

# Memphis Housing Authority



## Administrative Plan

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*Submitted to:*  
Memphis Housing Authority  
700 Adams Ave  
Memphis, TN 38105

*Submitted by:*  
Quadel Consulting and Training, LLC  
1200 G St. NW  
Washington DC 20005



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# CHAPTER 1: Program Authority and Objectives

## [United States Housing Act of 1937](#)

The Memphis Housing Authority (MHA) manages the Housing Choice Voucher (HCV) Program and other housing programs in the geographic area covering the City of Memphis and County of Shelby, Tennessee. Through MHA's assisted housing programs, eligible families are provided the opportunity to obtain decent, safe sanitary and affordable rental housing in the private market. In order to receive assistance in a particular unit, the family, owner and unit must meet the requirements established by HUD regulation and those specified in this Plan. The HCV program strives to provide these households with housing choices and the opportunity to move outside areas with a concentration of low income households.

Administration of MHA's Housing Programs is in compliance with MHA's policies and procedures, the Department of Housing and Urban Development's (HUD) regulations, and all applicable Federal, State and local fair housing laws.

## Applicable Regulations

- [24 CFR Part 5](#): General Program Requirements
- [24 CFR Part 8](#): Nondiscrimination
- [24 CFR Part 903](#): Public Housing Agency Plans
- [24 CFR Part 982](#): Section 8 Tenant Based Assistance
- [24 CFR Part 983](#): Project Based Vouchers
- [24 CFR Part 985](#): Section 8 Management Assessment Program
- [24 CFR Part 100](#): Discriminatory Conduct Under the Fair Housing Act

## MHA Mission

The Memphis Housing Authority's mission is to drive community revitalization through a seamless system.

## Purpose of the Administrative Plan

The Administrative Plan (Plan) establishes policies for implementation and administration of the Housing Choice Voucher Program administered by MHA. The Plan covers both admission to and continued participation in the Housing Choice Voucher program.

## Interpretation

The policies set forth herein shall be interpreted, implemented and acted upon in relation to the laws of the United States and the State of Tennessee, and all rules, regulations and policies enacted, enforced or promulgated by the United States Department of Housing and Urban Development, all of which shall take precedence over the Policies and Procedures described in this Administrative Plan and all of which are incorporated herein by reference and all current rules, regulations and policies, including, but not limited to, Income Limits, Utility Schedules and Fair Market Rents, shall be in accordance with Federal law.

Issues not addressed in this document related to applicants, participants and owners are governed by the Department of Housing and Urban Development Code of Federal Regulations, HUD guidance, or

other applicable law. When circumstances arise and are not addressed by provisions in this Plan, they will be reviewed on a case-by-case basis. If a conflict arises between or among the regulations identified in this Plan, the regulations specifically stated for the applicable program will take precedence.

## **Approval of Plan and Use of Administrative Fee Reserves**

### **Amendment**

The policies outlined herein shall be amended by resolution adopted by the affirmative vote of the MHA Board of Commissioners upon recommendation by MHA. No action shall be required to make changes required by laws of the United States or the State of Tennessee or any rules, regulations and policies enacted, enforced or promulgated by the United States Department of Housing and Urban Development, all of which shall take precedence over the herein expressed Policies, and all of which are incorporated herein by reference. MHA Board of Commissioners will be notified of any subsequent changes that may be effective through new Federal regulations.

### **Reserves**

Expenditures from the administrative fee reserve of the HCV program in excess of \$100,000 will be approved by the MHA Board of Commissioners. The Executive Director or his designee must approve expenditures of less than \$100,000.

## **CHAPTER 2: General Administrative Provisions and Fair Housing Policies**

### **Confidentiality and Privacy**

[24 CFR 5.212](#); [HUD Form 9886](#)

It is the policy of MHA to guard the privacy of applicants and participants, and ensure the protection of records in accordance with the Privacy Act of 1974. MHA will not disclose any personal information (including, but not limited to information on any disability) contained in its records to any person or agency unless the individual about whom the information is requested gives written consent to such disclosure, or as required by law.

This privacy policy does not limit MHA's ability to collect such information as it may need to determine eligibility, compute housing assistance, and does not prohibit MHA from disclosing information to local law enforcement if the participant is suspected of being involved in criminal or illegal activity.

All applicant and participant information will be kept in a secure location and access will be limited to authorized MHA staff. MHA staff will not discuss personal family information unless there is a business reason to do so.

Prior to utilizing HUD's EIV system, MHA will adopt and implement EIV security procedures required by HUD.

### **Record Retention**

[24 CFR 908.101](#); [24 CFR 35 Subpart B](#)

MHA will keep all documents related to a family's eligibility, tenancy, and termination in accordance with HUD requirements and MHA's Records Retention and Disposition policy.

### **Nondiscrimination Policy**

[Fair Housing Act \(42 U.S.C\)](#); [Section 504 of the Rehabilitation Act of 1973](#); [Joint Statement of HUD and DOJ 5/17/14](#) and [24 CFR 982.54\(d\) \(6\)](#); [982.301\(b\) \(10\)](#); [982.304](#)

MHA provides information regarding Fair Housing and discrimination in housing on its website, in outreach materials, posters at its office, in the family briefing session and program packets, and owner meetings. When needed, MHA will also assist with how to fill out and file a housing discrimination complaint.

