move.
  - 3. The SCHC will advise the family how to contact and request assistance from the Receiving Housing Commission by giving them the name, e-mail, and telephone number of the person responsible for working with incoming portability families and any procedures related to getting an appointment for the issuance of a voucher. If there are more than one agency administering vouchers in the area the family wants to move to, the family shall choose which one to use.
  - 4. The SCHC will, within ten (10) calendar days, notify the Receiving Housing Commission to expect the family via email or other delivery confirmation.
  - 5. The SCHC will immediately mail, e-mail or fax the Receiving Housing Commission a completed Part I of HUD Form 52665, the most recent HUD Form 50058 (Family Report) for the family, related verification information, and a copy of the

family's voucher. If the family is an applicant and not a participant, the SCHC will provide the Receiving Housing Commission with the family information and income information in a format similar to that utilized by the 50058. The SCHC shall also provide any verification information and a copy of the voucher signed by the participant and the SCHC.

- B. When the St. Clair Housing Commission is the Receiving Housing Commission:
1. When the portable family requests assistance from the SCHC, the SCHC will within fourteen (14) calendar days of HAP contract execution (not its effective date) inform the Initial Housing Commission via email or other delivery confirmation, that it will absorb the family into its program or notify the Initial Housing Commission within the time limit set forth in Part I of the 52665 that it will bill the Initial Housing Commission for assistance on behalf of the portable family. Completing Part II of HUD Form 52665 in a timely manner fourteen (14) calendar days or less of the date the HAP is executed) will accomplish this. If the family is absorbed, the SCHC will also send the Initial Housing Commission a new HUD Form 50058.
  2. The SCHC will issue a voucher to the family within fourteen (14) calendar days as long as the initial voucher has not expired (if it has expired, the SCHC will contact the Initial Housing Authority to determine whether it will extend the voucher or if the family shall be referred back to the Initial Housing Commission). The term of the SCHC's voucher will not expire before 30 calendar days after the expiration date of any Initial Housing Commission's housing choice voucher. The SCHC will determine whether to extend the housing choice voucher term. The decision to extend will take into account the SCHC's existing absorption policy and the billing deadline date provided by the Initial Housing Commission in the 52665. If an extension is granted, the Initial Housing Commission will be informed of this decision. The family must submit a request for tenancy approval to the SCHC during the term of the SCHC's housing choice voucher. If the SCHC has decided to bill the Initial Housing Commission, the request for tenancy approval must be processed in enough time for the Initial Housing Commission to process a Request for Lease Approval and execute a HAP contract before the billing deadline date.
  3. The SCHC will determine the family unit size for the portable family. The family unit size is determined in accordance with the SCHC's subsidy standards. The SCHC reserves the right to conduct an income reexamination for a participant family. Also,

when a receiving housing authority, SCHC's policies will govern the ported voucher.

4. The SCHC will notify the Initial Housing Commission if the family has leased an eligible unit under the program, or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the housing choice voucher. In any event the SCHC will notify the Initial Housing Commission of what is occurring before the expiration of the deadline established in the HUD Form 52665. If the family has leased a unit, the SCHC will notify the Initial Housing Commission of this fact in enough time for the Initial Housing Commission to process a Request for Lease Approval and execute a HAP contract if the SCHC intends to bill the Initial Housing Commission.
5. In order to provide tenant-based assistance for portable families, the SCHC will perform all Housing Commission program functions, such as reexaminations of family income and composition. At any time, either the Initial Housing Commission or the SCHC may make a determination to deny or terminate assistance to the family. If assistance is denied or terminated, the family shall have a right to an informal hearing.
6. The SCHC may deny or terminate assistance for family action or inaction in accordance with 24 CFR 982.552 and 24 CFR 982.553.
7. As the receiving housing authority, the SCHC will accept all eligible portability families, with limited exceptions. If an exception is utilized, the SCHC will seek prior written approval from HUD.
8. If a family is denied admission to the program, the participant is entitled to request an inform hearing.
9. If the family decides not to lease in the SCHC's jurisdiction, it shall be referred back to the Initial Housing Authority.
10. Although the SCHC will promptly issue a voucher to an incoming portability family, the family is still subject to normal screening procedures. If the family fails to pass the screening thresholds either the voucher will be revoked, or the family will be terminated from the program if a unit has already been leased.

#### C. Absorption by the St. Clair Housing Commission

If funding is available under the consolidated ACC for the St. Clair Housing Commission's Voucher Program when the portable family is received, the St. Clair Housing Commission may absorb the family into its Voucher Program. The decision to absorb or not will be made on a case-by-case basis and will solely be the decision of the SCHC. If absorbed, the family is assisted with funds available under the consolidated ACC for the St. Clair Housing Commission Tenant-Based Program. The decision to absorb, or not, will be communicated in writing to the initial housing authority as soon as possible. A decision to absorb is irreversible without the permission of the initial housing authority.

#### D. Portability Billing

To cover assistance for a portable family, the Receiving Housing Commission may bill the Initial Housing Commission for housing assistance payments and administrative fees as long as all HUD required deadlines have been complied with. The billing procedure will be as follows:

1. As the Initial Housing Commission, the SCHC will within 30 calendar days of receipt of the completed Part II of HUD form 52665, reimburse the Receiving Housing Commission for the full amount of the housing assistance payments made by the Receiving Housing Commission for the portable family in a form and manner the Receiving Housing Commission is able and willing to accept. Payments made after the first payment shall be sent in time for the receiving Housing Commission to receive the payment no later than the fifth (5<sup>th</sup>) working day of the month. The amount of the housing assistance payment for a portable family in the receiving Housing Commission's program is determined in the same manner as for other families in the Receiving Housing Commission's program.
2. The Initial Housing Commission will promptly reimburse the Receiving Housing Commission for each unit month that the family receives assistance under the tenant-based programs and is assisted by the Receiving Housing Commission the lesser of:
  - 1.) 80% of the Initial PHAs ongoing Prorated, column B Administrative Fee,
  - 2.) 100% of the Receiving Housing Authority's ongoing Normal, column B, administrative fee, or
  - 3.) A negotiated amount that both housing authorities agree to of the Initial Housing Commission's on-going administration fee.

If HUD is prorating the administrative fee, the prorated amount will be used.

E. When a Portable Family Moves

When a portable family moves out of the tenant-based program of a Receiving Housing Commission that has not absorbed the family, the Housing Commission in the new jurisdiction to which the family moves become the Receiving Housing Commission, and the first Receiving Housing Commission is no longer required to provide assistance for the family.

F. On-going Responsibilities as a Receiving Housing Commission

When the SCHC is the Receiving Housing Commission it will:

1. Send the Initial Housing Commission an updated HUD form 50058 at each annual re-certification so the Initial Housing Commission can reconcile it with its records.
2. Send the Initial Housing Commission a copy of any new HUD forms 52665s and 50058s to report any change in the billing amount within fourteen (14) calendar days of the effective date of any change in the billing amount. If the Receiving PHA fails to update the 50058 on time, the Initial PHA will continue payments based upon the last 50058 received.
3. If the SCHC decides to absorb a family it had previously been billing for, it shall notify the Initial Housing Commission within fourteen (14) calendar days following the effective date of the termination of the billing arrangement.
4. If the family decides it wants to move to yet another jurisdiction, the Initial Housing Commission shall be promptly notified and requested to send a new HUD Form 52665 and supporting documentation to the new Receiving Housing Commission.
5. Any special purpose vouchers shall retain their original character and rules.
6. Retain copies of all communication between Initial and Receiving Housing Authorities.

9.0 DETERMINATION OF FAMILY INCOME (SECTION 508 QHWRA) (CFR 5.609)

9.1 INCOME, EXCLUSIONS FROM INCOME, DEDUCTIONS FROM INCOME

To determine annual income, the SCHC counts the income of all family members, excluding the types and sources of income that are specifically

excluded. Once the annual income is determined, the SCHC subtracts all allowable deductions (allowances) to determine the Total Tenant Payment.

## 9.2 INCOME (24 CFR 5.609)

A. Annual income means all amounts, monetary or not that:

1. Go to (or on behalf of) the family head or spouse (even if temporarily absent) or to any other family member; and
2. Is actual income being received (projected forward for a 12-month period); anticipated to be received from a source outside the family during the 12-months period following admission, re-examination, or annual reexamination effective date; and
3. Amounts derived (projected forward for a 12-month period) from assets to which any member of the family has access.
4. Are not specifically excluded from annual income.

If it is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal, or cyclic income), or the St. Clair Housing Commission believes that past income is the best available indicator of expected future income, the St. Clair Housing Commission may annualize the income by averaging the amount received or earned based on the last 12 months before the determination date. In situations where a family report little to no income, or when the family's income fluctuates, the SCHC may require the family to have quarterly re-examinations until the family's income stabilizes. In these situations, income may be anticipated based on a shorter period, but subject to a redetermination at the end of the shorter period term.

B. Annual income includes but is not limited to (24CFR5.609 (b)):

1. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commission, 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 are not used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession is included in income, except to the extent the withdrawal is a 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 are not used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from an investment is included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family.

Where the family has net family assets in excess of \$5,000.00, annual income includes the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate. In accordance with notice PIH 2012-29, A PHA may establish its own passbook rate within 75 basis points (plus or minus 0.75%, but never less than 0%) of the Savings National Rate (SNR) at the time the rate is being established or reviewed. The SNR is calculated and published by the FDIC.

([www.fdic.gov/regulations/resources/rates/](http://www.fdic.gov/regulations/resources/rates/)). The SCHC will use a passbook rate set at 0.75% above of the SNR upon establishment or review (SNR plus 0.75%). The SCHC will review the established passbook rate at least on an annual basis.

Where the family has disposed of an asset for less than Fair Market Value during the two (2) years preceding any certification or re-certification in excess of \$5,000.00, annual income from such asset will be based on a percentage of the value based on the current passbook savings rate, as determined above.

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. (However, deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts are excluded.)
5. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay. (However, lump sum additions such as insurance payments from worker's compensation are excluded).

## 6. Welfare Assistance

### a. Welfare Assistance Payments

- 1) 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 260.31; and
  - b) Are not otherwise excluded under paragraph Section 9.3 of this plan.
- 2) 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 consists of:
  - a) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
  - b) The maximum amount of 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 requirement is the amount resulting from one application of the percentage.

### b. Imputed welfare income

- 1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the SCHC by the welfare agency), plus the total amount of other income.
- 2) At the request of the SCHC, the welfare agency will inform the SCHC in writing of the amount and term of any specified welfare benefit reduction for

a family member, and the reason for such reduction, and will also inform the SCHC of any subsequent changes in the term or amount of such specified welfare benefit reduction. The SCHC will use this information to determine the amount of imputed welfare income for a family.

- 3) A family's annual income includes imputed welfare income in family annual income, as determined at in interim or regular re-examination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the SCHC by the welfare agency).
- 4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income is returned to zero.
- 5) The SCHC will not include imputed welfare income in annual income if the family was not an assisted participant at the time of the sanction.
- 6) If a participant is not satisfied that the SCHC has calculated the amount of imputed welfare income in accordance with HUD requirements, and if the SCHC denies the family's request to modify such amount, the SCHC shall give the participant written notice of such denial, with a brief explanation of the basis for the SCHC determination of the amount of imputed welfare income. The SCHC's notice shall also state that if the participant does not agree with the determination, the participant may contest the decision in accordance with our informal review policy.
- 7) Relations with welfare agencies
  - a) The SCHC will ask welfare agencies to inform it of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount

or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the SCHC written notice of such reduction, the family's annual income shall include the imputed welfare income because of the specified welfare reduction.

- b) The SCHC is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency and specified in the notice by the welfare agency to the agency. However, the SCHC is not responsible for determining whether a reductions of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.
  - c) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The SCHC shall rely on the welfare agency notice to the SCHC of the welfare agency's determination of a specified welfare benefits reduction.
7. Periodic and determinable allowances, such as alimony, 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 is included. (Special pay to a member exposed to hostile fire is excluded). (See Sect. 9.3,6.)
  9. If a participant purchases a home using the Section 8 Homeownership option, if one is offered by the SCHC, the value of this asset shall be excluded from the income calculation for the first ten years of ownership from the closing date. For all re-certifications occurring after ten years of

ownership, the value of the asset shall equal the fair market value of the property minus any loans on the property and minus 10% of the fair market value of the property (expenses to convert to cash as determined by PIH Notice 2012-3).

The fair market value of the property will be determined by the assessed value as determined by the City, Town or Village Assessor if the assessed value is made at market value. This market value will be obtained by reviewing and documenting the local assessment roll or the owner's most recent property tax bill. If a market value tax assessment is not available, then the SCHC will use the sales comparison method examining at least three comparable properties in the surrounding (or similar) neighborhood that possess comparable factors that affect market value.

For determining the loans on the property, the SCHC will first try to verify the current payoff amount of the loan(s) included on the participant's monthly mortgage statement. If the payoff amount is not available, the Housing Commission may deduct the loan balance from the market value and document the file as to the method used.

10. The first \$480 of earned income of a full-time student, other than the head or spouse.
11. For Section 8, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20U.S.C. 1001 et seq.), from private sources, or from an institution of higher education, (as defined under the Higher Education Act of 1965 (20U.S.C. 1001 et seq.)), 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 or those determined to be an "independent student" as defined by HUD.. For purpose of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

### 9.3 EXCLUSIONS FROM INCOME

Annual income does not include the following:

- A. Income from employment of children (including foster children) under the age of 18 years;
- B. 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); or payments made under KIN-Gap or similar

guardianship care programs or Kinship care services for children related to the tenant family, as an alternative to foster care placement, and that compensation to participating relatives is comparable to parenting under foster care.

- C. 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;
- D. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- E. Income of a live-in aide;
- F. The full amount of student financial assistance paid directly to the student or to the educational institution for tuition. For Section 8, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20U.S.C. 1001 et seq.), from private sources, or from an institution of higher education, (as defined under the Higher Education Act of 1965 (20U.S.C. 1001 et seq.)), 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 purpose of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income. "See definition of Tuition in Glossary"
- G. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- H. The amounts received from the following programs:
  - 1. Amounts received under training programs funded by HUD;
  - 2. Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
  - 3. Amounts received by a participant in other publicly assisted programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and that are made solely to allow participation in a specific program;
  - 4. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per

month) received by a resident for performing a service for the Housing Commission or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident initiatives coordination. No participant may receive more than one such stipend during the same period of time;

5. Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program.
6. Temporary, nonrecurring, or sporadic income (including gifts). This specifically includes temporary income payments from the U. S. Census Bureau, defined as employment lasting no longer than 180 days per year and not culminating in permanent employment;
7. Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;
8. Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);
9. Adoption assistance payments in excess of \$480 per adopted child;
10. Deferred periodic amounts from Supplement Security Income and Social Security benefits that are received in a lump sum amount or in prospective amounts;
11. 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;
12. 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
13. Federally Mandated Exclusions from Income: Amounts specifically excluded by any other Federal Statute from

consideration as income for purposes of determining eligibility or benefits. These exclusions include:

- a. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017(b));
- b. Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044 (f)(1) 5058);
- c. Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
- d. Income derived from certain sub-marginal land of the U.S. that is held in trust for certain Indian tribes (25 U.S.C. 459e);
- e. Payments or allowances made under the Department of Health and Human Services' Low-Income Energy Assistance Program (42 U.S.C. 8624(f));
- f. Income derived from the disposition of funds of the Grand River Band of Ottawa Indians (Pub. L. 94-540 (Section 6));
- g. The first \$2000 per capita shares received from judgment funds awarded by the National Indian Gaming 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); This exclusion does not include proceeds of gaming operations regulated by the commission);
- h. Amounts of scholarships funded under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070), including awards under Federal Work-Study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 Programs only (42 U.S.C. 1437(f)), any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall not be considered income to that individual if that individual is over the age of 23 with dependent children (Pub. L. 109-115, section 327) (as amended);
- i. Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(g));
- j. Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund (Pub. L. 101-201) or any other fund established pursuant to the settlement in *In Re Agent Liability Litigation* M.D.L. No. 381 (E.D.N.Y.);

- k. Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96-420, 25 U.S.C. 1728);
- l. The value of childcare under the 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);
- m. Earned income tax credit (EITC) refund payments received on or after January 1, 1991, for programs administered under the United States Housing Act of 1937, title V of the Housing Act of 1949, section 101 of the Housing and Urban Development Act of 1965 and Sections 221(d)(3), 235 and 236 of the National Housing Act (26 U.S.C. 32(l));
- n. 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);
- o. Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));
- p. Any allowance paid under the provisions of 338 U.S.C. 8 U.S.C. 1833(c) to children of Vietnam veteran born with spina bifida (38 U.S.C. 1802-05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811-16), and children of certain Korean service veterans born with spina bifida (38 U.S.C. 1821).
- q. 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 (c));
- r. Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931(a)(2)).
- s. Any amount received under the Richard B. Russell School Lunch Act (42 U.S.C. 1760(e)) and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-priced lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC).
- t. Payments, funds, or distributions authorized, established or directed by Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774 f.(b.));
- u. Payments from any deferred Department of Veterans Affairs disability benefits that are received in a lump sum

- amount or in prospective monthly (42 U.S.C. § 1437a(b)(4));
- v. Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111-269; (25 U.S.C. 4103(9)) to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self Determination Act (NAHASDA) (25 U.S.C. 4101 et seq.) and administered by the Office of Native American Programs;
  - w. A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled Elouise Cobell et al. v. Ken Salazar et al., 816 F.Supp.2d 10 (Oct. 5, 2011, D.D.C.), for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111-291);
  - x. Any major amounts in “individual development account” as provided by the Assets for Independence Act, as amended in 2002 (Pub. L. 107-110, 42 U.S.C. 604(h)(4));
  - y. Per capita payments made from the proceeds of Indian Tribal Trust Cases as described in PIH Notice 2013-30 “Exclusion from Income Payments under Recent Tribal Trust Settlements: (25 U.S.C. 117b(a)); and
  - z. Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93-288, as amended) comparable disaster assistance provided by States, Local governments, and disaster assistance (42 U.S.C. 5155(d).
  - aa. ABLÉ accounts created under the Achieving a Better Life Experience Act of 2014 (ABLE Act) are excluded from the calculation of both income and assets.
14. Earned Income Disallowance for persons with disabilities [24CFR5.617] (Also known as Earned Income Disregard)

The Earned Income Disallowance, established by QHWRA, is applicable to a disabled adult participant who either begins earning income, or, in certain circumstances, earns additional income. The disallowance functions as an income exclusion in the rent calculation process for a specific amount (percentage), for a specified period of time.

The Earned Income Disallowance is only available for households/families already participating in the Section 8

Housing Choice Voucher Program who meet specific criteria. (It is not applicable at admission, although once a family member becomes a lease holder they can qualify as long as the qualifying criteria is met.) Only disabled adults can qualify for the earned income disallowance because earnings for disabled family members under 18, other than head or spouse, is already excluded as income. Each disabled person can receive only one disallowance during his or her lifetime.

The Earned Income Disallowance is available to the families who meet the following criteria:

- a. Families whose annual income increases as a result of employment of a disabled family member who was previously unemployed (defined as working less than 10 hours per week for 50 weeks) for one or more years prior to new employment;
- b. Families whose annual income increases as a result of employment of a disabled family member during participation in any economic self-sufficiency or other job training program; or
- c. Families whose annual income increases as a result of employment of a disabled family member during or within 6 (six) months after receiving assistance under a state TANF or Welfare-to-Work program. (Not limited to monthly income maintenance, but also includes benefits and services as one-time payments, wage subsidies, and transportation assistance, provided that the total over a 6 (six) month period is at least \$500.00). (Note: Sanctioned Benefits do not count as having been assisted.)

The Disallowance amounts and periods are as follows:

- 1) Initial 12-month exclusion - During the cumulative (does not have to be consecutive) 12-month period, beginning on the date the disabled family member is first employed or the family first experiences an annual income increase attributable to employment, 100% of any increase in income over the prior income of the disabled family member is to be excluded.
- 2) The second 12-month exclusion and phase-in - During the 2<sup>nd</sup> cumulative (does not have to be consecutive) 12-month period after the date the disabled family member is first employed or the

family first experiences an annual income increase attributable to employment, 50% of any increase in income over the prior income of the disabled family member is to be excluded.

3) Maximum Disallowance Period

For families who are eligible for this EID benefit prior to 7/1/17, the disallowance of increased income of an individual family member is limited to a lifetime 48-month period. It only applies for 12 months of the 100% exclusion and 12 months of the 50% exclusion.

For families who are eligible for this EID benefit on or after 7/1/17, the disallowance of increased income of an individual family member is limited to a lifetime 24-month period, regardless of how many months were “used”. It only applies for 12 months of the 100% exclusion and 12 months of the 50% exclusion.

The Earned Income Disallowance is not applicable at admission. It is not applicable for the purposes of determining income eligibility, initial rent burden, or for income targeting. However, once a family becomes a program participant (after they become a lease holder), they may qualify if they meet the qualifying criteria.

#### 9.4 DEDUCTIONS FROM ANNUAL INCOME

The following deductions will be made from annual income.

- A. \$480 for each dependent;
- B. \$400 for any elderly family or disabled family;
- C. The sum of the following to the extent the sum exceeds the three percent (3%) of the annual income:
  1. Un-reimbursed medical expenses of any elderly or disabled family including any fee paid by the participant for the Medicare Prescription Drug Program; and
  2. Un-reimbursed 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, but this allowance may not exceed the earned income received by family member who are

18 years of age or older who are able to work because of such attendant care or auxiliary apparatus; and

- D. Reasonable childcare expenses for children 12 and younger, necessary to enable a member of the family to be employed or to further his or her education. This deduction shall not exceed the amount of employment income that is included in annual income.

#### 9.5 RECEIPT OF A LETTER OR NOTICE FROM HUD CONCERNING INCOME

- A. If a Section 8 participant receives a letter or notice from HUD concerning the amount or verification of family income, the letter shall be brought into the person responsible for income verification within ten (10) calendar days of receipt by the participant. Non verification could result in termination.
- B. The Housing Specialist shall reconcile any difference between the amount reported by the participant and the amount listed in the HUD communication. This shall be done as promptly as possible.
- C. After the reconciliation is complete, the SCHC shall (if appropriate) adjust the participant's rental contribution beginning at the start of the next month unless the reconciliation is completed during the final five (5) days of the month and then the new rent shall take effect on the first day of the second month following the end of the current month. In addition, if the participant had not previously reported the proper income, the SCHC shall do one of the following:
  1. Immediately collect the back over paid assistance paid by the agency;
  2. Establish a repayment plan in accordance with section 15.5 of this policy for the participant to pay the sum due to the agency;
  3. Terminate the participant from the program for failure to report income; or
  4. Terminate the participant from the program for failure to report income and collect the back overpaid by the agency.

#### 9.6 COOPERATING WITH WELFARE AGENCIES

The SCHC will make its best efforts to enter into cooperative agreements with local welfare agencies under which the welfare agencies will agree:

- A. To target assistance, benefits and services to families receiving assistance in the public housing and Section 8 tenant-based assistance program to achieve self-sufficiency.

- B. To provide written verification to the SCHC concerning welfare benefits for families applying for or receiving assistance in our housing assistance programs.

## 10.0 VERIFICATION

The SCHC will verify information related to waiting list preferences, eligibility, admission, and level of benefits prior to admission. Periodically during occupancy, items related to eligibility and rent determination shall also be reviewed and verified. Income, assets, and expenses will be verified, as well as disability status, need for a live-in aide and other reasonable accommodations; full time student status of family members 18 years of age and older; Social Security numbers; and citizenship/eligible NON-CITIZEN status. Age and relationship will only be verified in those instances where needed to make a determination of level of assistance.

For a family with net assets equal to or less than \$5,000, the SCHC will accept, for purposes of recertification of income, a family's written declaration that it has net assets equal to or less than \$5,000, without taking additional steps to verify the accuracy of the declaration. The declaration must state the amount of income the family expects to receive from such assets; this amount will be included in the family's income. The SCHC will obtain third-party verification of all family assets every 3 years.

Age, relationship, U.S. citizenship, and Social Security numbers will generally be verified with documentation provided by the family. For citizenship, the family's certification will be accepted. (Or, for citizenship, documentation such as listed below will be required.) Verification of these items will include photocopies of the Social Security cards and other documents presented by the family, the INS SAVE approval code, and forms signed by the family.

**Excluded Income:** In Notice PIH-2013-04, HUD provides guidance and clarification on the requirements to verify income that is excluded from the determination of annual income. There are two categories of excluded income: fully excluded and partially excluded. Each category has different verification requirements. Because each has a different verification requirement, it is important to be sure to determine correctly if the income is fully or only partially excluded income. The requirements are as follows:

Fully Excluded income: Income that is fully excluded means the entire amount qualifies to be excluded from the annual income determination.

For fully excluded income, the SCHC **is not require to:**

- Verify the income in accordance with the HUD-prescribed verification hierarchy (as outlined below).

- Document in the tenant file why third party verification was not available as required by 24CFR 982.516(a.)(2).
- Report the income in Section 7 of the HUD-50058.

(For a complete list of income exclusions, see 24 CFR 5.609(c.))

The SCHC may accept an applicant or participant's self-certification as verification of fully excluded income. The SCHC's application and re-examination documentation, which is signed by all adult family members, may serve as the self-certification of the fully excluded income. The SCHC has the option of elevating the verification requirements, if necessary, to determine if a source of income qualifies for a full exclusion. Examples of common fully excluded income categories that are verifiable through applicant or participant self-certification include but are not limited to:

- Supplemental Nutrition Assistance Program (SNAP) benefits (Formerly known as Food Stamps)
- Income from a live in aide

Partially Excluded income: Income that is partially excluded means that only a certain portion of the income reported by the family qualifies to be excluded, while the remainder must be included when determining the family's annual income.

For partially excluded income the SCHC **is required to**:

- Comply with HUD prescribed verification requirements and all applicable regulations pertaining to the determination of annual income; and
- Report the income in Section 7 of the HUD-50058.

Examples of common partially excluded income categories that are subject to regular verification requirements include but are not limited to:

- The Department of Veterans Affairs "Aid and Attendance" benefits - in accordance with 24 CFR 509(c.) (4), these benefits may be excluded from income if they are used "specifically for, or in reimbursement of, the cost of medical expenses for the family member." Live-in or periodic medical assistance and services of doctors and health care professionals are among the services that may be counted as medical expenses. The SCHC must verify the amount provided for aid and may be counted as medical expenses. The SCHC must verify the amount provided for aid and attendance medical expenses and the amount actually being used by the veteran for such expenses. Any portion of the benefit not used for such expenses would continue to be counted as income by the SCHC when determining the family's annual income.
- Earnings in excess of \$480 for full time students, 18 years of age or older (24 CFR 5.609 (c.) (11) - in order to determine the amount of

earnings to include in the calculation of the family's annual income the SCHC must verify the amount of employment income for these family members.

(For a complete list of income exclusions, see 24 CFR 5.609(c.))

All other information will be verified by the following verification hierarchy and technique methods acceptable to HUD.

## 10.1 VERIFICATION HIERARCHY AND TECHNIQUES

In accordance HUD regulation, the SCHC will obtain and document in the tenant file third party verification of the following factors, or will document in the tenant file why third-party verification was not available:

- (i) reported family annual income;
- (ii) the value of assets;
- (iii) expenses related to deductions from annual income; and
- (iv) other factors that affect the determination of adjusted income.

The SCHCs verification process will begin with the highest level of verification techniques as indicated in the "Verification Hierarchy and Technique Chart" below.

All verifications, regardless of technique, require the SCHC to review the IVT information at the time of reexamination and for multiple subsidy payments. The SCHC is required to review the EIV Former Tenant and Existing Tenant Reports for any SSA matches involving another PHA or a Multi-family entity and follow-up on any issues identified. The SCHC is required to maintain the report and documentation of any follow-up in the tenant file. If the tenant is a new admission to the SCHC, and a match is identified at a Multi-family property, the SCHC must report the program admission date to the Multi-family property and document the notification in the tenant file.

Exhibit 1 – Verification Hierarchy and Technique Chart

Level	Verification Technique	Ranking
6	Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system <u>and the Income Validation Tool (IVT)</u> (not available for income verifications of applicants)	Highest (Mandatory)
5	Up-front Income Verification (UIV) using non-HUD system	Highest (Optional)
4	Written Third-Party Verification	High (Mandatory to supplement EIV-reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant

		disputes EIV-reported employment and income information <b>and</b> is unable to provide acceptable documentation to support dispute)
3	Written Third-Party Verification Form	Medium-Low (Mandatory if written third-party verification documents are not available or rejected by the PHA; and when the applicant or tenant is unable to provide acceptable documentation)
2	Oral Third-Party Verification	Low (Mandatory if written third-party verification is not available)
1	Tenant Declaration	Low (Use as a last resort when unable to obtain any type of third-party verification)

**Note:** This verification hierarchy applies to income determinations for applicants and participants. However, EIV is not available for verifying income of applicants. Exhibit 1. "Verification Hierarchy and Techniques", illustrates six levels of verification starting with 6 as the highest category of Upfront Income Verification using HUD's EIV system, then 5-Upfront Income Verification (UIV) using non-HUD system, 4-Written Third-Party Verification, 3-Written Third Party Verification Form, 2-Oral Third-Party Verification, and 1-Tenant Declaration.

A. Up-front Income Verifications (UIV) – (Level 6/5)

UIV is the verification of income through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals.

Current UIV resources include the following:

1. Enterprise Income Verification (EIV) – The EIV System is a web-based application, which provides SCHCs with employment, wage, unemployment compensation and social security benefit information of tenants who participate in the Public Housing and various Section 8 programs under the jurisdiction of the Office of Public and Indian Housing (PIH). Information in EIV is derived from computer matching programs initiated by HUD with the Social Security Administration (SSA) and the U.S. Department of Health and Human Services (HHS), for all program participants with valid personal identifying information (name, date of birth (DOB), and social security number (SSN)) reported on the form HUD-50058. Use of the EIV system in its entirety is mandatory. To minimize tenant underreporting of income, the SCHC will obtain an EIV Income and IVT Report for each family any time the SCHC conducts a reexamination of family income and composition.

The SCHC will obtain an EIV Income Report and an IVT Report for each household for each interim and mandatory reexaminations of family income and composition. If the EIV Income Report does not contain adequate employment and income information for the family, the SCHC will attempt the next lower-level verification technique, as necessary, as noted in the Verification Hierarchy and Technique Chart.

To reduce the potential for subsidy errors, the SCHC will monitor the following EIV reports on a monthly basis:

- a. Deceased Tenants Report
- b. Identity Verification Report
- c. Immigration Report

See Section 10.8 – EIV for full use requirements of EIV.

2. State Wage Information Collection Agencies (SWICAs)
3. State systems for the Temporary Assistance for Needy Families (TANF) program
4. Credit Bureau Information (CBA) credit reports
5. Internal Revenue Service (IRS) Letter 1722
6. Private sector databases (i.e., The Work Number)

The SCHC will use additional UIV resources as they become available.

It is important to note that UIV data will only be used to verify a participant's eligibility for participation in a rental assistance program and to determine the level of assistance the participant is entitled to receive and only by properly trained persons whose duties require access to this information. Any other use, unless approved by the HUD Headquarters UIV Security System Administrator, is specifically prohibited, and will not occur. See Section 10.8 – EIV

No adverse action can be taken against a participant until the SCHC has independently verified the UIV information and the participant has been granted an opportunity to contest any adverse findings through the established grievance procedure. The consequences of adverse findings may include the SCHC requiring the immediate payment of any over-subsidy, the entering into a repayment agreement, eviction, criminal prosecution, or any other appropriate remedy.

#### B. Written Third-Party Verification – (Level 4)

The SCHC must request written third-party verification under the following circumstances:

1. When the tenant disputes the EIV information and is unable to provide acceptable documentation to support his/her dispute (24 CFR 5.236(b))
2. When the SCHC requires additional information that is not available in EIV and/or the tenant is unable to provide the SCHC with current acceptable tenant-provided documentation. Examples of additional information include, but are not limited to:
  - i. Effective dates of income (i.e., employment, Unemployment compensation, or social security benefits)
  - ii. For new employment: pay rate, number of hours worked per week, pay frequency, etc.
  - iii. Confirmation of changes in circumstances (i.e., reduced hours, reduced rate of pay, temporary leave of absence, etc.)

An original or authentic document generated by a third-party source dated either within the 60-day period preceding the SCHC request date. Such documentation may be in the possession of the tenant (or applicant) and is commonly referred to as tenant-provided documents. It is the HUD's position that such tenant-provided documents are written third-party verification since these documents originated from a third-party source. The SCHC may, at its discretion, reject any tenant-provided documents and follow up directly with the source to obtain necessary verification of information.

Examples of acceptable tenant-provided documentation (generated by a third-party source) include, but are not limited to: pay stubs, payroll summary report, and employer notice/letter of hire/termination, SSA benefit verification letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Current acceptable tenant-provided documents will be used for income and rent determinations.

The SCHC will obtain a minimum of two (2) current and consecutive pay stubs for determining annual income from wages. For new income sources or when two (2) current and consecutive pay stubs are not available, the SCHC will project income based on the information from a traditional written third-party verification form or the best available information.

**Note:** Documents older than 60 days (from the SCHC interview/determination or request date) is acceptable for confirming effective dates of income.

Third-party written verifications may also be used to supplement Up-front Income Verifications. They will be utilized when there is a discrepancy of \$200 a month (\$2400.00 annually) or more and the participant disputes the UIV results.

Note: Social Security benefit information in EIV is updated every three months. If the tenant agrees with the EIV-reported benefit information, The SCHC does not need to obtain or request a benefit verification letter from the tenant.

The SCHC will allow a minimum of seven (7) calendar days for the return of written third-party verifications prior to continuing on to the next type of verification.

### C. Written Third-Party Verification Form – (Level 3)

Also known as traditional third-party verification, a standardized form to collect information from a third-party source is distributed by the SCHC. The form is completed by the third-party by hand (in writing or typeset). This form is sent directly to the third-party source by the SCHC.

It is HUD's position that the administrative burden and risk associated with use of the traditional third-party verification form may be reduced by the SCHC relying on acceptable documents that are generated by a third party, but in the possession of, and provided by, the tenant (or applicant). Many documents in the possession of the tenant (or applicant) are derived from third party sources (i.e., employers, federal, state and/or local agencies, banks, etc.).

HUD recognizes that third-party verification request forms sent to third-party sources often are not returned. In other instances, the person who completes the verification form may provide incomplete information; or some tenants may collude with the third-party source to provide false information; or the tenant intercepts the form and provides false information.

HUD requires the SCHC to rely on documents that originate from a third-party source's computerized system and/or database, as this process reduces the likelihood of incorrect or falsified information being provided on the third-party verification request form. The use of acceptable tenant-provided documents, which originate from a third-party source, will improve the integrity of information used to determine a family's income and rent and ultimately reduce improper subsidy payments. This verification process will also streamline the income verification process.

The SCHC will allow seven (7) calendar days for the return of third-party written verification forms prior to continuing on to the next type of verification.

#### D. Third-Party Oral Verifications

This type of verification includes direct contact with the source, in person or by telephone. When this method is used, staff members will be required to document in writing with whom they spoke, the date of the conversation, the telephone number, and the facts obtained.

The SCHC will allow 7 calendar days for the return of third-party oral verifications prior to continuing on to the next type of verification.

#### E. Review of Documents

When UIV, written and oral third-party verifications are not available within the time period allowed as stated above, the SCHC will use the information received by the family, provided that the documents provide complete information. Photocopies of the documents, excluding government checks, provided by the family will be maintained in the file. In cases in which documents are viewed and cannot be photocopied, staff reviewing the documents will complete a written statement as to the contents of the document(s).

#### F. Non-Third-Party Verification/Self-Certification and Self-Declaration-(Level 1)

The tenant submits an affidavit or notarized statement of reported income and/or expenses to the SCHC. This verification method should be used as a last resort when the SCHC has not been successful in obtaining information via all other verification techniques. When the SCHC relies on tenant declaration, the SCHC must document in the tenant file why third-party verification was not available.

#### Exceptions to Third Party Verification Requirements

Third party verification may not be available for a variety of reasons such as numerous attempts to obtain the required verifications with no success or it may not be cost effective to obtain third party verification of income, assets, or expenses, when the impact on total tenant payment is minimal. In these cases, the SCHC is required to document in the family file the reason(s) why third-party verification was not available.

When any verification method other than Up-front Income Verification is utilized, the SCHC will document the reason for the choice of the verification methodology in the applicant/resident's file.

## 10.2 TYPES OF VERIFICATION

The chart below outlines the factors that may be verified and gives common examples of the verification that will be sought. To obtain written third party

verification, the SCHC will send a request form to the source along with a release form signed by the applicant/participant via first class mail.

<i>Verification Requirements for Individual Items</i>		
<i>Item to Be Verified</i>	<i>3<sup>rd</sup> Party Verification</i>	<i>Hand-Carried Verification</i>
<b>General Eligibility Items</b>		
<i>Social Security Number</i>	<i>N/A</i>	<i>An original SSN card issued by SSA, An original SSA-issued document that contains the name and SSN of the individual; or an original document issued by a federal, state or local government agency which contains the name and SSN of the individual or any other HUD allowed method.</i>
<i>Adult Status of Head of Household</i>	<i>N/A</i>	<i>Valid Driver' license, identification card issued by a government agency, or a birth certificate</i>
<i>Citizenship</i>	<i>N/A</i>	<i>Signed certification, voter's registration card, birth certificate, etc.</i>
<i>Eligible immigration status</i>	<i>INS SAVE confirmation #</i>	<i>INS card</i>
<i>Disability</i>	<i>Letter from medical professional, SSI, etc.</i>	<i>Proof of SSI or Social Security disability payments</i>
<i>Full time student status (if over 18)</i>	<i>Letter from school</i>	<i>For high school students, any document evidencing enrollment</i>
<i>Need or a live-in aide</i>	<i>Letter from doctor or other professional knowledgeable of condition</i>	<i>N/A</i>

<i>Childcare costs</i>	<i>Letter from care provider including provider, address, telephone number, social security number, names of children, cared for, number of hours, rate of pay and typical yearly amount received</i>	<i>Bills and receipts verifying payments made</i>
<i>Childcare reimbursement</i>	<i>Statement from provider</i>	<i>Certification of amount received from an outside source.</i>
<i>Disability assistance expenses</i>	<i>Letters from suppliers, care givers, etc.</i>	<i>Bills and records of payment</i>
<i>Attendant Care</i>	<i>Certification that this care is required, and projected number of hours is necessary, Attendant verification of amount received and frequency of payments.</i>	<i>Cancelled check, pay stubs, statement of account, showing payments</i>
<i>Medical expenses</i>	<i>Letters from providers, prescription record from pharmacy, medical professional's letter stating assistance, or a companion animal is needed, including anticipated reimbursements from insurance companies, government agencies, or other outside sources.</i>	<i>Bills, receipts, records of payment, dates of trips, mileage log, receipts for fares and tolls.</i>
<i>Medicare Prescription Drug coverage</i>	<i>N/A</i>	<i>A card issued by the private prescription drug plan with the words "MEDICARE Rx" on it.</i>
<i>Disabilities</i>	<i>Letter from Social Security Administration, physician, psychiatrist, psychologist, therapist, rehab specialist or licensed social worker</i>	<i>Receipt of SSI or SSA disability payments under Section 223 of the Social Security Act.</i>

<i>Assistance for Disabilities</i>	<i>Written certification from a knowledgeable professional conforming the need for assistance to permit the person to work or function independently so another family member can work</i>	<i>Family's certification of expenses and reimbursement</i>
<i>Medical Reimbursement</i>	<i>Written verification from provider</i>	<i>Certification of amounts received</i>
<p><b><u>Value of and Income from Assets:</u></b></p> <p><i>NOTE: For a family with net assets equal to or less than \$5,000, the SCHC will accept, for purposes of recertification of income, a family's written declaration that it has net assets equal to or less than \$5,000, without taking additional steps to verify the accuracy of the declaration. The declaration must state the amount of income the family expects to receive from such assets; this amount will be included in the family's income. The SCHC will obtain third-party verification of all family assets every 3 years.</i></p>		
	<i>Letter from institution</i>	<i>Passbook, or current statements covering <b><u>at least 6 months</u></b></i>
<i>Savings accounts</i>	<i>Letter from institution</i>	<i>Passbook, or current statements showing <b><u>current</u></b> balance</i>
<i>CDs, bonds, etc.</i>	<i>Letter from institution</i>	<i>Tax return, information brochure from institution, the CD, the bond.</i>
<i>Stocks</i>	<i>Letter from broker or holding company</i>	<i>Stock or most current statement, price in newspaper or through Internet</i>
<i>Real property</i>	<i>Letter from tax office, assessment, etc.</i>	<i>Property tax statement (for current value), assessment, records or income and expenses, tax return</i>
<i>Personal property</i>	<i>Assessment, bluebook, etc. Amortization schedule</i>	<i>Receipt for purchase, other evidence of worth</i>
<i>Cash value of life insurance policies</i>	<i>Letter from insurance company</i>	<i>Current statement</i>

<i>Assets disposed of for less than fair market value</i>	<i>N/A</i>	<i>Signed Certification, Original receipt at disposition, other evidence of worth.</i>
<b><u>Income:</u></b>		
<i>Earned income</i>	<i>Letter from employer</i>	<i>Minimum of 2 current and consecutive pay stubs</i>
<i>Self-employed</i>	<i>N/A</i>	<i>Tax return from prior year, books of accounts</i>
<i>Regular gifts and contributions</i>	<i>Letter from source, letter from organization receiving gift (i.e., if grandmother pays day care provider, the day care provider could so state)</i>	<i>Bank deposits, other similar evidence</i>
<i>Alimony/child support</i>	<i>Court order, letter from source, letter from Human Services</i>	<i>Record of deposits, divorce decree</i>
<i>Social Security Administration Benefits</i>	<i>N/A</i>	<i>Letter from the Social Security as verified by HUD Computer Systems</i>
<i>Periodic payments (i.e., welfare, pensions, workers' comp, unemployment)</i>	<i>Letter or electronic reports from the source.</i>	<i>Award letter, letter announcing change in amount of future payments, Payment stubs</i>
<i>Training program participation</i>	<i>Letter from program provider indicating - whether enrolled - whether training is HUD-funded - whether State of local program - whether it is employment training - whether payments are for out-of-pocket expenses incurred in order to participate in a program</i>	<i>N/A</i>
<i>Zero Income</i>	<i>Letter from FIA, IRS or other agency</i>	<i>Signed Certification</i>

<i>Other</i>		
<i>Apparatus</i>	<i>If employed, employee's statement that apparatus is required to perform duties.</i>	<i>Receipt for purchase proof of monthly payments</i>
<i>Legal Identity</i>		<i>Birth Certificate, naturalization papers, baptismal certificate, current valid driver's license, military discharge, passport, Dept. of Moto Vehicles ID card, Adoption papers, school records, custody agreement</i>
<i>Marital Status</i>		<i>Divorce decree, court order for separation, Marriage Certificate</i>
<i>Family relationships</i>	<i>Court ordered assignment for Guardianship, Letter from Social Services.</i>	<i>Certification from family, Legal Identity verification listed above, Joint bank accounts, Shared financial transactions, Credit reports</i>
<i>Permanent Absence of Adult Member</i>	<i>Written letter from landlord or manager of new address, Court document of incarceration</i>	<i>Divorce papers, Legal separation papers, Restraining Orders, Poof of address change by utility bills, driver's license, lease agreement.</i>
<i>Changes in Family composition</i>	<i>Letters from landlord, Inspection report</i>	<i>Telephone bills, Utility records, Credit date, School records, DMV records, etc.</i>

### 10.3 VERIFICATION OF CITIZENSHIP OR ELIGIBLE NON-CITIZEN STATUS

The citizenship/eligible NON-CITIZEN status of each family member, regardless of age, must be determined.

Prior to being admitted, or at the first reexamination, all citizens and nationals will be required to sign a declaration under penalty of perjury. (They will be required to show proof of their status by such means as a Social Security card, birth certificate, military ID, or military DD 214 Form.)

Prior to being admitted or at the first reexamination, all eligible non-citizens who are 62 years of age or older will be required to sign a declaration under

penalty of perjury. They will also be required to show proof of age.

Prior to being admitted or at the first reexamination, all eligible non-citizens must sign a declaration of their status and a verification consent form and provide their original INS documentation. The SCHC will make a copy of the individual's INS documentation and place the copy in the file. The SCHC will also verify their status through the INS SAVE system. If the INS SAVE system cannot confirm eligibility, the SCHC will mail information to the INS in order that a manual check can be made of INS records.

Family members who do not claim to be citizens, nationals, or eligible non-citizens must be listed on a statement of non-eligible members and the list must be signed by the head of the household.

NON-CITIZEN students on student visas, though in the country legally, are not eligible to be admitted to Section 8 Program. If they are members of families that include citizens, the rent must be prorated.

Any family member who does not choose to declare their status must be listed on the statement of non-eligible members.

If no family member is determined to be eligible under this Section, the family's admission will be denied.

Family's assistance will not be denied, delayed, reduced, or terminated because of a delay in the process of determining eligible status under this Section, except to the extent that the delay is caused by the family.

If the SCHC determines that a family member has knowingly permitted an ineligible NON-CITIZEN (other than any ineligible non-citizens listed on the lease) to permanently reside in their Section 8 unit, the family's assistance will be terminated. Such family will not be eligible to be readmitted to Section 8 for a period of 24 months from the date of termination.

#### 10.4 VERIFICATION OF SOCIAL SECURITY NUMBERS

To verify the disclosed/documentated SSN of family members, the SCHC must request the applicant and participant (all members of the household, including live-in aides, foster children, and foster adults), who are not exempt under Section 3.2, D, to provide documentation of each disclosed SSN. Acceptable evidence of the SSN consists of:

- a. An original SSN card issued by SSA;
- b. An original SSA-issued document, which contains the name and SSN of the individual; or
- c. An original document issued by a Federal, State, or local government agency, which contains the name and SSN of the individual.

It should be noted that most (if not all) individuals who are lawfully present in the U.S. have been assigned an SSN. Many existing laws require the disclosure of the SSN for various purposes. All applicants and participants, including each member of the household (with the exception of those individuals noted in Section 3.2, D) are required to disclose his/her SSA-assigned SSN. The SSA issues three types of social security cards depending on an individual's citizen or noncitizen status and whether or not a noncitizen is authorized by the Department of Homeland Security (DHS) to work in the United States. They include:

- a. The first type of card shows the individual's name and SSN only. This is the card most people have and reflects the fact that the holder can work in the U.S. without restriction. SSA issues this card to:
  - i. U.S. citizens; or
  - ii. Noncitizens lawfully admitted to the United States for permanent residence and noncitizens with DHS permission to work permanently in the United States (i.e., refugees and asylees).
- b. The second type of card bears, in addition to the individual's name and SSN, the legend: "**NOT VALID FOR EMPLOYMENT.**" SSA issues this card to lawful noncitizens who do not have DHS permission to work and are required by law to provide an SSN to obtain general assistance benefits that they already have qualified for.
- c. The third type of card bears, in addition to the individual's name and SSN, the legend "**VALID FOR WORK ONLY WITH DHS AUTHORIZATION.**" SSA issues this card to people with DHS permission to work temporarily in the United States. SSA verifies all noncitizens' documents with DHS before an SSN card is issued to a noncitizen.

**Rejection of Documentation.** The SCHC may reject documentation of the SSN provided by the applicant or participant for only the following reasons:

- a. The document is not an original document; or
- b. The original document has been altered, mutilated, or is not legible; or
- c. The document appears to be a forged document (i.e., does not appear to be authentic).

**Verification of Documented SSN.** Once Documentation is received, the SCHC shall verify each disclosed SSN by:

- a. Obtaining and Making a copy of the original documentation submitted, returning it to the individual, and retaining the copy in the file folder; and
- b. Recording the SSN on line 3n of the form HUD-50058 and transmitting the form HUD-50058 to HUD within a timely manner. The

SCHC is required to transmit the form HUD-50058 no later than 30 calendar days of receiving the SSN documentation, to enable HUD to initiate its computer matching efforts for current program participants.

**Note:** HUD does not initiate computer matching efforts for applicants. HUD, via its computer matching program with the SSA, will validate the SSN (along with the individual's name and date of birth) against the SSA's database. EIV will report the status of the identity verification process as **Verified, Failed, Pending, Excluded, or Deceased** on the household **Summary Report**.

(See Notice PIH 2018-24 for additional Guidance)

## 10.5 TIMING OF VERIFICATION

For the purposes of an initial eligibility determination for admission, a certification due to a transfer or move; or an annual re-certification/re-examination of income, verification of information must be dated within sixty (60) days prior to the SCHC request. If the verification is older than sixty (60) days, it will not be acceptable. However, after the verification has been initially accepted and is in the possession of the SCHC and becomes older than 90 days but less than 120 days old, the source will be contacted and asked to provide information regarding any changes. If the verification is older than 120 days, the information must be re-verified.

When an interim reexamination is conducted, the SCHC will verify and update only those elements reported to have changed.

## 10.6 FREQUENCY OF OBTAINING VERIFICATION

Household income and Composition will be verified at least annually.

For each family member, citizenship/eligible NON-CITIZEN status will be verified only once (unless the family member is an eligible immigrant in a transitional stage of admission. In this situation, their status must be updated until they are admitted for permanent residency.) This verification will be obtained prior to admission. If the status of any family member was not determined prior to admission, verification of their status will be obtained at the next regular reexamination. Prior to a new member joining the family, their status will be verified.

For each family member age, verification of Social Security number will be obtained only once. This verification will be accomplished prior to admission. When a family member who did not have a Social Security number at admission receives a Social Security number, that number will be verified at the next regular reexamination

## 10.7 SPECIAL VERIFICATION FOR ADULT STUDENTS

In addition to other verification procedures, student head of households must provide a written signed certification that the student does or does not receive any financial support from his or her parents or guardians and whether or not the student is receiving an athletic scholarship. If support is received, the certification must state the amount of anticipated support. The SCHC shall verify by using normal 3<sup>rd</sup> party verification procedures that amount by communicating directly with the supporting person(s). If an athletic scholarship is involved, the SCHC shall determine if any of the scholarship is available for housing costs.

## 10.8 EIV

The EIV System is a web-based application, which provides employment, wage, unemployment compensation and social security benefit information for tenants who participate in the Public Housing and various Section 8 programs under the jurisdiction of the Office of Public and Indian Housing (PIH). Information in EIV is derived from computer matching programs initiated by HUD with the Social Security Administration (SSA) and the U.S. Department of Health and Human Services (HHS), for all program participants with valid personal identifying information (name, date of birth (DOB), and social security number (SSN)) reported on the form HUD-50058.

EIV is classified as an UIV technique (or automated written third-party verification), which helps to identify income sources and/or amounts that the tenant may not have disclosed.

PHAs are required to use the EIV system in its entirety. This means that the SCHC must use all features of the EIV system to:

- a. Verify tenant employment and income information during interim and mandatory reexaminations of family composition and income in accordance with 24 CFR 5.236, and other HUD administrative guidance; and
- b. Reduce administrative and subsidy payment errors in accordance with HUD administrative guidance.

The SCHC is required to review the EIV Income and IVT reports during mandatory and interim reexaminations of family income and/or composition to reduce tenant under reporting of income and improper subsidy payments. The SCHC will retain the EIV reports (the EIV Income and IVT reports) in accordance with the SCHCs Records Retention Policy.

The IVT Report is a new report that replaces the current Income Discrepancy Report under the verification reports link in EIV This report facilitates and enhances the SCHCs identification of tenant unreported or underreported income during interim and regular reexaminations. The IVT is updated monthly and provides a comparison between tenant reported income and income information previously reported on the HUD-50058. It includes any discrepant income information specifically derived and reported from HUD's

data sharing agreements with HHS-NDNH and the Social Security Administration (SSA). The IVT also provides income and wage, unemployment compensation and SSA benefit information.

The SCHC can comply with and reduce administrative burden of third-party verification requirements for employment, wage, unemployment compensation and Social Security benefits, and any other information that is verifiable using EIV by:

- a. Reviewing the EIV Income and IVT Reports to confirm/validate tenant-reported income
- b. Printing and maintaining the EIV Income and IVT Reports in the tenant file;
- c. Obtaining current acceptable tenant-provided documentation to supplement the EIV information; and
- d. Using current tenant-provided documentation and/or third-party verification to calculate annual income.

Note: Social Security benefit information in EIV is updated every three months. If the tenant agrees with the EIV-reported benefit information, PHAs do not need to obtain or request a benefit verification letter from the tenant. See PIH Notice 2010-03 for guidance on verifying Social Security benefit income through the EIV system.

#### A. EIV DISPUTE AND DISCREPANCIES

If the EIV or IVT report reveals an income source that was not reported by the tenant or a substantial difference (defined as \$2400 or more annually) in the reported income information, the SCHC will:

- a. Discuss the income discrepancy with the tenant; and
- b. Request the tenant to provide any documentation to confirm or dispute the unreported or underreported income and/ or income sources; and
- c. In the event the tenant is unable to provide acceptable documentation to resolve the income discrepancy, the SCHC will request from the third-party source, any information necessary to resolve the income discrepancy; and
- d. If applicable, determine the tenant's underpayment of rent as a result of unreported or under-reported income, retroactively\*; and
- e. Take any other appropriate action as directed by HUD or in accordance with SCHC policy.

\*The SCHC will determine the retroactive rent as far back as the existence of complete file documentation (form HUD-50058 and supporting documentation) to support such retroactive rent determinations.

Note: HUD regulations prohibits the SCHC from taking adverse action based solely on EIV information.

The tenant will be provided an opportunity to contest the SCHC's determination of tenant rent underpayment. Tenants will be promptly notified in writing of any adverse findings made on the basis of the information verified through the aforementioned income discrepancy resolution process. The tenant may contest the findings in accordance with established grievance procedures. The SCHC will not terminate, deny, suspend, or reduce the family's assistance until the expiration of any notice or grievance period.

When there is an unsubstantial or no disparity between tenant-reported and EIV-reported income information, the SCHC will obtain from the tenant, any necessary documentation to complete the income determination process. As noted previously, the SCHC may reject any tenant-provided documentation, if the SCHC deems the documentation unacceptable. Documentation provided by the tenant will only be rejected for only the following reasons:

- a. The document is not an original; or
- b. The original document has been altered, mutilated, or is not legible; or
- c. The document appears to be a forged document (i.e., does not appear to be authentic).

The SCHC will explain to the tenant, the reason(s) the submitted documents are not acceptable and request the tenant to provide additional documentation. If at any time, the tenant is unable to provide acceptable documentation that the SCHC deems necessary to complete the income determination process, the SCHC will submit a traditional third-party verification form to the third-party source for completion and submission to the SCHC.

If the third-party source does not respond to the SCHC's request for information, the SCHC is required to document the tenant file of its attempt to obtain third-party verification and that no response to the third-party verification request was received.

The SCHC will then pursue lower-level verifications in accordance with the verification hierarchy.

Sometimes the source or originator of EIV information may make an error when submitting or reporting information about tenants. HUD cannot correct data in the EIV system. Only the originator of the data can correct the information. When the originator corrects the data, HUD will obtain the updated information with its next computer matching process. If a tenant disputes information contained in the EIV system tenants and the SCHC should follow the procedures as outlined in Notice PIH 2018-18 (#19) regarding incorrect EIV information.

Note: Former tenants may dispute debt and termination information for a period of up to three years from the end of participation date in the PIH

program.

## B. DISCLOSURE OF AN INDIVIDUAL'S EIV INFORMATION

The Federal Privacy Act (5 USC §552a(b), as amended) prohibits the disclosure of an individual's information to another person without the written consent of such individual. As such, the EIV data of an adult household member **may not** be shared (or a copy provided or displayed) with another adult household member, unless the individual has provided written consent to disclose such information.

However, the PHA is not prohibited from discussing with the head of household (HOH) and showing the HOH how the household's income and rent were determined based on the total family income reported and verified.

EIV information and any other information obtained by the SCHC for the purpose of determining eligibility and level of assistance for a PIH rental assistance program may not be disclosed to third parties for any reason (even for similar verifications under other programs, such as eligibility for low-income housing tax credit units, other federal or state assistance programs), unless the tenant has authorized such disclosure in writing.

## C. FILE DOCUMENTATION REQUIRED FOR EIV COMPLIANCE

The following file documentation is required to demonstrate SCHC compliance with mandated use of EIV as a third-party source to verify tenant employment and income information (24 CFR 5.233(a)(2)(i)).

1. For each new admission (form HUD-50058 action type 1), the SCHC is required to:
  - a. Review the EIV Income and IVT Reports to confirm/validate family-reported income within 120 days of the Inventory Management System Public and Indian Housing Information Center (IMS/PIC) submission date; and
  - b. Print and maintain copies of the EIV Income and IVT Reports in the tenant file; and
  - c. Resolve any income discrepancy with the family within 60 days of the EIV Income or IVT Report dates.
  
2. For each historical adjustment (form HUD-50058 action type 14), the SCHC is required to do the following:
  - a. Review the EIV Income and IVT Reports to confirm/validate family-reported income within 120 days of the IMS/PIC submission date; and
  - b. Print and maintain copies of the EIV Income and IVT Reports in the tenant file; and
  - c. Resolve any income discrepancy with the family within 60 days

of the EIV Income or IVT Report dates.

3. For each interim reexamination (form HUD-50058 action type 3) of family income and composition, the SCHC is required to have the following documentation in the tenant file:
  - a. When there is no household identified income, discrepancy reported on the HUD-50058, the EIV Income Report or IVT Report, PHAs have the discretion to print the EIV Income and IVT Reports to document the tenant file.
  - b. In cases when there is an identified income discrepancy among the HUD-50058, the EIV Income Report or IVT Report, PHAs must follow up with the family and resolve the differences between the reported information as noted in Section 8.
4. For each reexamination of family income and composition, the SCHC is required to have the following documents in the tenant file:

**No Dispute of EIV Information:** There are no disputes among the EIV Income and IVT Reports. The tenant file includes current acceptable tenant provided documentation and if necessary (as determined by the SCHC), traditional third-party verification and a current copy of the form HUD-50058 or to be maintained in the tenant file.

**Disputed EIV Information:** There is a discrepancy in at least one of the EIV Income or IVT Reports or the form HUD-50058 is not current or is inconsistent and/or traditional third-party verification form(s) for the disputed information is not clear. Copies of the EIV Income and IVT reports, income verification and a corrected form HUD-50058 will be maintained in the tenant file.

**In cases when the Tenant-reported income is not verifiable through the EIV system:** Current tenant provided documents and if necessary, (as determined by the SCHC), traditional third-party verification form (s) and copies of the EIV Income and IVT reports and a corrected form HUD-50058 will be maintained in the tenant file.

#### D. SECURITY OF EIV DATA

The data in EIV contains personal information on individual tenants which is protected under the Federal Privacy Act. The information in EIV may only be used for limited official purposes.

#### **Official Purposes Include:**

1. PHAs, in connection with the administration of PIH programs, for verifying employment and income at the time of interim and annual reexaminations.

2. HUD staff for monitoring and oversight of PHA compliance with HUD program requirements.
3. Independent Auditors hired by the SCHC or HUD to perform a financial audit for use in determining the SCHC's compliance with HUD program requirements, including verifying income and determining the accuracy of the rent and subsidy calculations.

**Restrictions on disclosure requirements for Independent Auditors:**

- May only access EIV income information within family files and only within the offices of the SCHC or SCHC-hired management agent;
- May not transmit or transport EIV income information in any form;
- May not enter EIV income information on any portable media;
- Must sign non-disclosure oaths that the EIV income information will be used only for the audit; and
- May not duplicate EIV income information or re-disclose EIV income information to any user not authorized by 5 U.S.C. 552a(b) of the Privacy Act to have access to the EIV income data.

**Official Purposes DO NOT Include:**

1. Sharing the information with governmental or private entities not involved in their examination process specifically used for PIH rental assistance programs.
2. Disclosing the EIV information to other private or public entities for purposes other than determining eligibility and level of assistance for PIH rental assistance programs is prohibited since these entities are not a party to the computer matching agreements with the HHS and SSA. The fact that these entities may find EIV beneficial for similar eligibility and determination purposes for other low-income housing programs or public benefits, does not permit these entities to use or view Information in the EIV system that is covered by the computer matching agreements.

The computer matching agreements are governed by the Privacy Act and the Social Security Act. Specifically, 5 U.S.C. 552a(b) limits disclosure of the data matched between HUD and HHS' National Directory of New Hires (NDNH) database to PHAs, Independent Auditors, the Inspector General (IG) and attorney General, private owners, management agents, and contract administrators of Multifamily Housing programs.

## 11.0 RENT AND HOUSING ASSISTANCE PAYMENT

## 11.1 GENERAL

After August 12, 1999, the SCHC will issue only Housing Choice Vouchers to applicants, movers, and families entering the jurisdiction through portability.

## 11.2 RENT REASONABLENESS

Except as provided in Section 11.3, the SCHC will not approve an initial rent or a rent increase in any of the tenant-based programs without determining that the rent amount is reasonable. Reasonableness is determined prior to the initial lease and at the following times:

- A. Before any increase in rent to owner is approved;
- B. If 60 days before the contract anniversary date, there is a 10% or more decrease in the published FMR as compared to the previous FMR; and
- C. If the Housing Commission or HUD directs that reasonableness be re-determined.
- D. Any other time the SCHC deems necessary.

At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined by the SCHC.

## 11.3 COMPARABILITY

The SCHC must determine whether the rent to owner is a reasonable rent in comparison to rent for other comparable unassisted units. In making a rent reasonableness determination, the SCHC will compare the real rent for the unit to the rent of comparable units in the same or comparable neighborhoods that are not assisted under any federal, state or local program. The SCHC will consider the location, quality, size, number and bedrooms, age, amenities, housing services, maintenance and utilities of the unit and the comparable units. The result of this determination will be documented in the participant file.

Owners may review the determination made on their unit and may submit additional information or make improvements to the unit that may enable the SCHC to establish a higher value.

For a unit receiving low-income housing tax credits (LIHTCs) pursuant to section 42 of the Internal Revenue Code of 1986 or assistance under HUD's HOME program (for which the regulations are found in 24 CFR part 92), a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC or HOME-assisted units in the project that are to be occupied by families with tenant-based assistance.

If the rent requested by the owner exceeds the LIHTC rents or non-voucher families, the SCHC must perform a rent comparability study in accordance with program regulations and the rent shall not exceed the lesser of the reasonable rent as determined pursuant to a rent comparability study and the payment standard established by the SCHC for the unit size involved.

The owner must certify the rents charged for other units. By accepting the housing assistance payment each month, the owner is certifying that the rent to owner is not more than the rent charged by the owner for comparable unassisted units in the premises.

The owner must give the SCHC information requested on rents charged by the owner for other units in the premise or elsewhere.

#### 11.4 MAXIMUM SUBSIDY

The payment standard adopted by the SCHC, based on the Fair Market Rent (FMR) published by HUD or the exception payment standard rent (over 110% of FMR) requested by the SCHC and approved by HUD, determines the maximum subsidy for a family.

For the Housing Choice Voucher Program, the minimum payment standard will be 90% of the FMR, and the maximum payment standard will be 110% of the FMR without approval from HUD or the exception payment standard.

For a Housing Choice Voucher tenancy in an insured or non-insured 236 project, a 515 project of the Rural Development Administration, or a Section 221 (d)(3) below market interest rate project the payment standard may not exceed the basic rent charged including the cost of tenant-paid utilities. Furthermore, if any of the units also receive the benefit of a state, local, or federally housing subsidy (e.g., Section 8 Project-based housing assistance payments contract), they are ineligible units under the HCV program.

##### A. SETTING THE PAYMENT STANDARD 24 CFR 887.209(b); 887.351(c)(d)

Payment Standards will be adjusted when the FMRs are published in the Federal Register. The statute requires that the payment standard be set by the SCHC at or between 90 and 110% of the FMR without HUD's approval. The SCHC will review its determination of the payment standard annually after publication of the FMRs and will revise the payment standard amounts no later than 3 months following the effective date of the published FMR if a change is deemed necessary. If a change is deemed necessary, the following scenarios apply:

1. For reexaminations of income with an effective date prior to the

Effective date of the new payment standard schedule, the old payment standard schedule will be used.

2. For reexaminations of income that are effective on or after the effective date of the new payment standard schedule, the new payment standard will be used.
3. The payment standard employed for a newly issued voucher will depend on the effective date of the HAP contract. If the effective date of the HAP contract is before the effective date of the new payment standard schedule, then the old payment standard schedule is used. If the effective date of the HAP contract is on or after the effective date of the new payment standard schedule, then the new payment standard schedule is used.

In order to assure that families are informed about the effect of payment standard changes, HUD recommends that PHAs provide both the old and the new payment standard schedules to families who have been issued a voucher and whose search term will extend beyond the effective date of the new payment standard schedule.

The SCHC will consider vacancy rates and rents in the market area, size and quality of units leased under the program, rents for units leased under the program, success rates of Housing Choice Voucher holders in finding units, and the percentage of annual income families are paying for rent under the Housing Choice Voucher Program. If it is determined that success rates will suffer or that families are having to rent low quality units or pay over 40% of their income for rent, the payment standard may be raised to the level judged necessary to alleviate these hardships.

The SCHC may establish a higher payment standard of up to and including 120% of the FMR if requested as a reasonable accommodation for a family that includes a person(s) with disabilities. The payment for a family including a disabled person can exceed 120% with HUD approval. The higher payment standard will only be implemented after documenting in the participant's file that:

1. A rent reasonableness analysis was conducted in accordance with the HCV program regulations.
2. The family requested lease approval for the unit and requested an exception payment standard as a reasonable accommodation in writing accompanied by a letter from a medical professional explaining what is needed in the family's residence; and

3. The unit has features that meet the needs of a family member with disabilities. For example, a unit may be suitable because of its physical features or for other reasons, such as having the requisite number of bedrooms, location on an accessible transit route, or proximity to accessible employment, education, services, or recreation.

Payment Standards will not be raised solely to allow the renting of luxury quality units.

If success levels are projected to be extremely high rents are projected to be at or below 30% of income, the Housing Commission will reduce the payment standard. Payment Standards for each bedroom size are evaluated separately so that the payment standard for one bedroom size may increase or decrease while another remains unchanged. The SCHC may consider adjusting payment standards at times other than the annual review when circumstances warrant.

Before increasing any payment standard, the SCHC will conduct a financial feasibility test to ensure that in using the higher payment standard, adequate funds will continue to assist families in the program.

## B. SELECTING THE CORRECT PAYMENT STANDARD FOR A FAMILY

1. For the Housing Choice Voucher tenancy, the payment standard for a family is the lower of:
  - a. The payment standard for the family unit size; or
  - b. The payment standard for the unit size rented by the family.
2. If the unit rented by a family is located in an exception rent area, the Housing Commission will use the appropriate payment standard for the exception rent area.
3. During the HAP contract term for a unit, the amount of the payment standard for a family is the higher of:
  - a. The initial payment standard (at the beginning of the lease term) minus any amount by which the initial rent to owner exceeds the current rent to owner; or
  - b. The payment standard as determined at the most recent regular reexamination of family income and composition effective after the beginning of the HAP contract term.

- 4. At the next annual reexamination following a change in family size or composition during the HAP contract term and for any reexamination thereafter, paragraph 3 above does not apply.
- 5. If there is a change in family unit size resulting from a change in family size or composition, the new family unit size will be considered when determining the payment standard at the next annual reexamination. (Applies to an increase or a decrease.)

C. AREA EXCEPTION RENTS

In order to help families, find housing outside areas of high poverty or when Housing Choice Voucher holders are having trouble finding housing for lease under this program, the Housing Commission may request that HUD approve an exception payment standard rent for certain areas within its jurisdiction. The areas may be of any size, though generally not smaller than a census tract. The Housing Commission may request one such exception payment standard area or many. Exception payment standard rent authority may be requested for all or some unit sizes, or for all or some unit types. The exception standard area(s) may not contain more than 50% of the population of the FMR Area.

When an exception payment standard rent has been approved and the FMR increases, the exception rent remains unchanged until such time as the Housing Commission requests and HUD approves a higher exception payment standard rent. If the FMR decreases, the exception payment standard rent authority automatically expires.

See Section A above for details on Exception Rents for Reasonable accommodations for persons with disabilities.

11.5 ASSISTANCE AND RENT FORMULAS

A. Total Tenant Payment

The total tenant payment is equal to the highest of:

- 1. 10% of monthly income
- 2. 30% of adjusted monthly income
- 3. Minimum rent

Plus, any rent above the payment standard.

B. Minimum Rent

The SCHC has set the minimum rent as \$50. However, if the family requests a hardship exemption, the SCHC will suspend the minimum rent for the family beginning the month following the family's hardship request. The suspension will continue until the SCHC can determine whether hardship exists and whether the hardship is of a temporary or long-term nature. During suspension, the family will not be required to pay a minimum rent and the Housing Assistance Payment will be increased accordingly.

1. A hardship exists in the following circumstances:
  - a. When the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State or local assistance program; including a family that includes a member who is a non-citizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Act of 1996;
  - b. When the family would be evicted as a result of the imposition (inability to pay) of the minimum rent requirement;
  - c. When the income of the family has decreased because of changed circumstances including loss of employment;
  - d. When the family has an increase in expenses because of changed circumstances, for medical costs, childcare, transportation, education, or similar items;
  - e. When a death has occurred in the family.
2. No hardship. If the SCHC determines there is no qualifying hardship, the minimum rent will be reinstated, including requiring back payment of minimum rent to the SCHC for the time of suspension. The SCHC will offer a repayment agreement in accordance with the Section 15.4 of this policy for any minimum rent back payment paid by the SCHC on the family's behalf during the period of suspension.
3. Temporary hardship. If the SCHC determines that there is a qualifying hardship but that it is of a temporary nature, defined as 90 days or less, the minimum rent will not be imposed for a period of 90 days from the date of the family's request. At the end of the 90-day period, the minimum rent will be imposed retroactively to the time of suspension. The SCHC will offer a repayment agreement in accordance with the Section 15.4 of

this policy for any minimum rent back payment paid by the SCHC on the family's behalf during the period of suspension

4. Long-term hardship. If the SCHC determines there is a long-term hardship defined as longer than 90 days, the family will be exempt from the minimum rent requirement until the hardship no longer exists.
5. Appeals. The family may use the informal hearing procedure to appeal the SCHC's determination regarding the hardship. No escrow deposit will be required in order to access the informal hearing procedure.

#### C. Section 8 Merged Housing Choice Vouchers

1. The payment standard is set by the SCHC between 90% and 110% of the FMR or higher or lower with HUD approval.

NOTE: HUD generally revises the FMRs on an annual basis, and the payment standards are adjusted accordingly.

2. The participant pays the greater of the Total Tenant Payment or the minimum rent, plus the amount by which the gross exceeds the payment standard.
3. No participant when initially receiving tenant-based assistance on a unit shall pay more than 40% of their monthly-adjusted income towards the gross rent.

#### D. Rent For Families under the NON-CITIZEN Rule

A mixed family will receive full continuation of assistance if all of the following conditions are met:

1. The family was receiving assistance on June 19, 1995;
2. The family was granted continuation of assistance before November 29, 1996;
3. The family's head or spouse has eligible immigration status; and
4. The family does not include any person who does not have eligible status other than the head of household, the spouse of the head of household, any parent of the head or spouse, or any child (under the age of 18) of the head or spouse.

If a mixed family qualifies for prorated assistance but decides not to accept it, or if the family has no eligible members, the family may be

eligible for temporary deferral of termination of assistance to permit the family additional time for the orderly transition of some or all of its members to locate other affordable housing. Under this provision, the family receives full assistance. If assistance is granted under this provision prior to November 29, 1996, it may last no longer than three (3) years. If granted after that date, the maximum period of time for assistance under the provision is eighteen (18) months. The SCHC will grant each family a period of six (6) months to find suitable affordable housing. If the family cannot find suitable affordable housing, the SCHC will provide additional search periods up to the maximum time allowable.

Suitable housing means housing that is not substandard and is of appropriate size for the family. Affordable housing means that it can be rented for an amount not exceeding the amount the family pays for rent, plus utilities, plus 25%.

The family's assistance is prorated in the following manner:

1. Find the prorated housing assistance payment (HAP) by dividing the HAP by the total number of family members, and then multiplying the result by the number of eligible family members.
2. Obtain the prorated family share by subtracting the prorated HAP from the gross rent (contract rent plus utility allowance).
3. The prorated tenant rent equals the prorated family share minus the full utility allowance.

## 11.6 UTILITY ALLOWANCE

The SCHC maintains a utility allowance schedule for all tenant-paid utilities (except telephone and cable television) for cost of tenant-supplied refrigerators and ranges, and for other tenant-paid housing services (e.g., trash collection (disposal of waste and refuse)). The utility allowance schedule is determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the SCHC uses normal patterns of consumption for the community as a whole and current utility rates.

The SCHC reviews the utility allowance schedule annually and revises any allowance for a utility category if there has been a change of 10% or more in the utility rate since the 1st time the utility allowance schedule was revised. The SCHC maintains information supporting the annual review of utility allowances and any revisions made in its utility allowance schedule. Participants may review this information at any time by making an appointment with the SCHC.

The SCHC uses the lower of the appropriate utility allowance for the voucher or the utility allowance amount for the unit size of dwelling unit actually leased by the family.

At each annual re-examination, the SCHC applies the utility allowance from the most current utility allowance schedule.

The SCHC will approve a request for a utility allowance that is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and useable by the family member with a disability.

The utility allowance will be subtracted from the family's share to determine the amount of the Tenant Rent. The Tenant Rent is the amount the family owes each month to the owner. The amount of the utility allowance is then still available to the family to pay the cost of their utilities. Any utility cost above the allowance is the responsibility of the tenant. Any savings resulting from utility costs below the amount of the allowance belong to the tenant.

#### 11.7 DISTRIBUTION OF HOUSING ASSISTANCE PAYMENT

Housing Assistance Payments will be released via 1<sup>st</sup> class mail or direct deposit to participating landlords by the 2<sup>nd</sup> business day of the month. Handwritten checks will be issued on the first and the 15<sup>th</sup> of the month for prorated rental subsidy amounts.

The SCHC pays the owner the lesser of the Housing Assistance Payment or the rent to owner. If payments are not made when due, the owner may charge the SCHC a late payment agreed to in the Contract and in accordance with generally accepted practices in the SCHC's jurisdiction if the following conditions apply:

- A. It is the owner's practice to charge such penalties for assisted and unassisted tenants; and
- B. The owner also charges such penalties against the tenant for late payment of family rent to owner.

Late charges will not be paid when the reason for the lateness is attributable to factors beyond the control of the SCHC.

A Housing Assistance Payment is considered made upon being mailed by the SCHC.

Beginning 7/1/08, all landlords new to the program (not receiving a rent subsidy check since 1/1/08), will be required to enroll in the Direct Deposit Option (Exceptions made only if extenuating circumstances are present.)

Unless otherwise terminated, the Housing Assistance Payments contract shall end 180 calendar days after the last Housing Assistance Payment is made.

If an owner receives HAP for any month in which the owner is ineligible to receive HAP because the tenant family no longer resides in the unit or because of a deceased tenant, the SCHC will immediately notify the owner in writing of the ineligible HAP and require the owner to repay the overpayment within 30 days. In accordance with the HAP contract, the SCHC cannot make a HAP payment for any month after the month in which the family no longer resides in the unit. If the owner does not comply, the SCHC may deduct the amount due to the Commission from any amounts due to the owner under any other HAP contract. If there is no other HAP contract with the owner, the SCHC may seek and obtain additional relief by judicial order or action in accordance with state and local laws.

In instances where the household had not resided in the unit for a period greater than 6 months and the owner received HAP, the SCHC may determine that the owner has breached the HAP contract. As such, the SCHC may exercise any of its rights and remedies under the HAP contract, or any other available rights and remedies for such breach. The SCHC will notify the owner of such determination, including a brief statement of the reasons for the determination. The notice by the SCHC to the owner may require the owner to take corrective action, as verified or determined by the SCHC, by a deadline prescribed in the notice. Examples of such rights and remedies include, but are not limited to:

1. Termination of all existing HAP contracts
2. Determination not to enter into any future HAP Contracts.

## 11.8 CHANGE OF OWNERSHIP

The SCHC requires a written request by the owner who executed the HAP contract in order to make changes regarding who is to receive the SCHC's rent payment or the address as to where the rent payment should be sent.

In addition, the SCHC requires a written request from the new owner to process a change of ownership. The following documents must accompany the written request.

- A. Deed of Trust showing the transfer of title; and
- B. Tax Identification Number or Social Security Number.

New owners will be subject to landlord eligibility requirements.

Upon approval, new owners will be required to execute IRS form W-9 and a new Housing Assistance Payments Contract. The SCHC may withhold the rent payment until the taxpayer identification number is received.

12.0 INSPECTION POLICIES AND HOUSING QUALITY STANDARDS

- A. The SCHC will inspect all units to ensure that they meet Housing Quality Standards (HQS). No unit will be initially placed on the Section 8 Existing Program unless the HQS is met. Units will be inspected at least biennially, and at other times as needed, to determine if the units meet HQS.

The SCHC must be allowed to inspect the dwelling unit at reasonable times with reasonable notice. The family and owner will be notified of the inspection appointment by first class mail. If the family cannot be at home for the scheduled inspection appointment, the family must call and reschedule the inspection within five calendar days or make arrangements to enable the SCHC to enter the unit and complete the inspection.

If the family misses the scheduled inspection and fails to reschedule the inspection, the SCHC will only schedule one more inspection within five calendar says. If the family misses two inspections, the SCHC will consider the family to have violated a Family Obligation and their assistance will be terminated.

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

**HQS GUIDELINES FOR UNIT SIZE SELECTED**  
Maximum # of Persons in Household

UNIT SIZE	MAXIMUM NO. OF PERSONS IN HOUSEHOLD
0 Bedroom	2
1 Bedroom	4
2 Bedrooms	6
3 Bedrooms	8
4 Bedrooms	10
5 Bedrooms	12
6 Bedrooms	14

12.1 TYPES OF INSPECTIONS

There are seven types of inspections the SCHC may perform.

- A. Initial Inspection - An inspection that must take place to ensure that the unit passes HQS before assistance can begin.
- B. Regular Inspection - An inspection to determine that the unit continues to meet HQS. Regular Inspections will be done at least biennially.
- C. Complaint Inspection - An inspection caused by the Commission receiving a complaint on the unit by anyone.
- D. Special Inspection - An inspection caused by a third party, i.e., HUD, needing to view the unit.
- E. Emergency - An inspection that takes place in the event of a perceived emergency. These will take precedence over all other inspections.
- F. Quality Control Inspection - Supervisory inspections based on the minimum number required by SEMAP (24CFR 985.2).
- G. Move Out inspections (if applicable) - An inspection required for units in service (lease effective dates) before October 2, 1995, and optional after that date. These inspections document the condition of the unit at the time of the move-out.

## 12.2 OWNER AND FAMILY RESPONSIBILITY

- A. Owner Responsibility for HQS
  - 1. The owner must maintain the unit in accordance with HQS.
  - 2. If the owner fails to maintain the dwelling unit in accordance with HQS the SCHC will take prompt and vigorous action to enforce the owner obligations. The SCHC's remedies for such breach of the HQS include termination, suspension or reduction of housing assistance payments and termination of the HAP contract.
  - 3. The SCHC will not make any housing assistance payments for a dwelling unit that fails to meet the HQS, unless the owner corrects the defect within the period specified by the SCHC and the SCHC verifies the correction. If a defect is life threatening, the owner must correct the defect within no more than 24 hours. For other defects the owner must correct the defect within no more than 30 calendar days (or any SCHC approved extension). If the repairs are not completed within the allotted time, terminations procedures will begin.

4. The owner is not responsible for breach of the HQS that is not caused by the owner, and for which the family is responsible. Furthermore, the SCHC may terminate assistance to a family because of the HQS breach caused by the family.

#### B. Family Responsibility for HQS

1. The family is responsible for a breach of the HQS that is caused by any of the following:
  - a. The family fails to pay for any utilities that the owner is not required to pay for, but which are to be paid by the tenant;
  - b. The family fails to provide and maintain any appliances that the owner is not required to provide, but which are to be provided by the tenant; or
  - c. Any member of the household or a guest damages the dwelling unit or premises (damage beyond ordinary wear and tear).
2. If an HQS breach caused by the family is life threatening, the family must correct the defect within no more than 24 hours. For other family-caused defects, the family must correct the defect within no more than 30 calendar days (or any SCHC approved extension). If the repairs are not completed within the allotted time, terminations procedures will begin.
3. If the family has caused a breach of the HQS, the SCHC will take prompt and vigorous action to enforce the family obligations. The SCHC may terminate assistance for the family in accordance with 24 CFR 982.552.

### 12.3 HOUSING QUALITY STANDARDS (HQS) 24 CFR 982.401

This Section states performance and acceptability criteria for these key aspects of the following housing quality standards:

#### A. Sanitary Facilities

##### 1. Performance Requirements

The dwelling unit must include sanitary facilities located in the unit. The sanitary facilities must be in proper operating condition and adequate for personal cleanliness and the disposal of human waste. The sanitary facilities must be usable in privacy.

## 2. Acceptability Criteria

- a. The bathroom must be located in a separate private room and have a flush toilet in proper operating condition.
- b. The dwelling unit must have a fixed basin in proper operating condition, with a sink trap and hot and cold running water.
- c. The dwelling unit must have a shower or a tub in proper operating condition with hot and cold running water.
- d. The facilities must utilize an approvable public or private disposal system (including a locally approvable septic system).

## B. Food Preparation and Refuse Disposal

### 1. Performance Requirements

- a. The dwelling unit must have suitable space and equipment to store, prepare, and serve foods in a sanitary manner.
- b. There must be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).

### 2. Acceptability Criteria

- a. The dwelling unit must have an oven, a stove or range, and a refrigerator of appropriate size for the family. All of the equipment must be in proper operating condition. Either the owner or the family may supply the equipment. A microwave oven may be substituted for a tenant-supplied oven and stove or range. A microwave oven may be substituted for an owner-supplied oven and stove or range if the tenant agrees and microwave ovens are furnished instead of an oven and stove or range to both subsidized and unsubsidized tenants in the building or premises.
- b. The dwelling unit must have a kitchen sink in proper operating condition, with a sink trap and hot and cold running water. The sink must drain into an approvable public or private system.

- c. The dwelling unit must have space for the storage, preparation, and serving of food.
- d. There must be facilities and services for the sanitary disposal of food waste and refuse, including temporary storage facilities where necessary (e.g., garbage cans).

## C. Space and Security

### 1. Performance Requirement

The dwelling unit must provide adequate space and security for the family.

### 2. Acceptability Criteria

- a. At a minimum, the dwelling unit must have a living room, a kitchen area, and a bathroom.
- b. The dwelling unit must have at least one bedroom or living/sleeping room for each two persons. Children of opposite sex, other than very young children, may not be required to occupy the same bedroom or living/sleeping room.
- c. Dwelling unit windows that are accessible from the outside, such as basement, first floor, and fire escape windows, must be lockable (such as window units with sash pins or sash locks, and combination windows with latches). Windows that are nailed shut are acceptable only if these windows are not needed for ventilation or as an alternate exit in case of fire.
- d. The exterior doors of the dwelling unit must be lockable. Exterior doors are doors by which someone can enter or exit the dwelling unit.

## D. Thermal Environment

### 1. Performance Requirement

The dwelling unit must have and be capable of maintaining a thermal environment healthy or the human body.

### 2. Acceptability Criteria

- a. There must be a safe system for heating the dwelling unit (and a safe cooling system, where present). The system must be in proper operating condition. The

system must be able to provide adequate heat (and cooling, if applicable), either directly or indirectly, to each room, in order to assure a healthy living environment appropriate to the climate.

- b. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene, Electric heaters are acceptable.

## E. Illumination and Electricity

### 1. Performance Requirement

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. The electrical fixtures and wiring must ensure safety from fire.

### 2. Acceptability Criteria

- a. There must be at least one window in the living room and in each sleeping room.
- b. The kitchen area and the bathroom must have a permanent ceiling or wall light fixture in proper operating condition. The kitchen area must also have at least one electrical outlet in proper operating condition.
- c. The living room and each bedroom must have at least two electrical outlets in proper operating condition. Permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets.

## F. Structure and Materials

### 1. Performance Requirement

The dwelling unit must be structurally sound. The structure must not present any threat to the health and safety of the occupants and must protect the occupants from the environment.

### 2. Acceptability Criteria

- a. Ceilings, walls, and floors must not have any serious defects such as severe bulging or leaning, large holes,

loose surface materials, severe buckling, missing parts, or other serious damage.

- b. The roof must be structurally sound and weather tight.
- c. The exterior wall structure and surface must not have any serious defects such as serious leaning, buckling, sagging, large holes, or defects that may result in air infiltration or vermin infestation.
- d. The condition and equipment of interior and exterior stairs, halls, porches, walkways, etc., must not present a danger of tripping and falling. For example, broken or missing steps or loose boards are unacceptable.
- e. Elevators must be working and safe.

#### G. Interior Air Quality

##### 1. Performance Requirement

The dwelling unit must be free of pollutants in the air at levels that threaten the health of the occupants.

##### 2. Acceptability Criteria

- a. The dwelling unit must be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust, and other harmful pollutants.
- b. There must be adequate air circulation in the dwelling unit.
- c. Bathroom areas must have one window that can be opened or other adequate exhaust ventilation.
- d. Any room used for sleeping must have at least one window. If the window is designed to be opened, the window must work.

#### H. Water Supply

##### 1. Performance Requirement

The water supply must be free from contamination.

##### 2. Acceptability Criteria

The dwelling unit must be served by an approvable public or private water supply that is sanitary and free from contamination.

I. Lead-based Paint

1. Definitions

- a. Chewable surface: Protruding painted surfaces up to five feet from the floor or ground that are readily accessible to children under six years of age; for example, protruding corners, windowsills and frames, doors and frames, and other protruding woodwork:
- b. Component: An element of a residential structure identified by type and location, such as a bedroom wall, an exterior windowsill, a baseboard in a living room, a kitchen floor, an interior windowsill in a bathroom, a porch floor, stair treads in a common stairwell, or an exterior wall.
- c. Defective paint surface: A surface on which the paint is cracking, scaling, chipping, peeling, or loose.
- d. Elevated blood level (EBL): Excessive absorption of lead. Excessive absorption is a confirmed concentration of lead in whole blood of 20 ug/dl (micrograms of lead per deciliter) for a single test or of 15-19 ug/dl in two consecutive test 3-4 months apart.
- e. HEPA: A high efficiency particle accumulator as used in lead abatement vacuum cleaners.
- f. Lead-based paint: A paint surface, whether or not defective, identified as having a lead content greater than or equal to 1 milligram per centimeter squared ( $\text{mg}/\text{cm}^2$ ), or 0.5% by weight or 5000 parts per million (PPM).

2. Performance Requirements

a. Performance Requirement

The Lead-Based Paint Poisoning Prevention Act, the Residential Lead Based Paint Hazard Reduction Act of 1992, and implementing regulations at part 35, Subparts A, B, M, and R of this title apply to units assisted under this part.

b. Acceptability Criteria

The requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied or are expected to be occupied by families with children under six years of age, excluding zero-bedroom dwellings.

During initial and regular inspections of pre-1978 units that are occupied or will be occupied or are expected to be occupied by families with children under 6 years of age, the inspector must conduct a visual assessment for deteriorated paint surfaces and the owner must stabilize deteriorated surfaces. Applicable areas include painted surfaces within the dwelling unit, exterior painted surfaces associated with the dwelling unit, and common areas of the building through which residents must pass to gain access to the unit and areas frequented by resident children under six years of age, including play areas and childcare facilities.

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 SCHC), and the owner must complete hazard reduction activities if lead hazards are identified during the risk assessment.

(See Section 12.4, LEAD-BASED PAINT REQUIREMENT AND RESPONSIBILITIES)

J. Access

1. Performance Requirements

The dwelling unit must be able to be used and maintained without unauthorized use of other private properties. The building must provide an alternate means of exist in case of fire (such as fire stairs or egress through windows).

K. Site and Neighborhood

1. Performance Requirements

The site and neighborhood must be reasonably free from disturbing noises and reverberations and other dangers to the health, safety, and general welfare of the occupants.

2. Acceptability Criteria

The site and neighborhood may not be subject to serious adverse environmental conditions, natural or manmade, such as dangerous walks or steps; instability; flooding, poor drainage, septic tank back-ups or sewage hazards; mud slides; abnormal air pollution, smoke, or dust; excessive noise, vibration, or vehicular traffic; excessive accumulations of trash; vermin or rodent infestation; or fire hazards.

L. Sanitary Condition

1. Performance Requirements

The dwelling unit and its equipment must be in sanitary condition.

2. Acceptability Criteria

The dwelling unit and its equipment must be free of vermin and rodent infestation.

M. Smoke Detectors

1. Performance Requirements

A. Except as provided in paragraph b. below of this Section, each dwelling unit must have at least one battery-operated or hard-wired smoke detector, in proper operating condition, on each level of the dwelling unit, including basements but excepting crawl spaces and unfinished attics. 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 hearing-impaired person, smoke detectors must have an alarm system, designed for hearing-impaired persons as specified in NAPA 74 (or successor standards).

B. For units assisted prior to April 24, 1993, owners who installed battery-operated or hard-wired smoke detectors prior to April 24, 1993, in compliance with HUD's smoke detector requirements, including the regulations published on July 30, 1992 (57 FR 33846), will not be required subsequently to comply with any additional requirements mandated by NFP 74 (i.e., the owner would not be required to install a smoke detector in a basement not used for living purposes, nor would the owner be required to change the location of the smoke detectors that have already been installed on the other floors of the unit).

## 12.4 LEAD-BASED PAINT REQUIREMENTS AND RESPONSIBILITIES

SEE 24 CFR part 35

## 12.5 EXCEPTIONS TO THIS HQS ACCEPTABILITY CRITERIA

The SCHC will utilize the acceptability criteria as outlined in Section 12.3 with applicable State and local codes. Additionally, the SCHC has received HUD approval to require the following additional criteria:

A. In each room there will be at least one exterior window that can be opened.

B. Owners will be required to scrape peeling paint and repaint all surfaces cited for peeling paint with 2 coats of non-lead paint. An extension may be granted as a severe weather-related item as defined below.

C. Adequate heat shall be considered to be 68 degrees.

D. In units where the tenant must pay utilities, each unit must have separate metering device(s) for measuring utility consumption.

E. A 3/4" overflow pipe must be present on the hot water heater safety valves and installed down to within 6 inches of the floor.

## 12.6 TIME FRAMES AND CORRECTIONS OF HQS FAIL ITEMS

### A. Correcting Initial HQS Fail Items

The St. Clair Housing Commission will schedule a timely inspection of the unit on the date the owner indicates that the unit will be ready for inspection, or as soon as possible thereafter (within 15 calendar days) upon receipt of a Request for Tenancy Approval. The owner and/or participant will be notified in writing of the results of the inspection. If the unit fails HQS again, the owner and the participant will be advised to notify the SCHC to reschedule a re-inspection when the repairs have been properly completed.

On an initial inspection, the owner will be given up to 10 days to correct the items noted as failed, depending on the extent of the repairs that are required to be made. No unit will be placed in the program until the unit meets the HQS requirements.

### B. HQS Fail Items for Units under Contract

The owner or participant will be given time to correct the failed items cited on the inspection report for a unit already under contract. If the failed items endanger the family's health or safety (using the emergency item list below), the owner or participant will be given 24 hours to correct the violations. For less serious failures, the owner or participant will be given up to 30 days to correct the failed item(s).

If the owner fails to correct the HQS failed items after proper notification has been given, the SCHC will abate payment and terminate the contract.

If the participant fails to correct the HQS failed items that are family-caused after proper notification has been given, the SCHC will terminate assistance for the family.

#### C. Time Frames for Corrections

1. Emergency repair items must be abated within 24 hours.
2. Repair of refrigerators, range and oven, or a major plumbing fixture supplied by the owner must be abated within 72 hours.
3. Items must be completed within 10 days of the initial inspection.
4. For repairs, the owner will have up to 30 days to complete.

#### D. Extensions

At the sole discretion of the SCHC, extensions of up to 30 days may be granted to permit an owner to complete repairs if the owner has made a good faith effort to initiate repairs. If repairs are not completed within 60 days after the initial inspection date, the SCHC will abate the rent and cancel the HAP contract for owner noncompliance. Appropriate extension will be granted if a severe weather condition exists for such items as exterior painting and outside concrete work for porches, steps, and sidewalks.

### 12.7 EMERGENCY FAIL ITEMS

The following items are to be considered examples of emergency items that need to be abated within 24 hours.

- A. No hot or cold water
- B. No electricity
- C. Inability to maintain adequate heat

- D. Major plumbing leak
- E. Natural gas, propane, or LP gas leak
- F. Broken lock(s) on first floor doors or windows
- G. Broken windows that unduly allow weather elements into the unit
- H. Electrical outlet smoking or sparking
- I. Exposed electrical wires which could result in shock or fire
- J. Unusable toilet when only one toilet is present in the unit
- K. Security risks such as broken doors or windows that would allow intrusion
- L. Other conditions which pose an immediate threat to health or safety

12.8 COMPLAINT INSPECTIONS

The SCHC will investigate complaints about HQS Matters that are registered by tenants, owners, or the general Public regarding a unit assisted under the SCHC Housing Choice Voucher Program.

Violations resulting from complaint inspections are treated in the same manner as regular inspection violations. Failure to comply with violation notices issued from complaint inspections will result in abatement of subsidy to owner and/or termination of program assistance for participants.

Complaint inspections will be scheduled based upon the nature of the complaint, with emergency (life threatening) given priority.

12.9 ABATEMENT

When a unit fails to meet HQS and the owner has been given an opportunity to correct the deficiencies but has failed to do so within the required time frame, the rent for the dwelling unit will be abated beginning the first day of the month following the expiration of the required time frame.

The initial abatement period will not exceed 7 days. If the corrections of deficiencies are not made within the 7-days' time frame, the abatement will continue and termination procedures will begin, and the tenant will be issued a voucher to move with continued assistance (if deficiencies are not tenant responsibility). If the deficiencies are corrected before the effective date of the termination, the SCHC will end the abatement the day the unit passes inspection. Rent will resume the following day and be paid the first day of the next month, providing the tenant has decided to remain in the unit, and not utilize the issued voucher.

For tenant caused HQS deficiencies, the owner will not be held accountable, and the rent will not be abated. The tenant is held to the same standard and time frames for correction of deficiencies as owners. If repairs are not completed by the deadline, the SCHC will send a notice of termination to both the tenant and the owner. The tenant will be given the opportunity to request an informal hearing.

13.0 SPECIAL HOUSING TYPES

The St. Clair has the option to allow participating households to use their Housing Choice Voucher program assistance in specialized housing types. Each of the special housing types described below is targeted to households with special needs. The program housing quality standards (HQS) generally apply to all units, but each special type of housing has additional unique HQS standards. The Payment standard used for each special housing type, and any non-standard requirements for determining the utility allowance, calculating the HAP payment, or determining the reasonableness of the rent, is included in the program descriptions.

Although there are several Special Housing Types described in this chapter, the SCHC has approved ONLY the following “Special Housing Types” for utilization under the Section 8 Housing Choice Voucher Program, except when necessary for the purpose of reasonable accommodations for persons with disabilities, in which case the SCHC will approve any of the Special Housing Types, or with the approval of the Executive Director.

- A. Manufactured homes - Leasing of Manufactured Housing w/ Space Rental. (Does not apply to Manufactured Housing that is owned by the family who rents/leases only the Manufactured home space (lot rent)).

13.1 SINGLE ROOM OCCUPANCY FACILITIES

Description

A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities. There is no federal limitation on the number of SRO units in an SRO facility.

Use of SRO type housing - other than for projects funded under the McKinney Act - formerly required specific approval by HUD. HUD approval is no longer required.

Occupancy

An SRO unit may not be occupied by more than one person. Program regulations do not place any limit on the number of units in an SRO Facility, although the size of a facility may be limited by local laws.

## HQS

Federal regulations for SRO units include special provisions for access and fire safety as follows:

**Access:** Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by state or local law.

**Fire Safety:** All SRO facilities must have a sprinkler system that protects major spaces. "Major spaces: are defined as hallways, common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.

In addition, sanitary facilities and space and security features must meet local code standards for SRO housing. In the absence of local code standards, the following requirements apply:

### Sanitary Facilities:

At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to men, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level.

### Space and Security:

An SRO unit must contain at least 110 square feet of closet space, and at least four-square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the deficiency. Exterior doors and windows accessible from outside the SRO unit must be able to be locked.

The Housing Quality Standards applicable to lead- based paint do not apply.

### Payment Standard and HAP Calculation:

The payment standard for SRO housing is 75 percent of the 0-bedroom payment standard amount on the Payment Standard Schedule.

The HAP for and assisted occupant in an SRO facility is the lower of the SRO Payment standard amount minus the TTP or the gross rent for the unit minus the TTP. The utility allowance for an SRO is 75 percent of the 0-bedroom utility allowance.

## 13.2 CONGREGATE HOUSING

### Description

Congregate housing is intended for use by elderly persons or persons with disabilities. It contains a shared central kitchen and dining area and a private living area for the individual household of at least a living room, and a bathroom. Food service for residents must be provided.

### Occupancy

Elderly persons or persons with disabilities may live in congregate facilities. With SCHC approval a live-in aid may live in the congregate unit with a person with disabilities or an elderly person. The SCHC must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities

### HQS

Housing Quality Standards for the Housing Choice Voucher Program apply to congregate housing, with the exception of the following alternate requirements:

### Food Preparation and Refuse Disposal

Congregate housing requires:

1. A refrigerator of appropriate size in the private living area of each resident;
2. Central kitchen and dining facilities located within the premises and accessible to the residents; and
3. Food service for the residents that is not provided by the residents themselves.
4. The Housing Quality Standards applicable to lead based paint DO NOT apply.

### Payment Standard and HAP Calculation

The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), the payment standard for a 0-bedroom unit is used. If the unit has two or more rooms (other than the bedroom and the kitchen), a 1-bedroom payment standard is used.

The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

Housing Choice Voucher assistance should be calculated on the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' cost for food service should not be included in the rent for a congregate housing unit.

### 13.3 GROUP HOMES

#### Description

A group home is a state-licensed facility intended for occupancy by elderly persons and/or persons with disabilities. The group home consists of residents' bedrooms, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents. No more than 12 persons may reside in a group home. This includes assisted and unassisted residents, and any live-in aides.

#### Occupancy

Elderly persons or persons with disabilities may live in group homes. If approved by the SCHC, a live-in aid may live in the group home with a person with disabilities. The SCHC must approve a live-in aide if needed for reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons with disabilities.

Persons living in a group home must not require continual medical or nursing care.

#### HQS

In addition to the generally applicable Housing Choice Voucher program HQS, group homes require the following:

**Sanitary facilities:** Group homes must have at least one bathroom in the unit, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold running water. A

group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.

**Food Preparation and Service:** Group home units must contain a kitchen and a dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.

**Space and Security:** Group homes must contain at least one bedroom of appropriated size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.

**Structure and Material:** To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.

**Site and Neighborhood:** Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from hazards to the health, safety, and the general welfare of the residents, and should not be subject to serious adverse conditions such as:

- Dangerous walks or steps
- Instability
- Flooding, poor drainage
- Septic tank back-ups
- Sewage hazards
- Mud slides
- Abnormal air pollution
- Smoke or dust
- Excessive noise
- Vibrations or vehicular traffic
- Excessive accumulations of trash
- Vermin or rodent infestation, and
- Fire hazards

The Housing Quality Standards applicable to lead-based paint DO NOT apply.

#### Payment Standard and HAP Calculation

Unless there is a live-in aide, the family unit size for an assisted occupant of a group home 1-bedroom, based on the SCHC's subsidy standards. If there is a live-in aide, the aide must be counted in determining the household's unit size.

The payment standard used to calculate the HAP is lower of the payment standard for the family unit size or the pro-rata share of the payment standard for the group home size. The pro-rata share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home.

The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP. The utility allowance for an assisted occupant in a group home is the pro-rata share of the utility allowance for the group home.

The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the pro-rata portion of the reasonable rent for the group home. In determining reasonable rent, the SCHC will consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

#### 13.4 SHARED HOUSING

##### Description

Shared housing is a single housing unit occupied by assisted family and other resident or residents. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

##### Occupancy

An assisted family may share a unit with other persons assisted under the Housing Choice Voucher Program, or with other unassisted person. The owner of a shared housing unit may reside in the unit, but housing assistance may be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family. If approved by the SCHC, a live-in aide may reside with the family to care for a person with disabilities.

##### HQS

HQS for the Housing Choice Voucher Program apply, with the following exceptions:

**Facilities Available for the Family:** Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.

**Space and Security:** The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in

the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size. A 0-bedroom or 1 bedroom unit may not be used for shared housing.

#### Payment Standard and HAP Calculation

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size or the pro-rata share of the payment standard for the shared housing unit size. The pro-rata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private space by the total number of bedrooms in the unit.

The HAP for a family in shared housing is the lower of the TTP minus the payment standard or the TTP minus the gross rent. The utility allowance for an assisted family living in shared housing is the pro-rata share of the utility allowance for the shared housing unit.

The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted family must not exceed the pro-rata portion of the reasonable rent for the shared unit. In determining reasonable rent, the SCHC should consider whether sanitary and food preparation areas are private or shared.

### 13.5 COOPERATIVE HOUSING

#### Description

Cooperative housing is owned by a nonprofit corporation or association, where a member of the corporation or association has the right to reside in a particular apartment and to participate in the management of the housing.

#### Occupancy

There are no program restrictions on who may occupy a cooperative housing unit.

#### HQS

All Housing Choice Voucher Program HQS apply to cooperative housing units. There are no additional HQS requirements.

#### Payment Standard and HAP Calculation

The payment standard for a cooperative housing unit is the payment standard for units of the same bedroom size on the SCHC's payment standard schedule.

The HAP for a cooperative housing unit is the lower of the payment standard minus the TTP or the monthly carrying charge for the unit, plus any utility allowance, minus the TTP. The monthly carrying charge includes the member's share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. The carrying charge does not include down-payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

The rent on a cooperative housing unit must be reasonable based on rents for comparable unassisted units.

## 13.6 MANUFACTURED HOMES

### Description

A manufactured home is a manufactured structure, transportable in one or more parts, that is built on a permanent chassis, is designed for use as a principal place of residence and meets Housing Choice Voucher Program HQS. Program provisions for the leasing of manufactured homes apply when the family leases the manufactured home unit and the manufactured home space.

### Occupancy

There are no program restrictions on who may occupy a manufactured home. The SCHC must allow a family to lease a manufactured home and space with assistance under the program. The SCHC may provide assistance to a family that owns the manufactured home and leases only the space, but only at the discretion and approval of the Executive Director.

### HQS

The manufactured home must meet all HQS performance requirements and acceptability criteria. In addition, the following requirements apply:

**Manufactured Home Tie-downs:** A manufactured home must be placed on the site in a stable manner and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.

**Payment Standard and HAP Calculation:**

The payment standard for a manufactured housing unit and space is the payment standard for units of the same size on the SCHC's payment standard schedule.

The HAP for a manufactured home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The rent paid to the owner includes the rent for the unit, for the manufactured home space, and maintenance, services, and utilities that the owner provides under the lease.

The SCHC will determine that the rent paid to the owner for a manufactured home is reasonable based on rents for comparable unassisted units.

13.7 MANUFACTURED HOME SPACE RENTAL

Description

The SCHC may provide rental assistance to a family that owns its own manufactured home and leases only the manufactured home space, but only at the discretion and approval of the Executive Director. For families leasing the manufactured home space under the Housing Choice Voucher Program, the rent to the owner includes payment for maintenance and services that the owner provides under the lease for the space. The rent to the owner does not include the cost of utilities and trash collections, but if these are provided by the owner, the owner may charge the family a separate fee. Otherwise, the tenant receives a utility allowance for any tenant-paid utilities.

Occupancy

Although the SCHC is not required to provide assistance to families who own their manufactured home and lease the home space, there are no program restrictions as to who may receive assistance for the rental of a manufactured home space.

In determining the annual income of families leasing manufactured home spaces, the value of the family’s equity in the manufactured home in which the family resides is not counted as a family asset.

HQS

The manufactured home and space must meet all HQS performance requirements and acceptability criteria. In addition, the following requirements apply:

Manufactured Home Tie-downs: A manufactured home must be placed on the site in a stable manner and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.

Payment Standard and HAP Calculation

The FMR for a manufactured home space rental is generally 40 percent of the published FMR for a 2-bedroom unit or, where approved by HUD, the 40<sup>th</sup> Percentile of the rental distribution of the manufactured home spaces for

the FMR area. The SCHC may establish a payment standard for manufactured home spaces that is between 90 - 100 percent of the FMR for Manufactured home spaces. Currently it is set at 100 percent of the FMR.

The SCHC will establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowance must include an amount for a utility hook-up charge if the family actually incurred a hook-up charge because of a move. This allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the cost of digging a well or installing a septic system.

The HAP for a manufactured home space under the Housing Choice Voucher Program is the lower of the payment standard minus the TTP or the (gross) manufactured home space rent minus the TTP. The space rent is the sum of the rent to the owner for the manufactured home space, any charges for maintenance and management provided by the owner, and the utility allowance for the tenant-paid utilities.

Initially, and annually thereafter, The SCHC will determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. The SCHC must consider the location and size of the space, and any services, maintenance to be provided by the owner. By accepting the monthly HAP check, the owner certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the Manufactured Home Park or elsewhere.

14.0 OWNER CLAIMS FOR DAMAGES, UNPAID RENT, AND VACANCY LOSS AND PARTICIPANT’S ENSURING RESPONSIBILITIES

This Section applies to HAP contracts in effect before October 2, 1995. Certificates have a provision for damages, unpaid rent, and vacancy loss. Housing Choice Vouchers have a provision for damages and unpaid rent. No vacancy loss is paid on Housing Choice Vouchers. No damage claims will be processed unless the SCHC has performed a move-out inspection. Either the tenant or the owner can request the move-out inspection. Ultimately, it is the owner’s responsibility to request the move-out inspection if he/she believes there may be a claim.

Damage claims are in limited in the following manner:

- A. In the Certificate Program, owners are allowed to claim up to two (2) months contract rent minus greater of the security deposit collected or the security deposit that should have been collected under the lease.
- B. In the Housing Choice Voucher Program, owners are allowed to claim up to one (1) month contract rent minus greater of the security deposit collected or the security deposit that should have been collected under the lease. There will be no payment for vacancy losses under the Housing Choice Voucher Program.

- C. No damage claims will be paid under either program effective on or after October 2, 1995.

#### 14.1 OWNER CLAIMS FOR PRE-OCTOBER 2, 1995, UNITS

In accordance with the HAP contract, owners can make special claims for damages, unpaid rent, and vacancy loss (vacancy loss cannot be claimed for Housing Choice Vouchers) after the tenant has vacated or a proper eviction proceeding has been conducted.

Owner claims for damages, unpaid rent, and vacancy loss are reviewed for accuracy and completeness. Claims are then compared to the move-in and move-out inspections to determine if an actual claim is warranted. No claim will be paid for normal wear and tear. Unpaid utility bills are not an eligible claim item.

The SCHC will make payments to owners for approved claims. It should be noted that the tenant is ultimately responsible for any damages, unpaid rent, and vacancy loss paid to the owner and will be held responsible to repay the St. Clair Housing Commission to remain eligible for the Section 8 Program.

Actual bills and receipts for repairs, materials, and labor must support claims for damages. The SCHC will develop a list of reasonable costs and charges for items routinely included on damage claims. This list will be used as a guide.

Owners can claim unpaid rent owed by the tenant up to the date of HAP termination.

In the Certificate program, owners may claim for vacancy loss as outlined in the HAP contract. In order to claim a vacancy loss, the owner must notify the SCHC immediately upon learning of the vacancy or suspected vacancy. The owner must make good faith effort to rent the unit as quickly as possible to another renter.

All claims and supporting documentation under this Section must be submitted to the SCHC within thirty (30) days of the move-out inspection. Any reimbursement shall be applied first towards any unpaid rent. No reimbursement may be claimed for unpaid rent for the period after the family vacates.

#### 14.2 PARTICIPANTS RESPONSIBILITIES

If a damage claim or unpaid rent claim has been paid to an owner, the participant is responsible for repaying the amount to the St. Clair Housing Commission. This shall be done by either paying the amount due immediately upon the SCHC requesting it or through a Repayment Agreement that is approved by the SCHC

If the participant is not current on any Repayment Agreement or has unpaid claims on more than one unit, the participant shall be terminated from the Program. The participant retains the right to request an informal hearing.

## 15.0 RE-CERTIFICATION

### 15.1 CHANGES IN LEASE OR RENT

If the participant and owner agree to any changes in the lease, all changes must be in writing, and the owner must immediately give the SCHC a copy of the changes. The lease, including any changes, must be in accordance with this Administrative Plan.

Owners must notify the SCHC, in writing, of any changes in the amount of the rent at least sixty (60) days before the changes go into effect. Any such changes are subject to the SCHC determining them to be reasonable. Any such changes will only be made effective on the first of the month following the 60<sup>th</sup> day of the Notice.

Assistance shall not be continued unless the SCHC has approved a new tenancy in accordance with the program requirements and has executed a new HAP contract with the owner if any of the following changes are made:

- A. Requirements governing participant or owner responsibilities for utilities or appliances;
- B. In the lease terms governing the term of the lease;
- C. If the participant moves to a new unit, even if the unit is in the same building or complex.

The approval of the SCHC is not required for changes other than those specified in A, B, or C above. However, owners wishing to change ownership must submit a written request for change in ownership prior to assigning a HAP Contract to a different owner. The new owner shall be subject to eligibility requirements for a participating landlord. Approval shall not be unreasonably withheld. (See Section 11.8, CHANGE IN OWNERSHIP)

### 15.2 ANNUAL REEXAMINATION (Re-certification)

At least annually, and upon any move/relocation, the SCHC will conduct a full reexamination of family income and circumstances. The results of the re-examination determine (1) the rent the family will pay, (2) whether the family subsidy is correct based on the family unit size, and (3) whether the family is still eligible for assistance.

The SCHC will send a notification letter to the family letting them know that it is time for their annual reexamination and scheduling an appointment. The

letter includes forms for the family to complete in preparation for the interview. The letter includes instructions permitting the family to reschedule the interview if necessary. The letter tells families who may need to make alternate arrangements due to a disability that they may contact staff to request an accommodation of their needs.

During the interview the family will provide all information regarding income, assets, expenses and other information necessary to determine the family's share of rent and continued eligibility. The family will sign the HUD consent form and other consent forms that later will be mailed to the sources that will verify the family circumstances.

Upon receipt of verification, the SCHC will determine the family's annual income and will calculate their family share. Verifications must be dated within 90 days of the date of the re-certification and up to 120 days with verbal verification.

Also, during the re-certification, each household shall be asked whether any member, regardless of age, is subject to the lifetime registration requirement under a state registration program. The Housing Commission will verify this information using the Dru Sjodin National Sex Offender Database and document this information in the same method used at admission.

At least every other year during the re-certification process, and any other time deemed necessary, a criminal background check will be performed on each family member over the age of 18.

If a family is about to be terminated from the Section 8 HCV Program based on either the criminal check, or the sex offender registration program, the family will be informed of this fact and given the opportunity to dispute the accuracy of the information before the termination of assistance occurs. (See section on Suitability/Background Checks)

#### A. Effective Date of Rent Change for Annual Reexaminations

The new family share will generally be effective upon the anniversary date with 30 days' notice of any rent increase to the family.

If the rent determination is delayed due to a reason beyond the control of the family, then any rent increase will be effective the first of the month after the month in which the family receives a 3-day notice of the amount. If the new rent is a reduction and the delay is beyond the control of the family, the reduction will be effective as scheduled on the anniversary date.

If the family caused the delay, then any increase will be effective on the anniversary date. Any reduction will be effective the first of the month after the rent is determined.

## B. Missed Appointments

If the family fails to respond to the letter and fails to attend the interview, a second letter will be mailed. The second letter will advise of a new time and date for the interview, allowing for the same considerations for rescheduling and accommodation as above. The letter will also advise that failure by the family to attend the second scheduled interview will result in the SCHC taking action to terminate the family's assistance.

## 15.3 INTERIM REEXAMINATIONS

To ensure assisted tenants pay rents commensurate with their ability to pay, tenants must supply information requested by the SCHC for use in an interim re-certification of family income and composition in accordance with HUD requirement.

During an interim reexamination only the information affected by the changes being reported will be reviewed and verified.

Families are required to report all changes in the household income and family composition to the SCHC between regular reexaminations.

### A. CHANGES THAT TRIGGER AN INTERIM

The following changes will trigger an interim reexamination (The Family must report these changes within ten (10) days of their occurrence.):

#### 1. Additions to Family Composition

A member has been added to the family through birth or adoption or court-awarded custody. (Verification must be provided i.e., birth record, court documents, etc...)

In order to add a household member other than through birth, adoption, or court awarded custody, the family must request approval from the SCHC that the new member be added to the lease with written approval from their landlord (if for a Live-in Aide, see "Consideration of Live-in Aide" below). Before adding the new member to the lease, the individual must complete the interview process to verify their income, assets, and all other information required of an applicant. The individual must provide their Social Security Number if they have one and must verify their citizenship/eligible immigrant status (Their housing will not be delayed due to delays in verifying eligible immigrant status other than delays caused by the family).

The new family member will go through a screening process similar to the process for applicants. The SCHC will determine the eligibility of the individual before allowing them to be added to the lease. If the individual is found to be ineligible or does not pass the screening criteria, they will be advised in writing and given the opportunity for an informal review. If they are found to be eligible and do pass the screening criteria, the SCHC will grant approval to add their name to the lease. At the same time, the family's annual income will be recalculated taking into account the income and circumstances of the new family member. The effective date of the new rent will be in accordance with paragraph below.

**\*CONSIDERATION OF A LIVE-IN AIDE – (See Section 15.4)**

A family that consists of one or more elderly, near elderly or disabled person(s) may request that the SCHC approve a live-in aide to reside in the unit and provide necessary supportive services for a family member who is a person with disabilities.

A live-in aide, as defined by HUD (24 CFR 5.403) is someone who resides with one or more elderly, near elderly, or disabled persons and who:

- a. Is determined to be essential to the care and well-being of the person(s);
- b. Is not obligated for the support of the persons; and
- c. Would not be otherwise residing in the unit except to provide the necessary supportive services.

Requests for a live-in aide must be in writing, and must be accompanied by:

- a. Written verification from a doctor or other health professional verifying the need for a live-in aide, and
- b. Approval, in writing, from their landlord for additional person to occupy the unit.

Before approval of the live-in-aide, the individual (live-in-aide) must complete an application form for purposes of determining citizenship/eligible immigrant status and the live-in-aide will go through the screening process similar to the process for applicants. The St. Clair Housing Commission will determine the eligibility of the live-in-aide before approval can be granted. If the individual is found to be ineligible or does not pass the screening criteria, the resident will be advised in writing and given the opportunity for an informal review.

If approved:

- a. The live-in aide will be allowed to reside in the unit and will be used in determining the family unit size for purposes of subsidy standard and setting the payment standard for the family.
- b. The live-in aide's name will be listed on the Lease and on the HAP contract and be specified as a "live-in aide" (may be by way of addendum or certification.) and will also be reported to HUD on the 50058 under the proper code.
- c. The live-in aide will have no legal rights to program benefits. They will not be considered members of the household or a member of the family. If the family who requires the live-in aide no longer resides in the unit, no longer requires live-in aid assistance, no longer desires the assistance, or is terminated or evicted from assistance or residency, the live-in aide will no longer be approved. Under no circumstances will the live-in aide be considered the last remaining member of a tenant family.
- d. A live-in aide must abide by the lease and all program rules, regulations, and policy.
- e. A live-in aide will have no effect on the family's income or allowances.

At any time, the St. Clair Housing Commission may refuse to approve a particular person as a live-in aide, or may withdraw such approval if:

- a. The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
  - b. The person commits drug related criminal activity or violent criminal activity; or
  - c. The person currently owes rent or other amounts to the SCHC in connection with Section 8 or Public Housing assistance under the 1937 Act.
  - d. It is determined that the live-in aide is no longer necessary.
2. A household member is leaving or has left the family unit.
  3. An adult member of the family who was reported as unemployed on the most recent certification or re-certification obtains employment; or
  4. Increase in Household income
  5. Family break-up

In circumstances of a family break-up, the SCHC will make a determination of which family member will retain the certificate or Housing Choice Voucher, taking into consideration the following factors:

- a. To whom the certificate or Housing Choice Voucher was issued.
- b. The interest of minor children or of ill, elderly, or disabled family members.
- c. Whether the assistance should remain with the family members remaining in the unit.
- d. Whether family members were forced to leave the unit as a result of actual or threatened physical violence by a spouse or other member(s) of the household.
- e. To whom retains custody of dependent children.
- f. Recommendation of a Social Service Professional.

If the family break-up results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, the SCHC will ensure that the victim retains assistance.

If a Court determines the disposition of property between members of the assisted family in a divorce or separation under a settlement of judicial decree, the SCHC will be bound by the Court's determination of which family members continue to receive assistance in the program.

Because of the number of possible different circumstances in which a determination will have to be made, the SCHC will make determination on a case-by-case basis.

The SCHC will issue a determination within fourteen (14) calendar days of the request for a determination. The family member requesting the determination may request an informal hearing in compliance with the informal hearings in Section 17.

Families are not required to, but may at any time, request an interim reexamination based on a decrease in income, an increase in allowable expenses, or other changes in family circumstances. Upon such request, the SCHC will take timely action to process the interim reexamination and recalculate the family share.

Families are not required to report when a family member turns 18 years of age between annual re-certifications. However, if an Interim

is completed and a family member has turned 18 years of age prior to the effective date of the interim, the rent calculation must take into account this family member now being 18 years of age.

B. Special Interim Reexaminations

If a family’s income is too unstable to project for 12 months, including families that temporarily have no income or have a temporary decrease in income, the SCHC may schedule special reexaminations quarterly until the income stabilizes and an annual income can be determined.

C. Effective Date of Rent Changes Due to Interim or Special Reexaminations

Unless there is a delay in reexamination processing caused by the family, any rent increase will be effective the first of the second month after the month in which the family receives notice of the new rent amount. If the family causes a delay, then the rent increase will be effective on the date it would have been effective had the process not been delayed (even if this means a retroactive increase).

If the new rent is a reduction and any delay is beyond the control of the family, the reduction will be effective the first of the month after the interim reexamination should have been completed.

If the new rent is a reduction and the family caused the delay or did not report the change in a timely manner, the change will be effective the first of the month after the rent amount is determined.

15.4 CONSIDERATION OF A LIVE-IN AIDE

A family that consists of one or more elderly, near elderly or disabled person(s) may request that the SCHC approve a live-in aide to reside in the unit and provide necessary supportive services for a family member who is a person with disabilities.

A live-in aide, as defined by HUD (24 CFR 5.403) is someone who resides with one or more elderly, near elderly, or disabled persons and who:

- a. Is determined to be essential to the care and well-being of the person(s);
- b. Is not obligated for the support of the persons; and
- c. Would not be otherwise residing in the unit except to provide the necessary supportive services.

Requests for a live-in aide must be in writing, and must be accompanied by:

- a. Written verification from a doctor or other health professional verifying the need for a live-in aide, and
- b. Approval, in writing, from their landlord for additional person to occupy the unit.

Before approval of the live-in-aide, the individual (live-in-aide) must complete an application form for purposes of determining citizenship/eligible immigrant status and the live-in-aide will go through the screening process similar to the process for applicants. The St. Clair Housing Commission will determine the eligibility of the live-in-aide before approval can be granted. If the individual is found to be ineligible or does not pass the screening criteria, the resident will be advised in writing and given the opportunity for an informal review.

If approved:

- a. The live-in aide will be allowed to reside in the unit and will be used in determining the family unit size for purposes of subsidy standard and setting the payment standard for the family.
- b. The live in Aide's name will be listed on the Lease and on the HAP contract and be specified as a "live-in aide" (may be by way of addendum or certification.) and will also be reported to HUD on the 50058 under the proper code.
- c. The live-in aide will have no legal rights to program benefits. They will not be considered members of the household or a member of the family. If the family who requires the live-in aide no longer resides in the unit, no longer requires live-in aid assistance, no longer desires the assistance, or is terminated or evicted from assistance or residency, the live-in aide will no longer be approved. Under no circumstances will the live-in-aide be considered the last remaining member of a tenant family.
- d. A live-in aide must abide by the lease and all program rules, regulations, and policy.
- e. A live-in aide will have no effect on the family's income or allowances.

At any time, the St. Clair Housing Commission may refuse to approve a particular person as a live-in aide, or may withdraw such approval if:

- a. The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

- b. The person commits drug related criminal activity or violent criminal activity; or
- c. The person currently owes rent or other amounts to the SCHC in connection with Section 8 or Public Housing assistance under the 1937 Act.
- d. It is determined that the live-in aide is no longer necessary.

## 15.5 REPAYMENT AGREEMENTS

Refer to Repayment Agreement Policy

## 15.6 HOUSING COMMISSION MISTAKES IN CALCULATING RENT

If the SCHC makes a mistake in calculating a participant's rent contribution and overcharges the participant, a reimbursement will be given for the amount of the mistake going back a maximum of 12 months. The reimbursement will be given as:

- a. Additional subsidy to the landlord. The landlord can apply the reimbursement to upcoming months of the tenants rent portion to the landlord, or may refund it to the tenant;
- b. Utility Allowance. The tenant may have the reimbursement applied to the Utility Company of their choice, provided they are responsible for the utility in the lease agreement.

The reimbursement shall be given as soon as practical

If the Participant has a previous balance, and owes the SCHC money for any reason, the credit shall be used to offset the debt/balance owed to the SCHC to the extent possible. If a credit is still due to the participant after offsetting the debt/balance owed, the participant may choose between the two reimbursement methods listed above.

If the SCHC makes a mistake in calculating a participant's rent contribution and undercharges the participant, the amount undercharged will be forgiven, and the SCHC will not attempt to collect any amounts undercharged, regardless of the length of time the error occurred.

## 15.7 EIV's DECEASED TENANTS REPORT

The St. Clair Housing Commission shall generate the EIV's Deceased Tenants Report monthly, shortly before either the end of the month or creating rent statements to see if the system flags deceased residents. The St. Clair Housing Commission shall review the report and follow up with any listed families immediately and take any necessary corrective action set forth in PIH Notice 2010-50 or successor publications.

If it is a single member household, notify the owner in writing of the deceased Head of Household and suspend HAP payments for any month following the month in which the death occurred. If the property is occupied by a live-in-aide to the deceased person, the assistance will end, and the landlord and aide must decide on the future of the aide's tenancy.

If an owner received HAP for any month in which the owner was ineligible to receive HAP because of a deceased tenant, the SCHC will immediately notify the owner in writing of the ineligible HAP and require the owner to repay the overpayment within 30 days. If the owner does not comply, the SCHC will deduct the amount due to the Agency from any amounts due to the owner under any other HAP contract. If there is no other HAP contract with the owner, the SCHC may seek and obtain additional relief by judicial order or action in accordance with state and local laws."

(See also section 11.7, DISTRIBUTION OF HOUSING ASSISTANCE PAYMENT)

#### 16.0 TERMINATION OF ASSISTANCE TO THE FAMILY BY THE ST. CLAIR HOUSING COMMISSION (24 CFR 982.552 and .553)

Termination of assistance for participant may include any or all of the following

- Refusing to enter into a HAP contract
- Terminating Housing Assistance Payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

The SCHC may at any time terminate program assistance for a participant, because of any of the actions or inaction by the household:

- A. If the family violates any family obligations under the program.
- B. If a family member fails to sign and submit consent forms.
- C. If a family fails to establish citizenship or eligible immigrant status and is not eligible or does not elect continuation of assistance, pro-ration of assistance, or temporary deferral of assistance. If the SCHC determines that a family member has knowingly permitted an ineligible NON-CITIZEN (other than any ineligible non-citizens listed on the least) to permanently reside in their Section 8 unit, the family's assistance will be terminated. Such family will not be eligible to be readmitted to Section 8 for a period of 24 months from the date of termination.
- D. If any member of the family is evicted from housing assisted under the Section 8 program for serious violations of the lease.
- E. Have a household member who is currently engaged in violent criminal or illegal drug related activity.

For purposes of this policy, a household member is “currently engaged in” the above behavior if the behavior is recent enough to justify a reasonable belief that the behavior is current.

- F. If any member of the family commits drug-related criminal activity, or violent criminal activity, (in violation of 24 CFR 982.551)
- G. If any member of the family commits fraud, bribery or any other corrupt or criminal act in connection with any Federal housing program, including the intentional misrepresentation of information related to their housing application or benefits derived there from;
- H. If the family currently owes rent or other amounts to the SCHC or to another Housing Commission in connection with Section 8 or public housing assistance under the 1937 Act.
- I. If the family has not reimbursed any Housing Commission for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- J. If the family breaches an agreement with the SCHC to pay amounts owed to a Housing Commission, or amounts paid to an owner by a Housing Commission. (The Housing Commission, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a Housing Commission or amounts paid to an owner by a Housing Commission. The Housing Commission may prescribe the terms of the agreement.)
- K. If any household member has engaged in or threatened abusive or violent behavior toward Housing Commission personnel, contractor, or agent.
- L. If any household member is subject to a lifetime registration requirement under a State sex offender registration program. Registration requirements for anything less than a lifetime registration requirement under a state sex offender registration program will be reviewed on a case-by-case basis, and a determination made based on the degree of conviction and any other pertinent information.
- M. If a household member’s illegal use (or pattern of illegal use) of a controlled substance, or whose abuse (or pattern of abuse) of alcohol, is determined by the SCHC to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. The use of Marijuana is included in this ban.
- N. If a household is found to ever have been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of Federally Assisted Housing. (Denied for Life)

- O. Have a household member who is a fugitive felon, parole violator or person fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a crime under the laws of the place from which the individual flees.
- P. Any violent or drug-related criminal activity by the Tenant, household members or guests on or off the premises, not just on or near the premises. Drug related criminal activity is defined as the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell distribute or use a controlled substance. This includes but is not limited to the manufacture of Methamphetamine on the premises of the SCHC, or any other Federally Assisted Housing.
- Q. Families absent from the assisted unit more than 60 days without good cause and SCHC approval, or more than 180 days, regardless of good cause or not;

The SCHC may terminate for any of the above criminal activity by a household member if the SCHC determines, based on a preponderance of evidence, that the household member has engaged in the activity, regardless of whether the household member has been arrested or convicted of such activity.

An arrest record, alone, will not serve as sufficient evidence of criminal activity that can support an adverse termination, or eviction decision. Before the SCHC evicts an individual or household on the basis of criminal activity by a household member or guest, it will determine that the relevant individual actually engaged in such activity.

An arrest record can trigger an inquiry into whether there is sufficient evidence to determine that a person engaged in disqualifying criminal activity but is not itself evidence on which to base a determination. The SCHC can utilize other evidence, such as police reports detailing the circumstances of the arrest, witness statements, and other relevant documentation to assist them in making a determination that disqualifying conduct occurred. Reliable evidence of a conviction for criminal conduct that would disqualify an individual for tenancy may also be the basis for determining that the disqualifying conduct in fact occurred.

When criminal records are used for the purposes to terminate participation for criminal activity as shown by the criminal record or the Sex Offender Registration, the SCHC will notify the household of the proposed action and will provide the subject of the record and the program participant/tenant, with a copy of such information and an opportunity to dispute the accuracy and the relevance of the record. This opportunity will be provided before a termination of participation. The cost of obtaining the criminal record check will not be passed along to the tenant participant. (24 CFR 905 (d)) Fourteen (14) calendar days to dispute the accuracy and relevance of the record in writing. If the St. Clair Housing Commission does not receive the dispute within the allotted time, the applicant will be denied. The family will have fourteen (14) calendar days to dispute the accuracy and relevance of the record in writing. If the SCHC does not receive the dispute in writing within the time

allotted, the family will be terminated based on the original proposed information and dates.

An incident or incidents or actual or threatened domestic violence, dating violence, sexual assault or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence, and shall not be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence.

The Housing Commission may terminate the assistance to remove a lawful occupant or tenant who engages in criminal acts or threatened acts of violence, sexual assault or stalking to family members or others without terminating the assistance or evicting victimized lawful occupants.

The Housing Commission may honor court orders regarding the rights of access or control of the property, including EPO's, DVO's, and other orders issued to protect the victim and disused to address the distribution or possession of property among household members where the family "breaks up".

There is no limitation on the ability of the Housing Commission to terminate assistance for other good cause unrelated to the incident or incidents of domestic violence, dating violence, and sexual assault or stalking, other than the victim may not be subject to a "more demanding standard" than non-victims.

There is no prohibition on the Housing Commission terminating assistance if it "can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's (victim's) assistance is not terminated.

Any protections provided by law which give greater protection to the victim are not superseded by these provisions.

The Housing Commission may require certification by the victim of victim status on such forms as the Housing Commission and/or HUD shall prescribe or approve.

Refer to Section 24.0 of this Policy for further information on our Violence Against Women Act Policy.

In determining whether to terminate because of action or failure to act by members of the family, the SCHC may consider all relevant circumstances. (See section 17.4, "Consideration of Circumstances")

**17.0 APPEALS PROCESS - COMPLAINTS, INFORMAL REVIEWS FOR APPLICANTS, INFORMAL HEARINGS FOR PARTICIPANTS and CONSIDERATION OF CIRCUMSTANCES**

Upon the receipt of a request by an applicant or program participant to exercise their right to the grievance process, it shall suspend any adverse action until the final outcome has been determined. Should a final determination result in the follow

through of an adverse action, the adverse action is effective as of the date of the final determination. Further, if the date of the final determination is made mid-month for a program participant, the Landlord is entitled to receive the HAP on behalf of the tenant through the end of the month in which the determination is made.

## 17.1 COMPLAINTS

The SCHC will investigate and respond to complaints by participant families, owners, and the general public. The SCHC may require that complaints other than HQS violations be put in writing. Anonymous complaints are investigated whenever possible.

## 17.2 INFORMAL REVIEW FOR THE APPLICANT (24 CFR 982.554)

### A. Notice to the Applicant

The SCHC will give an applicant for participation in the Section 8-HCV Program prompt notice of a decision denying assistance to the applicant. The notice will:

- a. Contain a brief statement of the reasons for the decision; and
- b. State that if the family does not agree with the decision, the family may request an informal review; and
- c. State that upon submission of request, the family may present written or oral objections to the SCHC decision to deny assistance prior to the informal review.
- d. State that the request for the informal hearing must be received within fourteen (14) calendar days of the date of notification.

### B. Informal Review Process

The SCHC will give an applicant an opportunity or an informal review of the SCHC decision denying assistance to the applicant. This process may be conducted in person, by mail, by telephone, conference call, webcast, or video call. (Please see notice PIH 2020-32 or successor notice for guidance on remote briefing requirements.)

The procedure is as follows:

1. The review will be conducted by any person or persons designated by the SCHC other than the person who made or approved the decision under review or a subordinate of this person.
2. The applicant will be given an opportunity to present written or oral objections to the SCHC decision.

3. The SCHC will notify the applicant of the SCHC's decision after the informal review within fourteen (14) calendar days of receiving the applicants request for an informal review or of receiving all information requested from the applicant to assist the SCHC in making a decision in the review process, if any, whichever comes later. The notification will include a brief statement of the reasons for the final decision.

Should the SCHC require an extension of the fourteen (14) calendar days to make a final decision, the SCHC will notify the applicant in writing prior to the end of the fourteen (14) calendar days with a statement of the reasons for the extension and a statement of the approximate date the final decision will be made.

C. When an Informal Review is not required

The SCHC will not provide the applicant an opportunity for an informal review for any of the following reasons:

1. Discretionary administrative determinations by the SCHC.
2. General policy issues or class grievances.
3. A determination of the family unit size under the SCHC subsidy standards.
4. A SCHC determination not to approve an extension or suspension of a certificate or Housing Choice Voucher term.
5. A SCHC determination not to grant approval to lease a unit under the program or to approve a proposed lease.
6. A SCHC determination that a unit selected by an applicant is not in compliance with HQS.
7. A SCHC determination that the unit is not in accordance with HQS because of family size or composition.

D. Restrictions on Assistance for non-citizens - Informal Review Procedure for Denial of Assistance on the Basis of Ineligible Immigration Status

The applicant family may request that the SCHC provide for an informal review after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. This request must be made by the applicant family within 30 days of receipt of the *Notice of Denial or Termination of Assistance* or within 30 days of receipt of

the INS appeal decision.

For applicant families, the Informal Review Process above will be utilized with the exception that the applicant family will have up to 30 days of receipt of the Notice of Denial or Termination of Assistance, or of the INS appeal decision to request the review.

### 17.3 INFORMAL HEARINGS FOR PARTICIPANTS (24 CFR 982.555)

#### A. When a Hearing is Required

The SCHC will give a participant family an opportunity for an informal hearing to consider whether the following SCHC decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations and SCHC policies:

1. A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment.
2. A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the SCHC utility allowance schedule.
3. A determination of the family unit size under the SCHC subsidy standards.
4. Denial of a hardship exemption to the minimum rent requirement.
5. A determination to terminate assistance for a participant family because of the family's action or failure to act (see 24 CFR 982.552)
6. A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under the SCHC policy and HUD rules.

In cases described in paragraph 17.3, (A)(5), and (6), of this Section, the SCHC will give the opportunity or an informal hearing before the SCHC terminates housing assistance payments for the family under an outstanding HAP contract.

This process may be conducted in person, by mail, by telephone, conference call, webcast, or video call. (Please see notice PIH 2020-32 or successor notice for guidance on remote briefing requirements.)

#### B. When a Hearing is Not Required

The SCHC will not provide a participant family an opportunity for an informal hearing for any of the following reasons:

1. Discretionary administrative determinations by the SCHC.
2. General policy issues or class grievances.
3. Establishment of the SCHC schedule of utility allowances for families in the program.
4. A SCHC determination not to approve an extension or suspension of a Housing Choice Voucher term.
5. A SCHC determination not to approve a unit or lease.
6. A SCHC determination that an assisted unit is not in compliance with HQS. (However, the SCHC will provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family as described in 24 CFR 982.551( c ). )
7. A SCHC determination that the unit is not in accordance with HQS because of the family size.
8. A determination by the SCHC to exercise or not exercise any right or remedy against the owner under a HAP contract.
9. The participant family fails to make a request in writing within the required time frame (14 days).

#### C. Notice to the Family

1. In the cases described in paragraphs 17.3 (A)(1)(2), and (3), of this Section, the SCHC will notify the family that the family may ask for an explanation of the basis of the SCHC determination, and that if the family does not agree with the determination, the family may request an informal hearing on the decision.
2. In the cases described in paragraph 17.3(A)(5), and (6), of this Section, the SCHC will give the family prompt written notice that the family may request a hearing within fourteen (14) calendar days of the notification. The notice will:
  - a. Contain a brief statement of the reasons for the decision; and
  - b. State that if the family does not agree with the decision, the family may request an informal hearing; and

- c. State that the request for the informal hearing must be received within fourteen (14) calendar days of the date of notification.

#### D. Expeditious Hearing Process

Where a hearing for a participant family is required under this section, the SCHC will proceed with the hearing in a reasonably expeditious manner upon the family's request, generally within fourteen (14) calendar days.

Due to the time sensitive nature of the hearing process, it is extremely important that scheduled hearing times be adhered to. Hearings will only be rescheduled due to extenuating circumstances. Extenuating circumstances must be proven and/or documented in order for the hearing to be rescheduled.

#### E. Hearing Procedures

The SCHC and participants will adhere to the following procedures:

##### 1. Discovery

- a. The family will be given the opportunity to examine before the hearing any SCHC documents that are directly relevant to the hearing. The family will be allowed to copy any such document at the family's expense. If the SCHC does not make the document(s) available for examination on request of the family, the SCHC may not rely on the document at the hearing.
- b. The SCHC will be given the opportunity to examine, at the SCHC's offices before the hearing, any family documents that are directly relevant to the hearing. The SCHC will be allowed to copy any such document at the SCHC's expense. If the family does not make the document(s) available for examination on request of the SCHC, the family may not rely on the document at the hearing.

Note: the term document includes records and regulations.

##### 2. Representation of the Family

At its own expense, a lawyer or other representative may represent the family.

##### 3. Hearing Officer

- a. The hearing will be conducted by any person or persons designated by the SCHC, other than a person who made or approved the decision under review or a subordinate of this person.
- b. The person who conducts the hearing will regulate the conduct of the hearing in accordance with the SCHC hearing procedures.

#### 4. Evidence

The SCHC and the family must have the opportunity to present evidence and may question any witnesses. Evidence may be considered without regard to admissibility under the rules and evidence applicable to judicial proceedings.

#### 5. Issuance of Decision

The person who conducts the hearing will provide to the SCHC and/or the program participant, the outcome of the decision after the informal review within fourteen (14) calendar days of the hearing, briefly stating the reasons for the decision. Factual determinations relating to the individual circumstances of the family shall be based on a preponderance of the evidence presented at the hearing.

Should the person who conducts the hearing require an extension of the fourteen (14) calendar days to make a final decision, they will notify the SCHC and/or the program participant in writing prior to the end of the fourteen (14) calendar days with a statement of the reasons for the extension and a statement of the approximate date the final decision will be made.

#### F. Effect of the Decision

The SCHC is not bound by a hearing decision:

1. Concerning a matter for which the SCHC is not required to provide an opportunity for an informal hearing under this Section, or that otherwise exceeds the authority of the person conducting the hearing under the SCHC hearing procedures.
2. Contrary to HUD regulations or requirements, or otherwise contrary to Federal, State, or local law.
3. If the SCHC determines that it is not bound by a hearing decision, the SCHC will notify the family within fourteen (14) calendar days of the determination, and of the reasons for the

determination.

G. Informal Hearing Procedures for Denial of Assistance of the Basis of Ineligible Immigration Status (24 CFR 5.514)

The participant family may request that the SCHC provide for an informal hearing after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. This request must be made by the participant family within 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or within 30 days of receipt of the INS appeal decision.

For the participant families, the Informal Hearing Process above will be utilized with the exception that the participant family will have up to 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or of the INS appeal decision. In cases of determination of ineligible immigration status, the SCHC must offer an applicant or participant family the opportunity to request an informal hearing. A family may request an informal hearing within 30 days of receipt of an ineligibility determination from the U.S. Immigration and Naturalization Service (INS), or the SCHC's decision to delay, terminate, or deny assistance.

The SCHC must keep all denial or termination of assistance documents related to immigration status for a minimum of five (5) years. These include any applications for initial or continued assistance.

With good cause, the SCHC may extend the period to request an informal hearing related to immigration status.

#### 17.4 CONSIDERATION OF CIRCUMSTANCES

In deciding whether to terminate or deny assistance because of action or inaction by members of the family, decisions will be made in accordance with 24 CFR 982.552 and .553. In cases where consideration of circumstances are allowed, the SCHC may consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure. In any case, if the family includes a person with disabilities, the SCHC's decision to deny assistance will consider any reasonable accommodation entitlements in accordance with 24CFR part 8.

The SCHC may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. The SCHC may permit the other members of a participant family to continue receiving assistance.

If the SCHC seeks to terminate or deny assistance because of illegal use, or possession for personal use, of a controlled substance, or pattern of abuse of alcohol where there was not court action with a documented date of sentencing completion such use or possession or pattern of abuse must have occurred within one year before the date that the SCHC provides notice to the family of the SCHC determination to deny or terminate assistance. In determining whether to terminate assistance for these reasons the SCHC will consider evidence of whether the household member:

1. Has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol;
2. Has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol; or
3. Is participating in a supervised drug or alcohol rehabilitation program and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol.

## 18.0 TERMINATION OF THE LEASE AND CONTRACT

The term of the lease and the term of the HAP contract are the same. They begin on the same date and they end on the same date. The lease may be terminated by the owner, by the tenant, or by the mutual agreement of both. The owner may only terminate the contract by terminating the lease. The HAP contract may be terminated by the SCHC under some circumstances the contract automatically terminates.

For situations involving, or possibly involving, victim(s) of domestic violence, dating violence, sexual assault or stalking, and the protections against adverse action they may be entitled to under the Violence Against Women Act (VAWA), please refer to section 24.0 of this policy.

### 18.1 Termination of the lease

#### A. By the family

The family may terminate the lease without cause upon proper notice to the owner and to the SCHC after the first-year initial term of the lease. The length of the notice that is required is stated in the lease (generally 30 days) and in accordance with Michigan Security Deposit Law.

#### B. By the Owner.

1. The owner may terminate the lease and evict by judicial action during its term on the following grounds:
  - a. Serious or repeated violations of the terms or conditions of the lease;
  - b. Violation of Federal, State, or local law that impose obligations on the tenant in connection with the occupancy or use of the unit and its premises;
  - c. Criminal activity by the household, a guest, or another person under the control of the household that threatens the health, safety, or right to peaceful enjoyment of the premises by other persons residing (including property management staff) in the immediate vicinity of the premises.
  - d. Any drug-related criminal activity on or near the premises;
  - e. Other good cause. See 17.0(A)(2)(b). Other good cause may include, but is not limited to:
    - (1) Failure by the family to accept the offer of a new lease;
    - (2) Family history of disturbances of neighbors or destruction of property, or living or housekeeping habits resulting in damage to the property or unit;
    - (3) The owner's desire to utilize the unit for personal or family use or for a purpose other than use as a residential rental unit;
    - (4) A business or economic reason such as sale of the property, renovation of the unit, desire to rent at a higher rental amount.

Arrests alone are not sufficient evidence of criminal activity.

An arrest record, alone, will not serve as sufficient evidence of criminal activity that can support an eviction decision. Before an owner denies admission to or evicts an individual or household on the basis of criminal activity by a household member or guest, it will determine that the relevant individual actually engaged in such activity.

An arrest record can trigger an inquiry into whether there is sufficient evidence to determine that a person engaged in

disqualifying criminal activity but is not itself evidence on which to base a determination. An owner can utilize other evidence, such as police reports detailing the circumstances of the arrest, witness statements, and other relevant documentation to assist them in making a determination that disqualifying conduct occurred. Reliable evidence of a conviction for criminal conduct that would disqualify an individual for tenancy may also be the basis for determining that the disqualifying conduct in fact occurred.

2. During the first year the owner may not terminate tenancy for other good cause unless the reason is because of something the household did or failed to do.
3. The owner may only evict the tenant by instituting court action. The owner must give the SCHC a copy of any owner eviction notice to the tenant at the same time that the owner gives the notice to the tenant.
4. The owner may terminate the contract at the end of the initial lease term or any extension of the lease term without cause by providing notice to the family that the lease term will not be renewed. (In accordance with Michigan Security Deposit Law).

C. Termination of the Lease by Mutual Agreement

The family and the owner may at any time mutually agree to terminate the lease.

18.2 Termination of the Contract

A. Automatic termination of the Contract

1. If the SCHC terminates assistance to the family, the contract terminates automatically.
2. If the family moves out of the unit, the contract terminates automatically.
3. The contract automatically terminates 180 calendar days after the last housing assistance payment to the owner.

B. Termination of the contract by the owner

The owner may only terminate tenancy in accordance with lease and State and local law.

C. Termination of the HAP contract by the SCHC

The SCHC may terminate the HAP contract because:

1. The SCHC has terminated assistance to the family;
2. The unit does not meet HQS space standards because of an increase in family size or change in family composition;
3. When the family breaks up and the SCHC determines that the family member who move from the unit will continue to receive the assistance.
4. The SCHC determines that there is insufficient funding in their contract with HUD to support continued assistance for families in the program.
5. The owner has breached the contract in any of the following ways:
  - a. If the owner has violated any obligation under the HAP contract for the dwelling unit, including the owner's obligation to maintain the unit in accordance with the HQS.
  - b. If the owner has violated any obligation under any other housing assistance payments contract under Section 8 of the 1937 Act.
  - c. If the owner has continued fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program.
  - d. For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable mortgage insurance or loan program, with the mortgage or mortgage note, or with the regulatory agreement;
  - e. If the owner has engaged in drug trafficking, or other drug related criminal or violent criminal activity.

D. Final HAP payment to owner

The HAP payment stops when the lease terminates. The owner may keep the payment for the month in which the family moves out without proper notice. If the owner has begun eviction proceedings and the family continues to occupy the unit, the SCHC will continue to make payments until the owner obtains a judgment or the family moves out.

## 19.0 CHARGES AGAINST THE SECTION 8 ADMINISTRATIVE FEE RESERVE

Occasionally, it is necessary for the SCHC to spend money of its Section 8 Administrative Fee Reserve to meet unseen or extraordinary expenditures or for its other housing related purposes consistent with State law.

The Housing Commission Board of Commissioners authorizes the Executive Director to expend without prior Board approval up to Two Thousand Five Hundred and no/100 (\$2,500.00) Dollars for authorized expenditures.

Any item(s) exceeding \$2,500.00 will require prior Board of Commissioner approval before any charge is made against the Section 8 Administrative Fee Reserve. All expenditures in this category will follow the Commission's Procurement Policy.

## 20.0 QUALITY CONTROL OF SECTION 8 PROGRAM (24 CFR 985)

In order to maintaining the appropriate quality standards for the Section 8 Program, the SCHC will annually review files and records to determine if the work documented in the files or records conforms to program requirements. This shall be accomplished by a supervisor or another qualified person other than the one originally responsible for the work or someone subordinate to that person. The number of files and/or records checked shall be at least equal to the number specified in the Section 8 Management Assessment Program (24 CFR 985) for our size Housing Commission.

Among the areas that shall have quality control review are the following (but not limited to):

- A. The proper applicants were selected from the waiting list in accordance with our Selection Criteria.
- B. Determination of Rent Reasonableness
- C. Determination of adjusted income and calculation of rent/subsidy amounts.
- D. HQS inspections were properly completed.
- E. HQS enforcement.

## 21.0 CONDUCTING BUSINESS IN ACCORDANCE WITH CORE VALUES AND ETHICAL STANDARDS

Please refer to the "CODE OF ETHICS POLICY CONFLICT OF INTEREST POLICY."

## 22.0 SUPPORT FOR OUR ARMED FORCES

A major and important component of our armed forces is the part-time military personnel that serve in various Reserve and National Guard units. The SCHC is

very supportive of these men and women. An unfortunate fact of service in both the Reserves and National Guard is that from time to time their personnel are activated to full-time status and asked to serve our country in a variety of ways and circumstances. Whenever the Federal Government activates Reserve and/or National Guard personnel, the SCHC wants to support these brave warriors in the following manners:

- A. If a Family finds it necessary for another adult to temporarily move into a unit solely to serve as a temporary guardian for children residing in the unit, the income received by the temporary guardian will not be counted in determining family income. The presence of the temporary guardian will need to be approved by the Landlord.
- B. Although typically a criminal background check is required before anyone can move into a public housing unit, this requirement will be waived for a temporary guardian. Instead, the background check will occur after the person moves in. If the results of the check dictate that the person is ineligible for public housing, the family shall be given a reasonable time to find a replacement temporary guardian.
- C. Recognizing that activation in the Reserves or National Guard can be very disruptive to a family’s income, the SCHC will expeditiously re-evaluate a resident’s portion of the rent if requested to do so.
- D. Typically, a unit cannot be held by a family that is not residing in it as their primary residence for more than 180 consecutive days because of a specific federal regulation. If all members of a military family are temporarily absent from the unit because a member of the family has been called to active duty, the family can retain control of the unit by paying the required rent and returning to the unit within 30 days of the conclusion of the active-duty service. If the service extends beyond 180 days, the SCHC will seek a waiver of the 180-day limit from HUD.

23.0 ANTI-FRAUD POLICY

Please refer to the “FRAUD POLICY” for Policy Details.

24.0 VIOLENCE AGAINST WOMEN ACT POLICY

24.1 VAWA PROTECTIONS

Under the Violence Against Women Act (VAWA) (notwithstanding the title of the statute, protections are not limited to women but cover victims regardless of sex, gender identity, or sexual orientation), Housing Choice Voucher Program Participants have the following specific protections, which will be observed by the St. Clair Housing Commission:

- A. An incident or incidents or actual or threatened domestic violence, dating violence, sexual assault, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence, and shall not in itself be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence.
- B. An applicant for assistance or a tenant/participant receiving assistance under a covered housing provider may not be denied admission to, denied assistance under, terminated from participation in, or evicted from housing on the basis or as a direct result of the fact that the applicant or tenant/participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.
- C. The Housing Commission shall provide each applicant and resident a HUD prescribed Notice of Occupancy Rights and Certification form. It shall also be provided with any notice of eviction. In addition, the Housing Commission shall make an adopted Emergency Transfer Plan and Emergency Transfer Request available upon request.
- D. The Housing Commission shall keep a record of all emergency transfer requests requested under the Emergency Transfer Plan and the outcome of these requests for three years.
- E. The Housing Commission may terminate the assistance to remove a lawful occupant or tenant who engages in criminal acts or threatened acts of violence, dating violence, sexual assault, or stalking to family members or affiliated individuals without terminating the assistance or evicting victimized lawful occupants. This is also true even if the household member or affiliated individual is not a signatory to the lease. Under VAWA, the St. Clair Housing Commission is granted the authority to bifurcate the lease. The VAWA victim must be the one who retains the assistance.
- F. The Housing Commission will honor court orders regarding the rights of access or control of the property.
- G. There is no limitation on the ability of the Housing Commission to evict for other good cause unrelated to the incident or incidents of domestic violence, dating violence, sexual assault, or stalking, other than the victim may not be subject to a “more demanding standard” than non-victims.
- H. There is no prohibition on the Housing Commission evicting if it “can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant’s (victim’s) tenancy is not terminated.” An actual and imminent threat

consists of a physical danger that is real, would occur within an immediate timeframe, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

- I. Any protections provided by law which give greater protection to the victim are not superseded by these provisions.

The St. Clair Housing Commission shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by the St. Clair Housing Commission. Types of acceptable verifications are outlined below and must be submitted within 14 business days after receipt of the St. Clair Housing Commission’s written request for verification.

24.2 VERIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT OR STALKING

The St. Clair Housing Commission shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by the St. Clair Housing Commission. The request for verification shall take the form of a written request by the SCHC to the claimant.

- A. Requirement for Verification - The law allows, but does not require, the St. Clair Housing Commission to verify that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking claimed by a tenant or other lawful occupant is bona fide and meets the requirements of the applicable definitions set forth in this policy. The St. Clair Housing Commission shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by the St. Clair Housing Commission. Verification of a claimed incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may be accomplished in one of the following three ways:

- 1. HUD-approved certification form - By providing to the St. Clair Housing Commission a written certification, on the form approved by the U.S. Department of Housing and Urban Development (HUD) at the time of submission, that the individual is a victim of domestic violence, dating violence, sexual assault, or stalking that the incident or incidents in question are bona fide incidents of actual or threatened abuse meeting the requirements of the applicable definition(s) set forth in this policy. The incident or incidents in question must

be described in reasonable detail as required in the HUD-approved form, and the completed certification 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. Other documentation - by providing to the St. Clair Housing Commission documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing the domestic violence, dating violence, sexual assault, or stalking, or the effects of the abuse, described in such documentation. The professional providing the documentation must sign and attest under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse meeting the requirements of the applicable definition(s) set forth in this policy. The victim of the incident or incidents of domestic violence, dating violence, sexual assault or stalking described in the documentation must also sign and attest to the documentation under penalty of perjury.
  3. Law Enforcement or court record – by providing to the St. Clair Housing Commission a Federal, State, tribal, territorial, or local law enforcement or court record describing the incident or incidents in question.
- B. Time allowed to provide verification/failure to provide - An individual who claims protection against adverse action based on an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking, and who is requested by the St. Clair Housing Commission to provide verification, must provide such verification within 14 business days after receipt of the written request for verification. Failure to provide verification, in proper form within such time will result in loss of protection under VAWA and this policy against a proposed adverse action. The submission of false information may be the basis for the termination of assistance or for eviction.
- C. Managing conflicting documentation - In cases where the St. Clair Housing Commission receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the St. Clair Housing Commission may determine which is the true victim by requiring third-party documentation as described in 24 CFR 5.2007 and in accordance with any HUD guidance as to how such determinations will be made. The St. Clair Housing Commission shall honor any court orders addressing rights of access or control of the property, including civil protection orders

issued to protect the victim and issued to address the distribution or possession of property among the household.

### 24.3 CONFIDENTIALITY

All information provided under VAWA including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, shall be retained in confidence, and shall not be entered into any shared database or provided to any related entity except to the extent that the disclosure is:

- A. Requested or consented to by the individual in writing;
- B. Required for used in an eviction proceeding; or
- C. Otherwise required by applicable law.

The St. Clair Housing Commission shall provide its tenants with notice of their rights under VAWA, including their right to confidentiality and the limits thereof.

### 25.0 HOUSING CONVERSION ACTIONS (ENHANCED AND REGULAR HOUSING CHOICE VOUCHERS)

Housing conversion actions are:

- A. Owner decisions to opt-out of or not renew Section 8 project-based contracts (opt-outs);
- B. Owner prepayments of the mortgage or the voluntary termination of the mortgage insurance of a preservation eligible property (preservation prepayments);
- C. HUD enforcement actions against owners (including the termination or non-renewal of a Section 8 project-based housing assistance payments (HAP) contract); and
- D. HUD property disposition activities.

Depending on the type of Housing Conversion Action, eligible families receive either regular voucher assistance or enhanced voucher assistance. Enhanced voucher assistance under Section 8(t) of the United States Housing Act of 1937 differs from regular housing choice voucher assistance in two major respects if the participant remains in the affected property. First, it will establish a new "minimum rent" equal to the rent the family was paying at the time of the eligibility event, and second it may establish an enhanced payment standard that exceeds the SCHC's normal payment standard.

Specifically, the following actions constitute "housing conversion actions":

A. Preservation Prepayments

When the owner prepays the mortgage or voluntarily terminates the mortgage insurance of preservation eligible properties (generally Section 236 and Section 221(d)(3) properties) certain residents are eligible for enhanced voucher assistance.

B. Project-based Opt-outs

When an owner chooses to end participation in certain programs by either opting-out of or not renewing certain expiring Section 8 contracts, eligible low-income residents assisted under the expiring Section 8 project-based contract are eligible for enhanced voucher assistance. The opt-out category includes cases where Section 8 contracts in restructured properties are converted to tenant-based assistance in accordance with section 515©) of the Multifamily Assisted Housing Reform and Affordability Act of 1997. In the case of a 515©) opt-out only, all families assisted under the expiring contract are income-eligible for enhanced voucher assistance.

Eligible low-income residents assisted under a rent supplement contract under Section 101 of the Housing and Urban Development Act of 1965 that ends at the expiration of a Section 8 HAP contract for units in the property are also eligible for enhanced voucher assistance. In a case where a rent supplement contract ends and there is not an expiring Section 8 project-based contract at the property, regular vouchers are provided to the eligible low-income families covered by the rent supplement contract, subject to availability of appropriations.

C. HUD Enforcement Actions

When there is a HUD-originated termination action, HUD is either terminating the Section 8 project-based HAP contract or not offering the owner the option to renew an expiring Section 8 project-based HAP contract due to an owner's failure to comply with the terms of the HAP contract. It includes suspensions and debarments.

HUD enforcement actions may also result from material adverse financial or managerial actions or omissions that lead to either owner default under a FHA-insured mortgage (monetary or technical) or a documented material violation of one or more of the obligations under the property's Regulatory Agreement.

Eligible families are usually assisted with regular vouchers in these circumstances because families must move to receive housing choice voucher assistance.

D. HUD Property Disposition

A property disposition occurs when HUD is selling the property at a foreclosure sale or is the mortgagee-in-possession or owner of the multifamily property due to an owner default on an FHA-insured mortgage and is closing down the property or selling the property to a new owner. Regular vouchers are provided to assist eligible low-income families in these cases.

## 25.1 TENANT-BASED ISSUES FOR HOUSING CONVERSION ACTIONS

In general, housing choice voucher program rules, regulations, and requirements apply to special admission vouchers made available for families as the result of "housing conversion actions". Some actions will lead to the issuance of enhanced vouchers, which will be discussed in detail in this Section.

The following program guidance is applicable to all housing conversion actions, both regular and enhanced voucher assistance.

### A. Tenant-based Nature of the Assistance

Housing choice vouchers (including enhanced vouchers) provided by HUD as the result of a housing conversion action are always tenant-based assistance. Families issued vouchers may elect to use the assistance in the same property and in all cases may choose to move from the property. Families may choose to exercise portability and move outside of the jurisdiction of the SCHC. There is no guarantee to the owner that any housing choice voucher assistance will be utilized at the property for any period of time. The SCHC will emphasize the tenant-based aspect of the assistance when briefing families, who may be unfamiliar with the concept of tenant-based assistance and the freedom of choice associated with a tenant-based subsidy.

### B. SCHC Screening of Families

The SCHC will utilize its normal screening procedures as part of the eligibility requirements.

The SCHC will provide any family denied assistance with an opportunity for an informal review. The decision to deny assistance rests with the SCHC,

### C. Use of Owner Certifications for Determining Tenant Income

In order to reduce processing time, the SCHC may exercise its right to use the owner's most recent family income examination if:

1. The owner's current certification for the family is no more than six (6) months old; and

2. The SCHC determines that the owner certifications are acceptable after reviewing a small sample for accuracy.

If the SCHC chooses to use the owner's income certification, the SCHC will complete the subsequent family reexamination within one year of the date of the owner certification, not the date the SCHC accepted the owner certification in lieu of conducting its own determination.

#### D. SCHC Subsidy Standards

The SCHC will issue the housing choice voucher in accordance with its normal subsidy standards, not the actual size of the unit the family is currently occupying. There is a special rule for enhanced vouchers concerning families who reside in over-sized units and wish to remain at the property. This exception only applies to enhanced voucher assistance.

The SCHC will utilize the subsidy standard to calculate the maximum rent subsidy for the family. The payment standard for the family shall be the lower of:

1. The payment standard for the family unit size as determined by the SCHC subsidy standards; or
2. The payment standard for the actual size of the unit rented by the family.

#### E. Search Time

Since these vouchers are targeted to specific families adversely affected by HUD or owner actions in HUD multifamily properties, the SCHC will provide families with maximum search time that is reasonably required to locate housing.

#### F. Rent Reasonableness and Approval of Tenancy

All regular program requirements regarding the reasonableness of rent apply, regardless of whether the vouchers are enhanced vouchers or regular vouchers.

Reasonable rent is defined as a rent to owner that is not more than rent charged:

1. For comparable units in the private unassisted market; and
2. For comparable unassisted units in the premises.

The SCHC will not approve a lease until the SCHC determines the initial rent to owner is reasonable rent, regardless of whether the family chooses to remain in the family's current unit or move to a different unit.

If the SCHC determines the proposed rent is not reasonable, the owner must lower the rent, or the family will have to find another unit in order to benefit from the voucher subsidy.

The initial lease term must be for at least one year unless the SCHC determines that a shorter term would improve housing opportunities for the participant and such shorter term is the prevailing local market practice.

G. Housing Quality Standards Inspections

The SCHC will inspect the unit to ensure that the unit meets the normal housing quality standards even if the family is residing in a unit that was previously assisted under a Section 8 project-based contract. Under no circumstances will the SCHC make housing assistance payments for any period of time prior to the date that the SCHC physically inspects the unit and determines that the unit meets the housing quality standards.

H. Timing Issues Involving HAP Contract Execution and Effective Dates

The funding process for vouchers that the SCHC receives from HUD is intended to result in issuance of the voucher to the family at least 60 calendar days prior to the target date of the housing conversion action. The target date is the date that the family would be impacted by a rent increase or possible displacement as a result of the housing conversion action.

For opt-out or HUD enforcement actions, the target date is the date that the project-based HAP contract expires or is terminated. For a preservation property, the target date is the earliest date the owner may increase the rent (no earlier than 60 calendar days following the effective date of the prepayment).

Before the SCHC approves a family to lease a dwelling unit with voucher assistance, the SCHC shall determine that the following conditions are met:

1. The unit is eligible;
2. The unit has been inspected and passes the housing quality standards;
3. The lease includes the tenancy addendum;

- 4. The rent to owner is reasonable; and
- 5. At the time a family initially receives tenant-based regular voucher assistance for occupancy of a dwelling unit and where the gross rent of the unit exceeds the applicable payment standard for the family, the family share (gross rent minus subsidy) must not exceed 40 percent of the family's adjusted monthly income. (The 40 percent restriction is not applicable in the case of a family assisted with enhanced voucher assistance.)

Once these conditions are met, the SCHC will approve the unit for leasing.

In establishing the effective date of tenant-based HAP contracts, it is very important to make a distinction between families who choose to stay in the property and families who choose to move. The SCHC will not approve a tenancy (and execute a housing choice voucher HAP contract) on behalf of a stayer (family that stays in the property) for a lease term that is effective prior to the target date of the housing conversion action. For a family that is moving, the SCHC may approve a tenancy that begins before the target date, since in strong rental markets potential landlords will not hold a unit vacant.

I. Initial and Subsequent Use of Vouchers

All housing choice vouchers (enhanced or non-enhanced) provided in connection with housing conversion actions are special admission vouchers. Special admission vouchers differ from regular vouchers in that HUD provides the assistance with a specific family in mind. The SCHC will first use the allocation to assist the families targeted for assistance. The SCHC will not consider whether the family is on the housing choice voucher waiting list or the family's position on the housing choice voucher waiting list.

If a voucher issued to a family as the result of a housing conversion action turns over for any reason, the SCHC will retain the voucher for use as part of its regular housing choice voucher program. In cases where an enhanced voucher turns over following initial issuance, the voucher loses its special enhanced characteristics and is subject to all normal housing choice voucher program rules.

J. Inapplicability of the SCHC Targeting Requirement

Families admitted to the SCHC's tenant-based voucher program as a result of a housing conversion action are not subject to the income targeting requirements of the tenant-based program, and their

admission will not be counted in determining whether the SCHC complied with the income targeting requirement.

## 25.2 PRESERVATION PREPAYMENTS

When the owner prepays the mortgage or voluntarily terminates the mortgage insurance of preservation eligible properties (generally Section 236 and Section 221(d)(3) properties) certain residents are eligible for enhanced voucher assistance.

### A. Owner Prepays the Mortgage or Voluntarily Terminates the Mortgage Insurance (Preservation Prepayments)

Tenant-based assistance is offered to eligible residents of properties covered by the Emergency Low-Income Housing Preservation Act of 1987 (ELIHPA) and the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA). (HUD's Office of Housing is responsible for identifying property eligibility under these provisions)

#### 1. Covered Prepayments

To be considered an eligible property, the property must have reached its 20<sup>th</sup> year from final endorsement and meet one of the following criteria:

- a. Section 221(d)(3)-market rate, limited distribution properties receiving Section 8 payments converted from Rent Supplement whose project number series is 35001-36599;
- b. All Section 221(d)(3) below market interest rate properties whose project number series are 55001-55999 and 57501-57999, unless a Rent Supplement Contract remains in effect between HUD and the mortgagor;
- c. All Section 236 properties whose project number series are 44001-44799; 44801-44899; 45001-45999; and 58501-58999, unless a Rent Supplement Contract remains in effect between HUD and the mortgagor;
- d. A purchase money mortgage formerly insured under Section 221(d)(3) or 236;
- e. A mortgage held by a state agency as a result of a sale by HUD without insurance, which immediately before the sale would have been eligible low-income housing under

LIHPRHA; which mortgage (1) for LIHPRHA properties is, or is within 2 years of being, eligible for prepayment by contract or regulation in effect before February 5, 1988 without HUD's prior Approval; or (2) for ELIHPA properties is, or is within 1 year of being, eligible for prepayment under regulation or contract in effect before February 5, 1988; or;

- f. All State-assisted properties that are eligible for preservation assistance under LIHPRHA or ELIHPA.

## 2. Flexible Subsidy Properties

Section 536 of the Preserving Affordable Housing for Senior Citizens and Families into the 21<sup>st</sup> Century Act provides that any property that receives or has received assistance under Section 201 of the Housing and Community Development Amendments of 1978 (the flexible subsidy program, 12 U.S.C. 1715z-1a) which is the subject of a transaction under which the property is preserved as affordable housing (as determined by HUD) shall be considered eligible low-income housing under Section 229 of LIHPRHA for purposes of eligibility of residents for enhanced tenant-based assistance. (The Office of Housing is responsible for determining on a case-by-case basis if a flexible subsidy property meets the requirements of Section 536 concerning the applicability of enhanced vouchers)

### B. Families Eligible for Enhanced Voucher Assistance in Preservation Eligible Properties

The resident family must be residing in the preservation eligible property on the effective date of prepayment or voluntary termination of mortgage insurance (or the effective date of the transaction in the case of covered flexible subsidy properties) and must be income-eligible on that effective date.

#### 1. Income Eligibility

In order to be eligible for enhanced voucher assistance, the resident must be:

- a. a low-income family (including a very low income or extremely low-income family);
- b. a moderate-income elderly or disabled family; or;
- c. a moderate-income family residing in a low vacancy area (3 percent or less vacancy rate). (The HUD field office economist is responsible for determining whether

the property where the owner is prepaying or voluntarily terminating the mortgage insurance is located in a low vacancy area).

A resident family who does not fall into one of those categories on the effective date of the prepayment or voluntary termination is not eligible for a voucher, regardless of whether the family's situation subsequently changes after the effective date of the prepayment.

A low-income family is a family whose annual income does not exceed 80 percent of the median income for the area as determined by HUD.

A moderate-income family is a family whose annual income is above 80 percent but does not exceed 95 percent of the area median income as determined by HUD.

## 2. Unassisted and Assisted Families

Both previously unassisted and currently assisted residents may be eligible for enhanced voucher assistance as the result of a preservation prepayment.

A voucher participant who is residing in the property at the time of the eligibility event shall receive enhanced voucher assistance if the family meets all of the following conditions:

- a. the family must meet the income requirements on the date of the eligibility event;
- b. any rent increase under the voucher program must be in accordance with the lease agreement and program regulations;
- c. the new gross rent must be reasonable; and
- d. the family must decide to stay in the unit instead of moving.

Under the voucher program, an owner may increase the rent as permitted by the terms of the existing lease and local and state law, so long as the new rent is reasonable. The owner is not required by the program regulations to terminate the existing lease and HAP contract for current voucher participants to receive the special enhanced subsidy.

If the above conditions are met, the payment standard utilized by the SCHC to calculate the housing assistance payment is

the new gross rent of the family's unit. The enhanced voucher minimum rent requirement now applies to the family (See Enhanced Voucher Minimum Rent Requirement for Stayers below).

Any family receiving Section 8 project-based assistance on the effective date of the prepayment will continue to receive the project-based assistance until the project-based contract expires or terminates. Such families will receive enhanced voucher assistance at the time of the expiration and non-renewal of the Section 8 project-based contract.

### 3. Eligibility Event and Existing Leases

Note that the eligibility event (e.g., the prepayment of the mortgage or the voluntary termination of a mortgage insurance contract for a preservation eligible property and the approval of the flexible subsidy transaction for flexible subsidy properties) does not in itself necessarily terminate or modify the existing leases between the owner and the current residents of the property. An owner may only legally increase the rent or terminate the lease as provided under the terms of the lease in accordance with state and local law. In addition, an owner may not increase the rent for at least 60 calendar days from the eligibility event in the case of a preservation prepayment or voluntary termination of the mortgage.

If an eligible family chooses to stay at the property, the SCHC will not enter into a HAP contract that commences prior to the effective date of the rent increase.

In addition, a family that receives an enhanced voucher has the right to remain in the property as long as the units are used for rental housing and are otherwise eligible for housing choice voucher assistance. The owner may not terminate the tenancy of a family that exercises its right to remain except for a serious or repeated lease violation or other good cause. If an owner refuses to honor the family's right to remain, the family may exercise any judicial remedy that is available under state and/or local law.

### 4. Family Eligibility for Enhanced Voucher Assistance in Cases Where There Would be no Initial Housing Assistance Payment and the Family Wishes to Stay in the Property.

If the SCHC determines that the family is income eligible for an enhanced voucher but that there is no HAP payment because the family's total tenant payment equals or is greater than the gross rent, the SCHC will maintain a record of eligibility

determination for that family. The SCHC shall inform the family that should the family's income decrease or the family's rent increase within three years of the eligibility event, the family may contact the SCHC. Should the SCHC then determine that the change in income would result in a housing assistance payment, the SCHC will execute a housing assistance payment contract on behalf of the family at such time (assuming the unit is approved for leasing in accordance with the housing choice voucher program requirements.) It is the family's responsibility to contact the SCHC when there is a decrease in family income or an increase in the family rent.

C. Voluntary Termination of Mortgage Insurance or Prepayment of Mortgage on Section 236 Property's Where Section 236 Rent Rules Remain Applicable (decoupling actions).

Where an owner voluntarily terminates the mortgage insurance or prepays the Section 236 mortgage in a preservation eligible Section 236 property and the rent setting requirements of the Section 236 program are still applicable to the property, the enhanced voucher rent would be no greater than the Basic Rent established in accordance with HUD Notice H 2000-8. Since families must pay at least 30 percent of their monthly adjusted income under the voucher subsidy formula, only those low-income families required to pay the basic rent will receive any voucher subsidy in such instance, unless the family chooses to move.

Regardless of the rents established under the rent formula for these properties, the rent reasonableness requirements of the housing choice voucher program must be met for the family to receive tenant-based assistance at the property. (The HUD Field Office is responsible for informing the SCHC in cases where the rent setting requirements of the Section 236 program remain in effect).

D. Enhanced Voucher Family Right to Remain

The FY 2001 Military Construction and FY 2000 Emergency Supplemental Appropriations laws amended Section 8(t) of the United States Housing Act. A family that receives an enhanced voucher has the right to remain in the property as long as the units are used for rental housing and are otherwise eligible for housing choice voucher assistance (e.g., the rent is reasonable, unit meets HQS, etc.) The owner may not terminate the tenancy of a family that exercises its right to remain except for a serious or repeated lease violation or other good cause. If an owner refuses to honor the family's right to remain, the family may exercise any judicial remedy that is available under State and/or local law.

E. Characteristics of Enhanced Voucher Assistance

1. Payment Standard Where the Family Chooses to Stay in the Same Property

For a family that stays in the property, the payment standard used to calculate the voucher housing assistance payment is the gross rent (rent to owner, plus the applicable SCHC utility allowance for any tenant-supplied utilities) of the family's unit (provided the proposed gross rent is reasonable), regardless of whether the gross rent exceeds the SCHC payment standard.

2. Rent Reasonableness Documentation and Lease Requirements

All regular housing choice voucher program requirements concerning the reasonableness of the rent and the provisions of the HUD prescribed lease addendum apply to enhanced vouchers. The SCHC will determine whether the proposed rent for the family's unit is reasonable.

The SCHC makes this determination by comparing the unit to other comparable unassisted units based on the current condition of the unit. If the SCHC determines the owner's proposed new rent is not reasonable, the owner must either lower the rent, or the family will have to find another unit in order to benefit from the voucher.

The special payment standard for enhanced tenant-based assistance for a family that stays in the unit sometimes results in the SCHC approving a tenancy for a unit that otherwise would be ineligible or unaffordable to a family with regular tenant-based assistance. If the rent is reasonable in comparison to the rents of comparable unassisted units, there is nothing improper or incorrect in approving the owner's new rent even if the rent would not normally be affordable for a family with a regular housing choice voucher. The SCHC will document the rent reasonableness of the owner's rent in the family's file by including the rents and addresses of the comparable units used to make the determination.

3. Effect of Family Unit Size Limitation - Initial Issuance

The SCHC will issue the family an enhanced voucher based on its Subsidy Standards, not on the actual size of the unit the family is currently occupying. If a family is over-housed, the SCHC will explain to the family their options under the existing HUD guidance as soon as possible. If the participant chooses to stay in their over-sized unit, the SCHC will notify the property owner of the over-housed rules that will affect the family.

However, if the family wishes to stay in the property, but is living in an oversized unit, the enhanced voucher family must move to an appropriate size unit in the property if one is available. To the extent there are more over-housed families than appropriate size units available at any time, the SCHC will determine based on family circumstances (age, frailty, etc.) which families will be required to move. The sequence which will be used to determine who shall be required to move first when there are more over-housed families than appropriate size units will be the resident who has lived there the shortest period of time will be the first to down-size. The reason for this is to avoid disruption as little as possible for the longest-term residents.

If the family wishes to remain at the project with enhanced voucher assistance and an appropriate size unit does not physically exist at the property but a bedroom size unit is available that is smaller than the family's current unit but not smaller than the unit size for which the family qualifies under our subsidy standards, the family must move to the smaller bedroom size unit within 30 calendar days. The family and owner will enter into a new lease and the SCHC will execute a new voucher HAP contract with the owner for the smaller bedroom size unit. The enhanced voucher subsidy calculation will be based on the gross rent for the smaller bedroom size unit.

If there is no appropriate size unit currently available for the family in the project, the SCHC will execute a voucher HAP contract on behalf of the family for the oversized unit, provided the rent is reasonable and the unit complies with all other voucher program requirements such as the housing quality standards. The enhanced voucher housing subsidy calculation will be based on the gross rent for the oversized unit. The subsidy calculation will continue to be based on the gross rent (including subsequent rent increases) for the oversized unit until an appropriate size unit in the project becomes available for occupancy by the family.

If an appropriate size unit is not initially available for an over-housed family, the owner must immediately inform the SCHC and the family when an appropriate size unit will become available in the project. The owner is subject to possible financial penalties or other enforcement actions if the owner fails to notify the SCHC immediately. If the SCHC learns of available units at the property for which the owner failed to notify the SCHC, the SCHC will report such information to HUD by sending an email to [OverhousedEVs@hud.gov](mailto:OverhousedEVs@hud.gov) with the

subject line Over-housed Enhanced Voucher Families. Within the email, the SCHC will provide the following: PHA code; name and address of the property; the name of the property owner if known; the approximate date the appropriate size units became available; and whether the units are currently leased to market rate or voucher families. The SCHC will also copy the relevant local HUD Office of Public Housing (PH) Director on the email.

When an appropriate size unit becomes available, the enhanced voucher family residing in the oversized unit must move to the appropriate size unit within no more than 30 calendar days SCHC to continue to receive enhanced voucher assistance. The family and owner will enter into a new lease and the SCHC will execute a new voucher HAP contract with the owner for the appropriate size unit. The enhanced voucher subsidy calculation is based on the gross rent for the appropriate size unit.

If an over-housed enhanced voucher family refuses to move to the appropriate size unit, the SCHC will recalculate the family's housing assistance payment for the oversized unit based on the normally applicable voucher subsidy formula using the applicable payment standard established by the SCHC for its voucher program. The family will be responsible for any amount of the gross rent not covered by the housing assistance payment.

The effective date of the housing assistance payment contract for the oversized unit will not be earlier than the expiration date of the term of the family voucher. The family will be responsible for the full rent of the unit prior to the effective date of the Housing Assistance Payment Contract.

The payment standard is the gross rent of the oversized unit.

If the SCHC determines that the unit of an enhanced voucher family is no longer decent, safe, and sanitary under the HQS requirements because an increase or decrease in family size causes the unit to be overcrowded or over-housed, the family must move to an appropriate size unit in the property when it is or becomes available. The SCHC will assist the family in locating other standard housing in the SCHC jurisdiction. The family and the SCHC will try to find an acceptable unit as soon as possible. If the family rejects, without good cause, the offer of a unit that the SCHC judges to be acceptable, the SCHC will terminate the HAP contract.

If the family moves to an appropriate size unit in the property, the enhanced voucher subsidy rules would continue to apply to the family's voucher assistance. In the case of a family move from the property, the regular housing choice voucher program rules apply.

If over-housed families exist in a property, the SCHC will constantly monitor the availability of appropriate size units. The SCHC will be in touch with the owner at least quarterly and will maintain a written record of these contacts.

When a participant is required to relocate to an appropriate size unit within 30-calendar days, this deadline can be extended an additional 30-calendar days at the sole discretion of the SCHC if it decides that the 30-calendar day deadline creates an extreme hardship for the participant. In order to request an extension, the family must request the extension in writing to the SCHC prior to end of the initial 30-calendar day deadline. The request must detail the reason the extension is being requested and why failing to receive it would be an extreme hardship. The financial cost of failing to receive the housing subsidy is not to be considered an extreme hardship. The SCHC will respond to the request within 72 working hours of receipt of the request. If the request is denied, the denial can be appealed to the SCHC Executive Director if a written appeal is filed with the Authority within 48 working hours of receipt of the denial. The Executive Director's decision shall be final.

4. Family Move: Normal Payment Standard is Applicable

The SCHC's normal payment standard is utilized to determine the family's maximum voucher subsidy when the family moves from the property. This includes cases where the proposed new rent for the family's current unit if it is not reasonable or the unit fails HQS, requiring the family to move in order to continue receiving tenant-based assistance.

5. Enhanced Voucher Minimum Rent Requirement for Stayers

Families assisted with enhanced housing choice voucher assistance have a special statutory minimum rent requirement. The law requires that a family receiving enhanced voucher assistance must pay for rent no less than the rent the family was paying on the date of the eligibility event (the effective date of the prepayment of the mortgage or voluntary termination of the mortgage insurance) regardless of what happens to the family's income.

The enhanced voucher minimum rent only applies if the family remains in the property. The enhanced voucher minimum rent does not apply if the family moves from the property.

The method for calculating the minimum rent changes if the family’s income subsequently decreases to a significant extent (15% or more) from the family’s gross income on the effective date of the prepayment. Guidance on recalculating the minimum rent in cases when a family’s income significantly decreases is discussed in detail in number 6 below.”

a. Previously Unassisted Residents Rent Requirement

Previously unassisted residents must pay at least the dollar amount of the gross rent (enhanced voucher minimum rent) the family was paying on the date of prepayment or voluntary termination. The SCHC's utility allowance will be used to calculate the gross rent at prepayment if all utilities were not included in the rent the family paid to the owner.

A family who stays in the unit and receives enhanced voucher assistance must pay the enhanced voucher minimum rent. If the enhanced voucher minimum rent exceeds 40 percent of the family's monthly-adjusted income, a family must still pay at least the enhanced voucher minimum rent, and the restriction on the normal initial family contribution is not applicable.

b. Previously assisted Section 8 Tenant-based Families Rent Requirement

Residents assisted with Section 8 tenant-based vouchers at the time of a prepayment or voluntary termination by the owner will pay at least the family share (enhanced voucher minimum rent) that they were paying on eligibility event. The enhanced minimum rent provision only applies if the family chooses to remain in its present unit and receive the "enhanced" subsidy.

A family who stays in the unit and receives enhanced voucher assistance must pay the enhanced voucher minimum rent. If the enhanced voucher minimum rent exceeds 40 percent of the family's monthly-adjusted income, a family must still pay at least the enhanced voucher minimum rent, and the restriction on the normal initial family contribution is not applicable.

6. Significant Decline in Family Income - Effect on Enhance

## Voucher Minimum Rent

If an enhanced voucher family suffers a significant decline in family income, the minimum family share required of the family shall be reduced below the enhanced minimum rent provision so that the percentage of income for rent does not exceed the greater of 30 percent or the percentage of monthly adjusted income actually paid by the family for rent (the rent to owner, plus tenant-paid utilities) on the effective date of the prepayment. A significant decline is defined as gross family income that is at least 15 percent less than the gross family income on the date of the eligibility event.

If the family suffers a significant decline in family income, the SCHC will change the enhanced voucher minimum rent from an actual dollar amount to a specific percentage of income.

### a. Previously Unassisted Families

For eligible families who were previously unassisted on the eligibility event, the family's new enhanced voucher minimum rent is the greater of:

- i. the percentage of the monthly adjusted income the family paid for gross rent on the effective date of the eligibility event; or
- ii. 30 percent of the family's current Adjusted monthly income.

### b. Previously assisted Section 8 Tenant based Families

For families who were previously assisted under a project-based or tenant-based contract on day the eligibility event, the family's new enhanced voucher minimum rent is the greater of:

- i. the percentage of the monthly adjusted income the family paid for gross rent;
- ii. the Total Tenant Payment;
- iii. the family share represented on the effective date of the eligibility event; or
- iv. 30 percent of the family's current adjusted monthly income.

The new enhanced voucher minimum rent for these families is a percentage of income as opposed to a specific dollar amount. Once this change in the enhanced voucher minimum rent becomes effective for a family, the enhanced voucher minimum rent for the family remains that specific percentage of income and will not revert to a specific dollar amount, even if the family income subsequently increases or decreases.

When a family reports a significant decrease in family income, the SCHC will conduct an interim reexamination and verify the changes in income.

The minimum rent represents the lowest amount the family may pay as their family share for as long as the family remains in the property. A family may pay no less than the enhanced voucher minimum rent. Depending on the circumstances, the family may have to pay more than the enhanced voucher minimum rent at the time of eligibility event.

#### 7. Calculating the HAP for Enhanced Voucher Assistance

Regardless of whether the owner's new gross rent after the eligibility event exceeds or is less than the SCHC's payment standard, the housing assistance payment for a family that stays in their present unit (or moves from an oversized unit to an appropriate size unit within the property) is the following:

The gross rent for the unit minus the greatest of:

- a. 30 percent of the adjusted family income;
- b. 10 percent of the family monthly income (gross monthly income);
- c. the welfare rent in as-paid states;
- d. the enhanced voucher minimum rent; or
- e. the SCHC's minimum rent.

#### 8. Movers from the Property

If a resident decides to move from the property with the voucher assistance, the payment standard is not enhanced, and the special voucher minimum rent does not apply. This applies both to families who decide to move when the eligibility event takes place and to families who have resided at the property after the eligibility event and want to move with continued assistance. In either circumstance, the housing assistance payment and the family share at the new unit are

calculated in accordance with the regular rules of the housing choice voucher program.

G. Administering Enhanced Voucher Assistance

The special conditions of enhanced voucher assistance (enhanced voucher minimum rent and the special payment standard rules) are applicable for as long as the family receives voucher assistance in the property.

If an owner subsequently raises the rent for an enhanced voucher family in accordance with the lease, State and local law, and voucher program regulations (including rent reasonableness), the SCHC will utilize the new gross rent to calculate the voucher HAP payment for the family.

The SCHC shall identify an eligible family as an enhanced voucher family even if the gross rent of the family's unit does not currently exceed the normally applicable SCHC payment standard. Since the enhanced payment standard rule also covers any subsequent rent increases, it is possible that the special payment standard may come into play later in the family's tenancy. An enhanced voucher family is also required by law to pay no less than the enhanced voucher minimum rent, regardless of whether the gross rent exceeds the normally applicable SCHC payment standards.

1. Enhanced Voucher Minimum Rent

The enhanced voucher minimum rent requirement remains in effect for all families who receive enhanced voucher assistance for as long as they remain in the property.

2. The payment standard used to calculate the family subsidy will continue to be enhanced to match the gross rent for the unit if the gross rent exceeds the normally applicable payment standard and the SCHC determines the rent is reasonable for as long as the enhanced voucher family continues to reside in the same property.

If the owner raises the rent for a family assisted with an enhanced voucher in accordance with the lease, State and local law, and voucher program regulations, the SCHC will increase the enhanced payment standard to equal the new gross rent (rent to owner and the applicable SCHC utility allowance for any tenant-supplied utilities) for the unit provided the SCHC determines the rent is reasonable. The additional cost of the subsidy will be covered through the regular renewal process for the SCHC's voucher program.

If a change in the SCHC's utility allowance (either an increase or decrease) affects the gross rent for a family assisted with an enhanced voucher, the SCHC will adjust the enhanced payment standard accordingly. The enhanced payment standard may never exceed the gross rent for the assisted family's unit.

### 25.3 OWNER OPT-OUTS

If an owner opts-out or elects not to renew an expiring contract for project-based assistance, HUD will make enhanced voucher authority available to the SCHC for eligible families covered by the expiring contract.

#### A. Covered Opt-outs

The property must be covered in whole or in part by a contract for project-based assistance, and consist of more than four dwelling units under one of the following programs:

1. The new construction or substantial rehabilitation program under Section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1983);
2. The property disposition program under Section 8(b) of the United States Housing Act of 1937;
3. The loan management assistance program under Section 8(b) of the United States Housing Act of 1937;
4. The rent supplement program under Section 101 of the Housing and Urban Development Act of 1965, provided that at the same time there is also a Section 8 project-based contract at the same property that is expiring or terminating and will not be renewed;
5. Section 8 of the United States Housing Act of 1937, following conversion from assistance under Section 101 of the Housing and Urban Development Act of 1965; or
6. The moderate rehabilitation program under Section 8(e)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1991).

Note that an owner may not choose to opt-out of a rent supplement contract. Instead, the rent supplement assistance ends either at the end of the term of the contract (generally 40 years after the first rent supplement payment was made) or when the mortgage terminates, depending on which event occurs first.

In addition, although families affected by Section 8 moderate rehabilitation opt-outs are eligible for enhanced vouchers that are subject to enhanced vouchers rules, these opt-outs are not considered a housing conversion action because the expiring contract is between the owner and the SCHC. The Housing Commission is not eligible to receive the special fee for extraordinary administrative costs and the specific funding process instructions do not apply to an owner's decision to not renew an expiring Section 8 moderate rehabilitation contract.

**B. Family Eligibility for Enhanced Vouchers as a Result of an Owner Opt-out.**

In order to be eligible for enhanced voucher assistance, the resident must be:

1. A low-income family (including a very low or extremely low-income family); and
2. Residing in a unit covered by the expiring Section 8 project-based contract on the date of expiration.

In the case of the expiration of a covered Section 8 contract under 515©) of MAHRA only (mark-to-market restructuring where the Section 8 project-based assistance contract is converted to tenant-based assistance), all families assisted under the expiring contract are considered income-eligible for enhanced voucher assistance.

**C. Special Income Eligibility Rules for Opt-out Families in Properties Where a Preservation Prepayment Preceded the Owner Opt-out**

If the owner opt-out of the Section 8 project-based Contract occurs after the owner has prepaid the mortgage or voluntarily terminated the mortgage insurance of a preservation eligible property, families who do not meet the definition of a low-income family may still be eligible to receive an enhanced voucher. In order to be eligible, the family must:

1. Reside in a unit covered by the expiring contract on the date of expiration;
2. Have also resided in the property on the effective date of the prepayment; and
3. Meet the income requirements for enhanced voucher eligibility for residents affected by a preservation prepayment described below.

To determine family eligibility in this circumstance, the SCHC will first determine income eligibility of the family based on the normal eligibility rules for opt-outs. For a family that is found not to be low-income, the SCHC will then make a determination of whether the family lived in the property on the date of the prepayment. If the family resided in the property on the date of prepayment, the SCHC will then determine if the family is income-eligible under the preservation prepayment rules.

1. Income Requirements for Enhanced Voucher Eligibility for Residents Affected by a Preservation Prepayment

In order to be eligible for enhanced voucher assistance, the resident must be either:

- i. A low-income family (including a very low or extremely low-income family);
- ii. A moderate-income elderly or disabled family; or
- iii. A moderate-income family residing in a low vacancy area (3 percent or less vacancy rate). (The HUD field office economist is responsible for determining whether the property where the owner is prepaying or voluntarily terminating the mortgage insurance is located in a low vacancy area).

A low-income family is a family whose annual income does not exceed 80 percent of the median income for the area as determined by HUD.

A moderate-income family is a family whose annual income is above 80 percent but does not exceed 95 percent of the area median income as determined by HUD.

If the family meets the preservation income requirement, the SCHC will issue the family an enhanced voucher by virtue of the preservation prepayment out of the opt-out voucher allocation received from HUD.

A resident family who does not fall into one of those categories on the effective date of the prepayment or voluntary termination is not eligible for an enhanced voucher, regardless of whether the family's situation subsequently changes after the effective date of the prepayment.

D. Family Eligibility for Enhanced Voucher Assistance in Cases Where There Would be no Initial Housing Assistance Payment and the Family Wishes to Stay in the Property.

If the SCHC determines that the family is income-eligible for an enhanced voucher but that there is no HAP payment because the

family's total tenant payment equals or is greater than the gross rent, the SCHC will maintain a record of eligibility determination for that family. The SCHC will inform the family that should the family's income decrease or the family's rent increase within three years of the eligibility event, the family may contact the SCHC. Should the SCHC then determine that the change in income would result in a housing assistance payment, the SCHC will execute a housing assistance payment contract on behalf of the family at such time (assuming the unit is approved for leasing in accordance with the housing choice voucher program requirements). It is the family's responsibility to contact the SCHC when there is a decrease in family income or an increase in the family rent.

E. Enhanced Voucher Family Right to Remain

The FY 2001 Military Construction and FY 2000 Emergency Supplemental Appropriations laws amended Section 8(t) of the United States Housing Act. A family that receives an enhanced voucher has the right to remain in the property as long as the units are used for rental housing and are otherwise eligible for housing choice voucher assistance (e.g., the rent is reasonable, unit meet HQS, etc.) The owner may not terminate the tenancy of a family that exercises its right to remain except for a serious or repeated lease violation or other good cause. If an owner refuses to honor the family's right to remain, the family may exercise any judicial remedy that is available under State and/or local law.

F. Characteristics of Enhanced Voucher Assistance

1. Payment Standard Where the Family Chooses to Stay in the Same Property

For a family that stays in the property, the payment standard used to calculate the voucher housing assistance payment is the gross rent (rent to owner, plus the applicable SCHC utility allowance for any tenant-supplied utilities) of the family's unit (provided the proposed gross rent is reasonable), regardless of whether the gross rent exceeds the SCHC normal payment standard.

2. Rent Reasonableness Documentation and Lease Requirements

All regular housing choice voucher program requirements concerning the reasonableness of the rent and the provisions of the HUD prescribed lease addendum apply to enhanced vouchers. The SCHC will determine whether the proposed rent for the family's unit is reasonable.

The SCHC makes this determination by comparing the unit to other comparable unassisted units based on the current condition of the unit. If the SCHC determines the owner's proposed new rent is not reasonable, the owner must either lower the rent, or the family will have to find another unit in order to benefit from the voucher.

The special payment standard for enhanced tenant-based assistance for a family that stays in the unit sometimes results in the SCHC approving a tenancy for a unit that otherwise would be ineligible or unaffordable to a family with regular tenant-based assistance. If the rent is reasonable in comparison to the rents of comparable unassisted units, there is nothing improper or incorrect in approving the owner's new rent even if the rent would not normally be affordable for a family with a regular housing choice voucher. The SCHC will document the rent reasonableness of the owner's rent in the family's file by including the rents and addresses of the comparable units used to make the determination.

### 3. Effect of Family Unit Size Limitation - Initial Issuance

The SCHC will issue the family an enhanced voucher based on its Subsidy Standards, not on the actual size of the unit the family is currently occupying. However, if the family wishes to stay in the property, but is living in an oversized unit, the enhanced voucher family must move to an appropriate size unit in the property if one is available. To the extent there are more over-housed families than appropriate size units available at any time, the SCHC will determine based on family circumstances (age, frailty, etc.) which families will be required to move.

If there is no appropriate size unit currently available in the property, a family must make a good faith attempt to find a unit outside the property. In order to determine if the family has made a good faith effort, the SCHC will require the family to submit a list of potential units by address, the landlords name and telephone number.

If the family has not located an eligible unit at the end of the term of the voucher (including any extension granted by the SCHC) despite making a good faith effort, the SCHC will execute a housing assistance payment contract for the family's current unit, provided the unit complies with housing quality standards and the proposed rent is determined to be reasonable.

The effective date of the housing assistance payment contract for the oversized unit will not be earlier than the expiration date of the term of the family voucher. The family will be responsible for the full rent of the unit prior to the effective date of the housing assistance payment contract.

The payment standard is the gross rent of the oversized unit. The SCHC will advise the family in writing that the enhanced subsidy based on the oversized unit's rent will only be paid for one year. During that year, the family may move to an appropriate size unit in the property if one becomes available and the owner agrees to mutually terminate the lease agreement for the oversized unit. The family would receive the special payment standard for the appropriate size unit if the family moves to the appropriate size unit under this circumstance.

After the initial year of assistance in the oversized unit, the SCHC will apply the normal payment standard in determining the family's housing assistance payment. If the family wishes to remain in the unit and do so under regular housing choice voucher program rules, the family will have to pay the additional cost for the oversized unit out-of-pocket.

If the SCHC determines that the unit of an enhanced voucher family is no longer decent, safe, and sanitary under the HQS requirements because of an increase in family size that causes the unit to be overcrowded, the family must move to an appropriate size unit in the property or move to another unit not located at the property to continue to receive housing choice voucher assistance. The SCHC is required to assist the family in locating other standard housing in the SCHC jurisdiction. The family and the SCHC will try to find an acceptable unit as soon as possible. If the family rejects, without good cause, the offer of a unit that the SCHC judges to be acceptable, the SCHC will terminate the HAP contract.

If the family moves to an appropriate size unit in the property, the enhanced voucher subsidy rules would continue to apply to the family's voucher assistance. In the case of a family move from the property, the regular housing choice voucher program rules apply.

#### 4. Family Move: Normal Payment Standard is Applicable

The SCHC's normal payment standard is utilized to determine the family's maximum voucher subsidy when the family moves from the property. This includes cases where the proposed new

rent for the family's current unit is not reasonable or the unit fails HQS, requiring the family to move in order to continue receiving tenant-based assistance.

5. Enhanced Voucher Minimum Rent Requirement for Stayers

Families assisted with enhanced housing choice voucher assistance have a special statutory minimum rent requirement. The law requires that a family receiving enhanced voucher assistance must pay for rent no less than the rent the family was paying on the date of the eligibility event (the effective date of the prepayment of the mortgage or voluntary termination of the mortgage insurance).

The enhanced voucher minimum rent only applies if the family remains in the property. The enhanced voucher minimum rent does not apply if the family moves from the property.

A family who stays in the unit and receives enhanced voucher assistance must pay the enhanced voucher minimum rent. If the enhanced voucher minimum rent exceeds 40 percent of the family's monthly-adjusted income, a family must still pay at least the enhanced voucher minimum rent, and the restriction on the initial family contribution is not applicable.

a. Previously Unassisted Residents Rent Requirement

Previously unassisted residents must pay at least the dollar amount of the gross rent (enhanced voucher minimum rent) the family was paying on the date of prepayment or voluntary termination. The SCHC's utility allowance is used to calculate the gross rent at prepayment if all utilities were not included in the rent the family paid to the owner.

A family who stays in the unit and receives enhanced voucher assistance must pay the enhanced voucher minimum rent. If the enhanced voucher minimum rent exceeds 40 percent of the family's monthly-adjusted income, a family must still pay at least the enhanced voucher minimum rent, and the restriction on the initial family contribution is not applicable.

b. Previously assisted Section 8 Tenant-based Families Rent Requirement

Residents assisted with Section 8 tenant-based vouchers at the time of the prepayment or voluntary termination the family will pay at least the family share

(enhanced voucher minimum rent) that they were paying on eligibility event. The enhanced minimum rent provision only applies if the family chooses to remain in its present unit and receive the "enhanced" subsidy.

A family who stays in the unit and receives enhanced voucher assistance must pay the enhanced voucher minimum rent. If the enhanced voucher minimum rent exceeds 40 percent of the family's monthly-adjusted income, a family must still pay at least the enhanced voucher minimum rent, and the restriction on the initial family contribution is not applicable.

6. Significant Decline in Family Income - Effect on Enhance Voucher Minimum Rent

If an enhanced voucher family suffers a significant decline in family income, the minimum family share required of the family shall be reduced so that the percentage of income for rent does not exceed the greater of 30 percent or the percentage of monthly adjusted income actually paid by the family for rent (the rent to owner, plus tenant-paid utilities) on the effective date of the prepayment. A significant decline is defined as gross family income decline of at least 15 percent from the gross family income on the date of the eligibility event.

If the family suffers a significant decline in family income, the SCHC will change the enhanced voucher Minimum rent from an actual dollar amount to a specific percentage of income.

a. Previously Unassisted Families

For families who were previously unassisted on the eligibility event, the family's new enhanced voucher minimum rent is the greater of:

- i. The percentage of the monthly adjusted income the family paid for gross rent on the effective date of the eligibility event; or
- ii. 30 percent of the family's current adjusted monthly income.

b. Previously assisted Section 8 Tenant-based Families

For families who were previously assisted under the Section 8 tenant-based voucher program on the eligibility event, the family's new enhanced voucher minimum rent is the greater of:

- i. The percentage of the monthly adjusted income the family paid for gross rent;
- ii. The Total Tenant Payment;
- iii. The family share represented on the effective date of the eligibility event; or
- iv. 30 percent of the family's current adjusted monthly income.

The new enhanced voucher minimum rent for these families is a percentage of income as opposed to a specific dollar amount. Once this change in the enhanced voucher minimum rent becomes effective for a family, the enhanced voucher minimum rent for the family remains that specific percentage of income and will not revert to a specific dollar amount, even if the family income subsequently increases or decreases.

When a family reports a significant decrease in family income, the SCHC will conduct an interim reexamination and verify the changes in income.

The minimum rent represents the lowest amount the family may pay as their family share for as long as the family remains in the property. A family may pay no less than the enhanced voucher minimum rent. Depending on the circumstances, the family may have to pay more than the enhanced voucher minimum rent at the time of eligibility event.

## 7. Calculating HAP for Enhanced Voucher Assistance

Regardless of whether the owner's new gross rent after the eligibility event exceeds or is less than the SCHC's payment standard, the housing assistance payment for a family that stays in their present unit (or moves from an oversized unit to an appropriate size unit within the property) is the following:

The gross rent for the unit minus the greatest of:

- a. 30 percent of the adjusted family income;
- b. 10 percent of the family monthly income (gross monthly income);
- c. The welfare rent in as-paid states;

- d. The enhanced voucher minimum rent; or
- e. The SCHC's minimum rent.

#### 8. Movers from the Property

If a resident decides to move from the property with voucher assistance, the payment standard is not enhanced, and the voucher minimum rent does not apply. This pertains to families who decide to move when the eligibility event takes place, and to families who have resided at the property after the eligibility event and want to move with continued assistance. In either circumstance, the housing assistance payment and the family share at the new unit are calculated in accordance with the regular rules of the housing choice voucher program.

#### G. Administering Enhanced Voucher Assistance

The special conditions of enhanced voucher assistance (enhanced voucher minimum rent and the special payment standard rules) are applicable for as long as the family receives voucher assistance in the property.

If an owner subsequently raises the rent for an enhanced voucher family in accordance with the lease, State and local law, and voucher program regulations (including rent reasonableness), the SCHC will utilize the new gross rent to calculate the voucher HAP payment for the family.

The SCHC will identify an eligible family as an enhanced voucher family even if the gross rent of the family's unit does not currently exceed the normally applicable SCHC payment standard. Since the enhanced payment standard rule also covers any subsequent rent increases, it is possible that the special payment standard may come into play later in the family's tenancy. An enhanced voucher family is also required by law to pay no less than the enhanced voucher minimum rent, regardless of whether the gross rent exceeds the normally applicable SCHC payment standards.

##### 1. Enhanced Voucher Minimum Rent

The enhanced voucher minimum rent requirement remains in effect for all families who receive enhanced voucher assistance and remain at the property.

##### 2. The payment standard used to calculate the family subsidy will continue to be enhanced to match the gross rent for the unit if the gross rent exceeds the normally applicable payment standard and the SCHC determines the rent is reasonable for

as long as the enhanced voucher family continues to reside in the same property.

If the owner raises the rent for a family assisted with an enhanced voucher in accordance with the lease, State and local law, and voucher program regulations, the SCHC will increase the enhanced payment standard to equal the new gross rent (rent to owner and the applicable SCHC utility allowance for any tenant-supplied utilities) for the unit provided the SCHC determines the rent is reasonable. The additional cost of the subsidy will be covered through the regular renewal process for the SCHC's voucher program.

If a change in the SCHC's utility allowance (either an increase or decrease) affects the gross rent for a family assisted with an enhanced voucher, the SCHC will adjust the enhanced payment standard accordingly. The enhanced payment standard may never exceed the gross rent for the assisted family's unit.

#### 25.4 HUD ENFORCEMENT ACTIONS

HUD enforcement actions can take the form of either terminating a Section 8 project-based HAP contract or not offering the owner the option to renew an expiring Section 8 project-based HAP contract due to an owner's failure to comply with the terms of the HAP contract. It includes suspensions and debarments.

Additionally, HUD enforcement actions may also result from material adverse financial or managerial actions or omissions that lead to either an owner default under a FHA-insured mortgage (monetary or technical) or a documented material violation of one or more of the obligations under the property's Regulatory Agreement.

Eligible families are usually assisted with regular vouchers that HUD issues to the SCHC in the above circumstances because families must move to receive housing choice voucher assistance.

The SCHC will not approve an assisted tenancy at a property if HUD has informed the SCHC that the owner is debarred, suspended, or subject to a limited denial of participation.

Furthermore, the SCHC may disapprove owner participation in the housing choice voucher program for a number of other grounds described in the housing choice voucher program regulations and previously set forth in this Administrative Plan. HUD encourages the SCHC to disapprove a tenancy for any of these grounds in a case where vouchers are provided because HUD is taking an enforcement action against an owner.

In a few situations, families assisted under a Section 8 project-based HAP contract that is being terminated may be able to remain at the property. For instance, if the property is in good physical condition and the owner decides to turn the property over to new ownership, it may be possible for the eligible families assisted under the terminating contract to receive housing choice voucher assistance at the property. In such a case, the project-based families would qualify for enhanced vouchers. (HUD will make the determination whether enhanced or regular voucher assistance is appropriate.)

## 25.5 HUD PROPERTY DISPOSITION

When HUD is selling the property at a foreclosure sale or is the mortgagee-in-possession or owner of the multifamily property due to an owner default of an FHA-insured mortgage and closing down the property or selling property to a new owner, it will supply regular housing choice vouchers to assist eligible low-income families.

## 26.0 COOPERATING WITH LAW ENFORCEMENT AGENCIES

The SCHC will comply, on a case-by-case basis, with information requests from Federal, State, or local law enforcement officers regarding possible fugitive felons and/or a parole or probation violators. The SCHC will supply upon legitimate request (1) the current address, (2) Social Security number and (3) photograph (if available) of any recipient of assistance.

The Federal, State, or local enforcement officer must submit a request that is (1) written, (2) on law enforcement agency letterhead, and (3) is signed by the requesting officer and his or her immediate supervisor. The request for information must provide the name of the fugitive felon and/or parole or probation violator being sought and may include other personal information used for identification. The request should also comply with the following requirements:

- A. The law enforcement agency shall notify SCHC that the fugitive felon and/or parole or probation violator (i) is fleeing to avoid prosecution, custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor; or (ii) is violating a condition of probation or parole imposed under Federal or State law; or (iii) has information that is necessary for the officer to conduct his/her official duties;
- B. The location or apprehension of the recipient is within the SCHC's official duties; and,
- C. The request is made in the proper exercise of the law enforcement agency's official duties.

## 27.0 COST SAVING POSSIBILITIES

As Congress and HUD change the way they fund the Housing Choice Voucher Program, more and more challenges face public housing authorities.

Therefore, the St. Clair Housing Commission hereby establishes in its Administrative Plan the following options that will be considered by the Board of Commissioners depending on the particular circumstances of the time. Before taking one or more of these options, the SCHC will consult with the HUD Detroit field office for support and potential guidance. They are not listed in any particular order.

If the SCHC requests more than one cost-savings waiver from HUD, the SCHC will demonstrate how both/all waivers are necessary to avoid a shortfall that would result in the termination of families from the SCHC Section 8 HCV Program.

None of these options will be implemented without Board of Commissioner approval and the opportunity for affected participants to address the Board of Commissioners. Any actions taken under this section of the Administrative Plan will sunset if and when the procuring reason for the action is no longer in effect. Rescissions will also require Board of Commissioner approval.

Any cost savings measures that constitute a significant amendment or modification as defined in the SCHC's Annual/Five-year Agency Plan (and as referenced in 24 CFR 903.7(r)(2) are subject to the requirements of a public hearing and comment period. However, not all cost savings measures constitute a significant amendment; that determination must be made by the SCHC.

There shall be one basic principle that will guide the St. Clair Housing Commission in implementing any or all of these options - what must the St. Clair Housing Commission do to assist the maximum number of eligible people in a quality Housing Choice Voucher Program while maintaining the fiscal integrity of the program. The St. Clair Housing Commission shall endeavor to protect elderly and disabled families from significant impact (defined as loss of one's Housing Choice Voucher) but recognizes that what is feasible is dependent on the amount of funding provided to the program.

The options are as follows:

- A. The Housing Choice Voucher Program standards may be reviewed in light of the funding situation. If payment standards are reduced, the lower payment standard shall go into effect immediately for new admissions, participants moving from one unit to another, and people staying in place who require a new HAP contract because they are signing a new lease. In extraordinary circumstances, the St. Clair Housing Commission may be forced to ask HUD for a waiver so that even those participants staying in place without a new lease shall have their payment standard decreased immediately instead of the normal second regular reexamination after the lowering of the payment standard.

- B. Since Housing Authorities do not have to wait until the HAP contract anniversary date to review owner rents and reduce them if warranted, the Housing Commission will ensure that owner rents do not exceed amounts charged for unassisted units in the same building or complex. The initial rent and all rent increases must comply with any State or local rent control limits. Further, any owner leasing promotions for unassisted tenants (e.g., the initial two months of occupancy are "rent free") must be taken into consideration in determining rent reasonableness.

In accordance with the HAP contract, the Housing Commission will provide written notice to owners before reducing unreasonable rents. Rents may be reduced as early as the first of the following month. If the rent to owner is not reasonable as most recently determined by the Housing Commission, the owner must reduce the rent to the reasonable amount, or the HAP contract must be terminated. In such cases, the family will be issued an HCV to find a new unit. (Movers, like new participants, are subject to the Housing Commission's current payment and occupancy standards.)

Even if an owner's rent is reasonable the SCHC may request owners to voluntarily agree to a temporary rent reduction or defer rent increases to help avoid the termination of HAP contracts due to shortfalls in HCV funding. It is the owner's option to agree to such measures. However, the SCHC will not "freeze" rents due to insufficient funding when an owner requests an increase, if the SCHC determines the rent to be reasonable, and the owner does not agree to defer a rent increase.

- C. Housing Choice Voucher Payment Standards must be established according to HUD regulation so that no more than 40% of the participants are paying more than 30% of their monthly adjusted income for rent. If circumstances dictate it, the St. Clair Housing Commission may be forced to ask for a waiver of this prohibition in order to sufficiently lower its payment standard.
- D. The utility allowance schedule may be reviewed to determine if the utility allowances are too high. If they are too high that means that the participants are being subsidized in an excess manner. The new utility allowance schedule may be placed into effect after a thirty (30) day notice or at a participant's next reexamination depending on the financial circumstances the St. Clair Housing Commission finds itself in.

As stated in 11.6, utility allowances are supposed to be adjusted annually or sooner if there is a utility rate increase of 10% or more. If circumstances warrant, the St. Clair Housing Commission reserves the right to seek a HUD waiver of this regulatory requirement.

- E. An initial PHA may request that a receiving PHA absorb portable families for which the initial PHA is being billed. This may include the receiving PHA retroactively absorbing families for which the initial PHA was already billed and made payments. In these cases, the receiving PHA reimburses the

initial PHA for payments made back to the effective date of the absorption, but only for the current calendar year. Both the receiving PHA and initial PHAs must agree to this arrangement. This provision provides an exception to Section 10 of Notice PIH 2011-03 on HCV Portability and Corrective Actions. (Section 10 provides that the receiving PHA may not retroactively absorb families for which the receiving PHA was previously billing for any time period that commences before 10 working days from the time the receiving PHA notifies the initial PHA of the absorption.) The Housing Commission will attempt to get receiving PHAs to absorb whenever possible.

If the SCHC is the receiving PHA, it will not “absorb” a family into its HCV Program until it executes a HAP contract on behalf of the family that moves into a new unit. The SCHC will not engage in sham or fake portability paperwork exercises in an attempt to address their utilization or leasing problems. If the family is not placed under a HAP contract for a new unit in the receiving PHA’s jurisdiction, the receiving PHA cannot absorb the family.

- F. If financial circumstances dictate, the SCHC may deny portability moves to a higher cost area for its Housing Choice Voucher participants and/or shoppers if the SCHC has insufficient funds to pay the higher subsidy amounts and the receiving Housing Commission declines to absorb the family. While the Board of Commissioners must establish this policy after an examination of the fiscal affairs of the organization, individual denials of portability shall only occur after the St. Clair Housing Commission has determined that the receiving Housing Commission will not absorb the family. The denial of the portability move shall be documented in that person’s file.

This can only occur if the portability action would cause the SCHC to be unable to avoid terminating the vouchers of current voucher participants during the affected calendar year. If a family is denied its portability request, no subsequent families will be admitted to the program until the SCHC has determined that sufficient funding exists to approve the move and has notified the family that the family may now exercise its move to the higher cost area.

The SCHC will notify the HUD Field Office in writing within ten (10) business days of determining that this is necessary before taking this action that it is denying a portability move. The notification will include:

1. A financial analysis that demonstrates insufficient funds are projected to meet the current calendar year projection of expenses. The projection must not include vouchers that have been issued but are not yet under contract.

In projecting whether there is sufficient funding available for the remainder of the CY, the Housing Commission may use reasonable estimates to factor in conditions such as pending rent increases and attrition rates for families leaving the program.

If this insufficient funding condition exists, the SCHC does not need a regulatory waiver from HUD to deny a request to move.

2. A statement certifying the SCHC has ceased issuing vouchers and will not admit families from their waiting list while the limitation on moves to a higher cost unit is in place.
3. A copy of this Section 8 Administrative Plan stating how the SCHC will address families who have been denied moves.

If a family is denied a portability request due to lack of funding it shall be so notified in writing when the denial is made. The letter shall include the period the family's request to move shall remain active six (6) months and how they will be notified when funds become available."

- G. If financial circumstances dictate, the St. Clair Housing Commission may deny the right of a participant to move within the jurisdiction of the St. Clair Housing Commission to a portion of the jurisdiction that has a higher payment standard than the portion of the jurisdiction the participant currently lives in if the St. Clair Housing Commission has insufficient funds to pay the higher subsidy amounts.

The same HUD notification requirements as in the preceding paragraph apply. Also, if a family is denied a move within the jurisdiction due to lack of funding it shall be so notified in writing when the denial is made. The letter shall include the period the family's request to move shall remain active six (6) months and how they will be notified when funds become available.

- H. Housing Choice Vouchers issued to families on the waiting list that have not resulted in HAP contracts may be cancelled.
- I. The St. Clair Housing Commission may be forced to not reissue vouchers surrendered by current participants immediately upon their return to the Housing Commission. Instead, the vouchers may be held in the Commission's inventory in order to avoid dire financial consequences. The amount of time they will be held shall be determined based upon the financial situation of the Housing Commission.
- J. The subsidy standards set forth in Section 6.0 may be reexamined. The SCHC may revise subsidy standards that exceed minimum HUD requirements to reduce bedroom size eligibility in accordance with 24 CFR 982.402. Subsidy standards must be consistent with the HQS space requirements in 24 CFR 982.401(d) which includes a dwelling unit must have at least one bedroom or living/sleeping area for each two (2) persons. Children of the opposite sex, other than the very young, may not be required to occupy the same bedroom or living/sleeping room.

If a family leases a unit larger than the unit size on the voucher, the SCHC will ensure that the payment standard used to calculate the tenant share is

based on the lower of the voucher unit size for which the family is eligible or the actual unit size leased. If the family size is reduced after admission, the SCHC will ensure that the correct payment standard is used in calculation the family rent portion. An “empty nester” single individual (or any household with similarly reduced member size) living in a 3-bedroom unit should have a 0- or 1-bedroom payment standard, not a 3-bedroom payment standard. If the unit size for which the family is eligible changes during the term of the HAP contract, the new unit size is applicable at the first regular reexamination following the change in accordance with 24 CFR § 982.505(c)(5).

- K. A program wide study may be conducted to ensure that families are utilizing the proper size Housing Choice Voucher for their current family size.
- L. If the minimum rent is increased under Section 11.5 (B), it can be made the first of the month following the month families are notified of the increase (provided there has been at least a 30-day notice) instead of the next reexamination.
- M. The requirement of when families have to report changes of their income as set forth in Section 15.3 may be modified due to the financial pressure facing the St. Clair Housing Commission. Also, the new rent payment may become effective at the start of the next month provided there has been a thirty-day notice.
- N. If the SCHC is forced to stop issuing all of its Housing Choice Vouchers due to a funding shortfall and has any special purpose vouchers for non-elderly disabled persons (NED), Family Unification Program (FUP), or HUD-Veterans Affairs Supportive Housing (VASH) then when it resumes issuing Housing Choice Vouchers it will re-issue the NED, FUP and/or VASH Vouchers in the same proportion as they exist in relation to the overall program.
- O. The absolutely last step the St. Clair Housing Commission will take to resolve it Housing Choice Voucher financial problems will be to terminate the vouchers of families already receiving assistance. If this becomes necessary, in accordance with Notice PIH 2011-28, set forth below is the process in which the SCHC will proceed with Terminate of Program participants, and the readmission when fiscally and practically feasible.

#### 1. Termination of Program Participants

If this step must be taken, the Board of Commissioners shall decide this sequence upon amendment of this Administrative Plan. For the Termination of Program Participants, the following non-discriminatory choices considered shall be:

- a. If the SCHC has a special need (i.e., NED, FUP, VASH, etc.) allocation of Housing Choice Vouchers, they shall be the last to

be terminated. It could be a random lottery. It could be last on is first off.

- b. Last on, first off.
- c. First on, first off.
- d. Random lottery
- e. Those without local preferences
- f. Families before elderly and disabled
- g. Highest to lowest income levels
- h. etc.

## 2. Readmission of Program Participants

The families terminated shall be reinstated into the program as soon as fiscally and practically feasible. However, if the SCHC has a special need (i.e., NED, FUP, VASH, etc.) allocation of Housing Choice Vouchers that were terminated, they shall be the first to be reinstated until the full NED allocation is leased.

The following non-discriminatory re-admission sequence choices shall be considered.

- a) Reverse the above order—assisting those first who were terminated first.
- b) Assist lowest to highest income levels
- c) Etc.

Notwithstanding the SCHC's adoption of policies noted above to deny portability or moves within its jurisdiction or revision of payment or subsidy standards, reasonable accommodation requests for a person's disability must still be evaluated in accordance with HUD's Section 504 implementing regulations at 24 CFR part 8. Such requests will be granted when an accommodation may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling unless it would impose an undue financial and administrative burden on the SCHC or fundamentally alter the nature of the SCHC's operations.

## 28.0 FEDERALLY DECLARED DISASTER/STATE OF EMERGENCY

In the case of a federally declared disaster or state of emergency, the Housing Commission reserves the right for its Executive Director to suspend its preference system for whatever duration the Executive Director feels is appropriate and to admit victims of the disaster to the program instead of those who would be normally admitted.

Any other provisions of this policy can also be suspended during an emergency at the discretion of the Executive Director so long as the provision suspended does not violate a law. If regulatory waivers are necessary, they shall be promptly requested of the HUD Assistant Secretary for Public and Indian Housing.

In the event that HUD authorizes the Housing Commission to implement waivers from its normal requirements, the Housing Commission will evaluate any and all, with consideration of what is in the best interest for the Housing Commission, staff and clients. If implementation is the action decided, the Housing Commission will abide by all required measures and/or conditions to ensure compliance with any and all conditions of implementation.

## 29.0 PRIVACY

The SCHC is strongly committed to protecting the privacy of people dealing with the agency to the greatest degree practical. There are numerous federal privacy laws, regulations, notices, and other requirements that the SCHC follows to the greatest degree practical. Details about these requirements are set forth in PIH Notice 2015-06 and any ensuing publications. The SCHC will educate all of its employees who have access to personally identifiable information (PII) and/or Sensitive Personally Identifiable Information about these requirements and expect them to appropriately manage and safeguard the information. Employees will also be trained on the proper disposition of said information.

## GLOSSARY

**1937 Housing Act:** The United States Housing Act of 1937 [42 U.S.C. 1437 et seq.]

**50058 Form:** The HUD form that housing authorities are required to complete for each assisted household in public housing to record information used in the certification and re-certification process and, at the option of the Housing Commission, for interim reexaminations. Housing Authorities must retain at a minimum the last three years of the form 50058, and supporting documentation, during the term of each assisted lease, and for a period of at least three years from the end of participation date. Electronic retention of form HUD 50058 and HUD 50058-FSS and supporting documentation fulfills the record retention requirement.

**Absorption:** In portability, the point at which a receiving Housing Commission starts making assistance payments with funding under its consolidated ACC, rather than billing, the initial housing authority. Stops billing the initial housing authority for assistance on behalf of a portable family. [24 CFR 982.4(b)]

**Abuse:** Abuse or violent behavior towards SCHC personnel includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate, may be cause for termination or denial.

**Actual and imminent threat:** a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: The duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

**Adjusted Annual Income:** The amount of household income, after deductions for specified allowances, on which tenant rent is based.

**Administrative Fee:** Fee paid by HUD to the Housing Commission for the administration of the program.

**Administrative Plan:** The plan that described Housing Commission policies for the administration of the tenant-based programs.

**Admission:** The point when the family becomes a participant in the program. In a tenant-based program, the date used for this purpose is the effective date of the first HAP Contract for a family (first day of initial lease term).

**Adult:** A household member who is 18 years or older or who is the head of the household, or spouse, or co-head.

**Affiliated individual:** with respect to an individual, means: (1) A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or (2) Any individual, tenant, or lawful occupant living in the household of that individual.

**Allowances:** Amounts deducted from the household's annual income in determining adjusted annual income (the income amount used in the rent calculation). Allowances are given for elderly families, dependents, medical expenses for elderly families, disability expenses, and the childcare expenses for children under 13 years of age. Other allowance can be given at the discretion of the Housing Commission.

**Amortization Payment:** In manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home. If furniture was included in the price, the debt service must be reduced by 15% to exclude the cost of the furniture. The amortization cost is the initial financing, not refinancing. Set-up charges may be included in the monthly amortization payment.

**Annual Contributions Contract (ACC):** The written contract between HUD and a Housing Commission under which HUD agrees to provide funding for a program under the 1937 Act, and the Housing Commission agrees to comply with HUD requirements for the program.

**Annual Income**: All amounts, monetary or not, that:

- a. Go to (or on behalf of) the family head or spouse (even if temporarily absent) or to any other family member, or
- b. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- c. Are not specifically excluded from Annual Income.
- d. Annual Income also includes amounts derived (during 12-month period) from assets to which any member of the family has access.

**Applicant (applicant family)**: A family that has applied for admission to a program but is not yet a participant in the program.

**Assets**: See net family assets.

**Asset Income**: Income received from assets held by household members. If assets total more than \$5,000, income from the assets is “imputed” and the greater of actual asset income and imputed asset income is counted in annual income.

**Assisted lease (lease)**: A written agreement between an owner and a family for the leasing of a dwelling unit to the family. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the Housing Commission.

**Bifurcate**: means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

**Business Days**: Days the SCHC is open for business

**Certificate**: The examination of a household’s income, expenses, and family composition to determine the household’s eligibility for program participation and to calculate the household’ rent for the following 12 months.

**Certification**: The examination of a household’s income, expenses, and family composition to determine the household’s eligibility for program participation and to calculate the household’s rent for the following 12 months.

**Child**: For purposes of citizenship regulations, a member of the family other than the family head or spouse who is under 18 years of age.

**Child Care Expenses**: 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 childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

**Citizen**: A citizen or national of the United States.

**Common space**: In shared housing: Space available for use by the assisted family and other occupants of the unit.

**Congregate Housing**: Housing for elderly or persons with disabilities that meets the HQS for congregated housing.

**Consent form**: Any consent form approved by HUD to be signed by assistance applicants and participants

for the purpose of obtaining income information from employers and SWICAs, return information from the Social Security Administration, and return information for unearned income from the Internal Revenue Service. The consent forms may authorize the collection of other information from assistance applicants or participant to determine eligibility or level of benefits.

**Contiguous MSA:** In portability, an MSA that shares a common boundary with the MSA in which the jurisdiction of the initial Housing Commission is located.

**Continuously assisted:** An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the Housing Choice Voucher Program.

**Cooperative:** Housing owned by a non-profit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing.

**Covered Families:** Families who receive welfare assistance or other public assistance benefits (“welfare benefits”) form 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.

**Covered Person:** For purposes of the anti-drug provisions of this policy, a covered person is a resident, any member of the resident’s household, a guest or another person under the resident’s control.

**Currently engaging in:** With respect to behavior such as illegal use of a drug, other drug-related criminal activity, or other criminal activity, currently engaging in means that the individual has engaged in the behavior recently enough to justify a reasonable belief that the individual’s behavior is current. Arrests alone are not sufficient evidence of criminal activity.

**Dating Violence:** The term “dating violence” means violence committed by a person -

- A. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- B. where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - 1. The length of the relationship.
  - 2. The type of relationship.
  - 3. The frequency of interaction between the persons involved in the relationship.

**Domicile:** The legal residence of the household head or spouse as determined in accordance with State and local law.

**Decent, safe, and sanitary:** Housing is decent, safe and sanitary if it satisfies the applicable housing quality standards.

**Department:** The Department of Housing and Urban Development.

**Dependent:** A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

**Disability assistance expenses:** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

**Disabled family:** A family whose head, co-head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

**Disabled person:** See “person with disabilities.”

**Displaced family:** A family in which each member, or whose sole member, is a person displaced by governmental action (such as urban renewal), or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

**Displaced person:** A person displaced by governmental action (such as urban renewal), or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

**Domestic Violence:** 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 cohabiting with or has cohabited 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 “spouse or intimate partner of the victim” includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

**Drug:** A controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

**Drug related criminal activity:** Illegal use or personal use of a controlled substance, and the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute, or use, of a controlled substance. Arrests alone are not sufficient evidence of criminal activity.

**Drug trafficking:** The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance.

**Economic self-sufficiency program:** Any program designed to encourage, assist, train or facilitate the economic independence of HUD-assisted families or to provide work for such families. These programs include programs for job training, employment counseling, work placement, basic skills apprenticeship, and any program necessary to ready a participant for work (including a substance abuse or mental treatment program), or other work activities.

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

**Elderly person:** A person who is at least 62 years of age.

**Evidence of citizenship or eligible status:** The documents that must be submitted to evidence citizenship or eligible immigration status.

Exception rent: An amount that exceeds the published fair market rent.

**Extremely low-income families:** A very-low-income family whose income does not exceed the higher of 30% of the median income for the area, as determined by HUD with adjustments for smaller and larger families or the Federal Poverty Level, except that HUD may establish income ceilings higher or lower than 30% of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

**Fair Housing Act:** Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.).

**Fair market rent (FMR):** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market areas to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. FMRs are published periodically in the Federal Register.

**Family:** A person or group of persons, as determined by the SCHC consistent with 24 FR 5.403, approved to reside in a unit with assistance under the program.

**Family Composition:** See definition of “family”

**Family members:** Include all household members except live-in aides, foster children and foster adults. All family members permanently reside in the unit, though they may be temporarily absent. All family members are listed on the HUD-50058.

**Family rent to owner:** In the Housing Choice Voucher program, the portion of rent to owner paid by the family.

**Family self-sufficiency program (FSS Program):** The program established by a Housing Commission to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

**Family share:** A portion of rent and utilities paid by the family.

**Family unit size:** The appropriate number of bedrooms for a family as determined by the Housing Commission under the Housing Commission's subsidy standards.

**50058 Form:** The HUD form that Housing Authorities are required to complete for each assisted household in public housing to record information used in the certification and re-certification process, and, at the option of the Housing Commission, for interim reexaminations.

**FMR/exception rent limit:** The Section 8 existing housing fair market rent published by HUD headquarters, or any exception rent. For a tenancy in the Housing Choice Voucher Program, the Housing Commission may adopt a payment standard up to FMR/exception rent limit.

**Full-time student:** A person who is carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended. An educational institution includes a vocational school with a diploma or Certificate Program, as well as an institution offering a college degree.

**Gender identity:** as defined at 24 CFR 5.100, means actual or perceived gender-related characteristics.

**Group Home:** A dwelling unit that is licensed by a state as a group home for the exclusive residential use of two (2) to twelve (12) persons who are elderly or persons with disabilities (including any live-in aid).

**Gross rent:** The sum of the rent to the owner plus any utilities.

**Head of household:** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

**Homeless:** An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

- a. An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground; or
- b. An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or
- c. An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution; or

Any individual or family who:

- a. Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member,

- including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence; and
- b. Has no other residence; and
  - c. Lacks the resources or support networks, e.g., family, friends, and faith-based or other social networks, to obtain other permanent housing.

**Household members:** Include all individuals who reside or will reside in the unit and who are listed on the lease, including live-in aides, foster children and foster adults.

**Housing Assistance Payment (HAP):** The monthly assistance by a Housing Commission, which includes (1) a payment to the owner for rent to the owner under the family's lease, and (2) an additional payment to the family if the total assistance payment exceeds the rent to owner.

**Housing quality standards (HQS):** The HUD minimum quality standards for housing assisted under the Section 8 program.

**Housing Choice Voucher:** A document issued by a Housing Commission to a family selected for admission to the Housing Choice Voucher Program. This document described the program and the procedures for Housing Commission approval of a unit selected by the family. The Housing Choice Voucher also states the obligations of the family under the program.

**Housing Choice Voucher holder:** A family that has an unexpired Housing Choice Voucher.

**Immediate Family Member:** Means, with respect to a person -

- A. A spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands in loco parentis; or
- B. Any other person living in the household of that person and related to that person by blood or marriage.

**Imputed income:** For households with net family assets of more than \$5,000, the amount calculated by multiplying net family assets by a HUD-specified percentage. If imputed income is more than actual income from assets, the imputed amount is used in determining annual income.

**Imputed welfare income:** The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is none the less included in the family's annual income for purposes of determining rent.

**Income category:** Designates a family's income range. There are three categories: low income, very low income and extremely low-income.

**Incremental income:** The increased portion of income between the total amount of welfare and earnings of a family member prior to enrollment in a training program and welfare and earnings of the family after enrollment in the training program. All other amounts, increases, and decreases, are treated in the usual manner in determining annual income.

**Independent student:** Defined as:

1. The individual is 24 years of age or older by December 31 of the award year;
2. The individual is an orphan, in foster care, or a ward of the court or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older;
3. The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence;
4. The individual is a veteran of the Armed Forces of the United States (as defined in subsection c)(1) of HEA) or is currently serving on active duty in the Armed Forces for other than training purposes;
5. The individual is a graduate or professional student;
6. The individual is a married individual;
7. The individual has legal dependents other than a spouse;

8. The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth (as such terms are defined in section 725 of the McKinney-Vento Homeless Assistance Act) (42 U.S.C. 11431 et seq.), or as unaccompanied, at risk of homelessness, and self-supporting, by—
- A local educational agency homeless liaison, designated pursuant to section 722(g)(1)(J)(ii) of the
  - McKinney-Vento Homeless Assistance Act;
  - The director of a program funded under the Runaway and Homeless Youth Act or a designee of the director;
  - The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (relating to emergency shelter grants) or a designee of the director; or
  - A financial aid administrator; or
9. The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

**Initial Housing Commission:** In portability, both (1) a Housing Commission that originally selected a family that later decides to move out of the jurisdiction of the selecting Housing Commission; and (2) a Housing Commission that absorbed a family that later decides to move out of the jurisdiction of the absorbing Housing Commission.

**Initial payment standard:** The payment standard at the beginning of the HAP contract term.

**Initial rent to owner:** The rent to owner at the beginning of the initial lease term.

**Interim (examination):** A reexamination of a household's income, expenses, and household status conducted between the annual re-certifications when a change in a household's circumstances warrant such a reexamination.

**Jurisdiction:** The area in which the Housing Commission has authority under State and local law to administer the program.

**Lease:** A written agreement between the owner and tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP Contract between the owner and the Housing Commission.

**Legal capacity:** The participant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

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

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

**Low-income families:** Those families whose incomes do not exceed 80% of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80% of the median for the area on the basis of HUD's findings that such variations are necessary because of usually high or low family incomes.

**Manufactured home:** A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence and meets the HQS.

**Manufactured home space:** In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space.

**Medical expenses:** 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.

**Mixed family:** A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

**Moderate rehabilitation:** Rehabilitation involving a minimum expenditure of \$1000 for a unit, including its prorated share of work to be accomplished on common areas or systems, to:

- a. Upgrade to decent, safe, and sanitary condition to comply with the Housing Quality Standards or other standards approved by HUD, from a condition below these standards (improvements being of a modest nature and other than routine maintenance); or
- b. Repair or replace major building systems or components in danger of failure.

**Monthly adjusted income:** One twelfth of adjusted income.

**Monthly income:** One twelfth of annual income.

**Mutual housing:** is included in the definition of “cooperative”.

**National:** A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

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

**Net family assets:**

- a. 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 home ownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.
- b. 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.
- c. In determining net family assets, housing authorities 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 or 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.

**Non-citizen:** A person who is neither a citizen nor national of the United States.

**Notice of Funding Availability (NOFA):** For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance, and the criteria for awarding the funding.

**Occupancy standards:** The standards that the Housing Commission establishes for determining the appropriate number of bedrooms needed to house families of different sizes or composition.

Owner: Any person or entity, including a cooperative, having the legal right to lease or sublease existing housing.

**Participant (participant family):** A family that has been admitted to the Housing Commission’s program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP

contract executed by the Housing Commission for the family (first day of initial lease).

**Payment standard:** In a Housing Choice Voucher tenancy, the maximum monthly assistance payment for a family (before deducting the total tenant payment by family contribution). For a Housing Choice Voucher tenancy, the Housing Commission sets a payment standard in the range from 90% to 110% of the current FMR.

**Permanently Absent:** A person or persons not actually residing in the unit who once lived there and does not intend to return. One becomes permanently when one vacates the unit.

**Person with disabilities:** A person who:

- a. Has a disability as defined in Section 223 of the Social Security Act,
 

“Inability to engage in any substantial, gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that 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 attained the age of 55 and is blind and unable 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.”
- b. Is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment that:
  1. is expected to be a long-continued and indefinite duration,
  2. substantially impedes his or her ability to live independently, and
  3. is of such a nature that such ability could be improved by more suitable housing conditions, or
- c. Has a developmental disability as defined in 42 U.S.C. 6001
 

“Severe chronic disability that:

  1. is attributable to a mental or physical impairment or combination of mental and physical impairments;
  2. is manifested before the person attains age 22;
  3. is likely to continue indefinitely;
  4. results in substantial functional limitation in three or more of the following areas of major life activity: (1) self-care, (2) receptive and responsive language, (3) learning, (4) mobility, (5) self-direction, (6) capacity for independent living, and (7) economic self-sufficiency; and
  5. reflects the person’s need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are lifelong or extended duration and are individually planned and coordinated.”

This definition does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

No individual shall be considered to be a person with disabilities for purposes of eligibility solely based on any drug or alcohol dependence.

**Personally Identifiable Information (PII):** 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 date and place of birth, mother’s maiden name, etc.

**Portability:** Renting a dwelling unit with Section 8 tenant-based assistance outside the jurisdiction of the

initial Housing Commission.

**Premises:** The building or complex in which the dwelling unit is located, including common areas and grounds.

**Private space:** In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

**Preservation:** This program encourages owners of eligible multifamily housing projects to preserve low-income housing afford ability and availability while reducing the long-term cost of providing rental assistance. The program offers several approaches to restructuring the debt of properties developed with project-based Section 8 assistance whose HAP contracts are about to expire.

**Processing entity:** The person or entity that is responsible for making eligibility and related determinations and an income reexamination. In the Section 8 and public housing programs the processing entity is the responsible entity.

**Proration of assistance:** The reduction in a family's housing assistance payment to reflect the proportion of family members in a mixed family who are eligible for assistance.

**Public Housing:** Housing assisted under the 1937 Act, other than under Section 8. Public Housing includes dwelling units in a mixed finance project that are assisted by PHA with capital or operating funds.

**Public Housing Agency:** A State, County, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing.

**Reasonable rent:** A rent to owner that is not more than charged: (a) for comparable units in the private unassisted market; and (b) for a comparable unassisted unit in the premises. Reasonable rent is further defined by PIH Notice 2020-19.

**Receiving Housing Commission:** In portability, a Housing Commission that receives a family selected for participation in the tenant-based program of another Housing Commission. The receiving Housing Commission issues a certificate or Housing Choice Voucher and provides program assistance to the family.

**Re-certification:** A reexamination of a household's income, expenses, and family composition to determine the household's rent for the following 12 months.

**Remaining member of a tenant family:** A member of the family listed on the lease who continues to live in an assisted household after all other family members have left.

**Rent to owner:** The monthly rent payable to the owner under the lease. Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

**Responsible Entity:**

1. For the public housing program, the Section 8 tenant-based assistance program (24 CFR 982), and the section 8 project-based certificate or Housing Choice Voucher program (24 CFR 983), and the Section 8 moderate rehabilitation program (24 CFR 882), responsible entity means the PHA administering the program under an ACC with HUD;
2. For all other Section 8 programs, responsible entity means the Section 8 project owner.

**Risk Assessment:** In the context of lead-based paint it means an on-site investigation to determine and report the existence, nature, severity, and location of lead-based paint hazards in residential dwellings, including:

- A. Information gathering regarding the age and history of the housing and occupancy by children under age 6;

- B. Visual inspection;
- C. Limited wipe sampling or other environmental sampling techniques;
- D. Other activity as may be appropriate; and
- E. Provision of a report explaining the results of the investigation.

**Sensitive Personally Identifiable Information:** PII that when lost, compromised, or disclosed without authorization could substantially harm an individual. Examples of sensitive PII include social security or driver's license numbers, medical records, and financial account numbers such as credit or debit card numbers.

**Set-up Charges:** In a manufactured home space rental, charges payable by the family for assembly, skirting and anchoring the manufactured home.

**Sexual assault:** any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

**Sexual Orientation:** as defined by 24 CFR 5.100, means homosexuality, heterosexuality, or bisexuality.

**Shared Housing:** A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family.

**Shelter Allowance:** That portion of a welfare benefit (e.g., TANF) that the welfare agency designates to be used for rent and utilities.

**Single person:** Someone living alone or intending to live alone who does not qualify as an elderly person, a person with disabilities, a displaced person, or the remaining member of a tenant family.

**Single room occupancy housing (SRO):** A unit for occupancy by a single eligible individual capable of independent living that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities.

**Special Admission:** Admission of an applicant that is not on the Housing Commission waiting list, or without considering the applicant's waiting list position.

**Special housing types:** Special housing types include SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

**Specified welfare benefit reduction:**

- A. A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program.  
  
"Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:
- B. At the expiration of a lifetime or other time limit of the payment of welfare benefits;
- C. Because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activity requirements; or
- D. Because a family member has not complied with other welfare agency requirements.

**Stalking**: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) Fear for the person's individual safety or the safety of others; or (2) Suffer substantial emotional distress.

**State Wage Information Collection Agency (SWICA)**: The State agency receiving quarterly wage reports from employers in the State, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

**Statement of family responsibility**: An agreement in the form prescribed by HUD, between the Housing Commission and a Family to be assisted under the Moderate Rehabilitation Program, stating the obligations and responsibilities of the family.

**Subsidy standards**: Standards established by a Housing Commission to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

**Suspension**: Stopping the clock on the term of a family's certificate or Housing Choice Voucher, for such period as determined by the Housing Commission, from the time when the family submits a request for Housing Commission approval to lease a unit, until the time when the Housing Commission approves or denies the request. Also referred to as tolling.

**Temporarily Absent**: A person or persons not actually residing in a unit for a period of time while still maintaining control of the unit. If the absence exceeds 30 calendar days, the Housing Commission must agree with the absence.

**Tenant**: The person or person (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

**Tenant rent**: The amount payable monthly by the family as rent to the owner minus any utility allowance.

**Third-party (verification)**: Oral or written confirmation of a household's income, expenses, or household composition provided by a source outside the household, such as an employer, doctor, school official, etc.

**Threatening**: Refers to oral or written threats or physical gestures that communicate an intent to abuse or commit violence. Actual physical abuse or violence will always be cause for termination.

**Tolling**: See suspension.

**Total tenant payment (TTP)**: Total tenant payment is the amount calculated under Section 3(a)(1) of the 1937 Act, which is the higher of:

- a. 30% of the family's monthly adjusted income;
- b. 10% of the family's monthly income;
- c. Minimum rent; or
- d. If the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under Section 3(a)(1) shall be the amount resulting from one application of the percentage.

**Tuition**: The amount of tuition and required fees covering a full academic year most frequently charged to students. These values represent what a typical student would be charged and may not be the same for all students at an institution. If tuition is charged on a per-credit-hour basis, the average full-time credit hour

load for an entire academic year is used to estimate average tuition. Required fees include all fixed sum charges that are required of a large proportion of all students. The student who does not pay the charges is an exception. Verification of tuition and fees can be obtained from the student's bill or annual statement, by contacting the bursar's office, or from the school's website.

Examples of required fees include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program).

Expenses related to attending an institution of higher education must not be included as tuition. Examples of these expenses include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed sum charges.

For section 8 programs only, PHAs must include amounts of financial assistance an individual receives in excess of tuition and other required fees and charges when determining annual income.

For the Public Housing program, the full amount of financial assistance a student receives while participating in the program continues to be excluded from the program participant's annual income.

**Utility allowance:** If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a Housing Commission of HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

**Utility Hook-up Charge:** In a manufactured home space rental, costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

**Utility reimbursement:** In the Housing Choice Voucher program, the portion of the housing assistance payment that exceeds the rent to owner. It is only paid when the housing assistance payment exceeds the rent to owner. In the certificate program, if the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

**VAWA:** The Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e et seq.).

**Verification:** The process of obtaining statements from individuals who can attest to the accuracy of the amounts of income, expenses, or household member status (e.g., employers, public assistance agency staff, doctors).

The three types of verification are:

- a. Third-party verification, either written or oral, obtained from employers, public assistance agencies, schools, etc.
- b. Documentation, such as a copy of a birth certificate or bank statement
- c. Family certification or declaration (only used when third-party or documentation verification is not available).

**Very low-income families:** Low-income families whose incomes do not exceed 50% of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families. [1937 Act]

**Violent criminal activity:** Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another. Arrests alone are not sufficient evidence of criminal activity.

**Voucher Holder**: A family holding a housing choice voucher with unexpired search time.

**Waiting list admission**: An admission from the Housing Commission waiting list. [24 CFR 982.4]

**Welfare Assistance**: Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, State, or local governments (including assistance provided under the Temporary Assistance for Needy Families (TANF) program, as that term is defined under the implementing regulations issued by the Department of Health and Human Services at 45 CFR 260.31).

**45 CFR 260.31**: Defines the term “assistance” to include cash, payments, Housing Choice 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).

It includes such benefits even when they are:

- a. Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and
- b. Conditioned on participation in work experience or community service (or any other work activity under 45 CFR 261.30).

Except where excluded later in this definition, it also includes supportive services such as transportation and childcare provide to families who are not employed.

The term “assistance” excludes:

- a. Non-recurrent, short-term benefit that:
  2. Are designed to deal with a specific crisis situation or episode of need;
  3. Are not intended to meet recurrent or ongoing needs; and
  4. Will not be extended beyond four months.
- b. Work subsidies (i.e., payments to employers or third parties to help cover costs of employee wages, benefits, supervision, and training);
- c. Supportive services such as childcare and transportation provided to families who are employed;
- d. Refundable earned income tax credits;
- e. Contributions to, and distributions from, Individual Development Accounts;
- f. Services such as counseling, case management, peer support, childcare information, and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and
- g. Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of the acts, to an individual who is not otherwise receiving assistance.

**Welfare rent**: In “as-paid” welfare programs, the amount of the welfare benefit designated for shelter and utilities.

**Welfare - to - Work (WTW) families**: Families assisted with Housing Choice Voucher funding awarded under the HUD welfare-to-work Housing Choice Voucher program.

**Written Notification**: All written notifications required in this policy shall be hand delivered with a signed receipt or mailed via first class mail unless specified otherwise.

## ACRONYMS

ACC	Annual Contribution Contract
CACC	Consolidated Annual Contributions Contract
CFR	Code of Federal Regulations
EIV	ENTERPRISE INCOME VERIFICATION (SYSTEM)
FMR	Fair Market Rent
FSS	Family Self-Sufficiency (program)
HA	Housing Authority
HAP	Housing Assistance Payment
HCDA	Housing and Community Development Act
HQS	Housing Quality Standards
HUD	Department of Housing and Urban Development
INS	(U.S.) Immigration and Naturalization Service
NAHA	(Cranston-Gonzalez) National Affordable Housing Act
NOFA	Notice of Funding Availability
OMB	(U.S.) Office of Management and Budget
PBC	Project-Based Certificate (program)
SCHC	St. Clair Housing Commission
QHWRA	Quality Housing and Work Responsibility Act of 1998
PHA	Public Housing Agency
TTP	Total Tenant Payment
UIV	Upfront Income Verification (system)