#### **Complying with Civil Rights Laws**

It is the policy of the MHA to comply with all federal, state and local non-discrimination laws, rules and regulations governing fair housing and equal opportunity in housing and employment now in effect and subsequently enacted, including, but not limited to:

- [Title VI of the Civil Rights Act of 1964](#), which forbids discrimination on the basis of race, color, religion, national origin or sex.

- [Title VIII of the Civil Rights Act of 1968](#) (as amended by the 1974 HCDA and the Fair Housing Amendments Act of 1988), which extends protection against discrimination based on disability and familial status, and spell out forms of prohibited discrimination
- [Executive Order 11063](#)
- [Section 504 of the Rehabilitation Action of 1973](#), which describes specific housing rights of persons with disabilities
- [Age Discrimination Act of 1975](#)
- [Title II of the Americans with Disabilities Act](#), otherwise Section 504 and the Fair Housing Amendments govern (Title II deals with common areas and public space, not living units)
- [Violence Against Women Reauthorization Act 2013](#) (VAWA)
- [Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity](#), also known as the “Equal Access Rule”
- Any applicable State laws or local ordinances that may apply, including those pertaining to Fair Housing or any legislation protecting the individual rights of residents, applicants or staff which may be subsequently enacted.

MHA’s housing programs are open to all eligible individuals regardless of sexual orientation, gender identity or marital status. MHA will not inquire about the sexual orientation or gender identity of an applicant or participant for purposes of determining eligibility or otherwise making such housing available. However, MHA may inquire about a person’s sex in order to determine the number of bedrooms a household may be eligible for under the occupancy standards or to accurately complete HUD’s 50058. MHA will not discriminate because of race, color, marital status, sexual orientation, national or ethnic origin or ancestry, sex, religion, age, familial status, source of income, or disability in the leasing, rental, occupancy, use, or other disposition of housing or related facilities.

Upon receipt of a complaint from an applicant or participant alleging a violation of the Equal Access Rule, MHA will determine if a program violation occurred, provide written notice and implement appropriate corrective action(s). MHA may also advise the family to file a Fair Housing complaint if the family feels they have been discriminated against under the Fair Housing Act.

Applicants or participant families who believe that they have been subject to unlawful discrimination may notify MHA either orally or in writing. Notifications made orally will be documented in writing by MHA staff including but not limited to: complaint description, applicant/participant name, date, and MHA staff taking complaint. MHA will attempt to remedy discrimination complaints made against MHA. MHA will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD’s Office of Fair Housing and Equal Opportunity (FHEO).

## **Owner Nondiscrimination Requirements**

[Form HUD 52641; PIH 2014-20](#)

MHA requires owners to comply with all applicable laws and statutes. In agreeing to participate in MHA’s housing choice voucher programs, the owner must abide by the Housing Assistance Payments (HAP) contract, which prohibits discrimination and requires that the owner:

- Not discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, national origin, age, familial status, or disability in connection with the contract; and,
- Cooperate with MHA and HUD in conducting equal opportunity compliance reviews and investigation.

## **Family Outreach and Affirmative Marketing**

[24 CFR Part 903.2](#) and [24 CFR 903.7](#)

MHA publicizes and disseminates information concerning the availability and nature of housing assistance to income eligible families. As part of the briefing process and on-going education, MHA will provide information to HCV families about the opportunity to rent in a broad range of neighborhoods, including:

- A listing service of available rental property and owners;
- A description of portability provisions available in the Housing Choice Voucher program;
- A map that identifies areas within the City of Memphis and County of Shelby that are areas of low poverty and minority concentrations, and other general information (e.g. bus lines, schools, shopping centers, etc.); and
- Other information as required

Voucher holders are informed of the full range of areas within MHA's jurisdiction where they may lease units, and have access to the free rental listing service ([TNHousingSearch.org](http://TNHousingSearch.org)) which includes units outside areas of poverty or minority concentration and units with accessibility features.

When MHA's waiting list is open, MHA will publicize the availability and nature of housing assistance through a wide variety of sources including local and State newspapers, minority media, minority civic clubs, places of worship, service agencies, and broadcast media. Efforts will be made to notify local officials, government agencies, and agencies that specifically address the needs of individuals with disabilities.

MHA will monitor the characteristics of the population being served and the characteristics of the population as a whole in MHA's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved. Specific eligibility information regarding the Special Needs set-aside program will be made available to local service providers when vouchers are set-aside.

## **Owner Outreach**

MHA encourages program participation by owners of units located outside areas of poverty or minority concentration. MHA provides program information and printed materials to local realtors, agents, apartment associations and any interested landlords. MHA staff will be available to make presentations about the Housing Choice Voucher Program to these groups.

MHA utilizes a third party web site ([TNHousingSearch.org](http://TNHousingSearch.org)) to provide rental listings of units available for the Housing Choice Voucher Program including (1) units specially designed or adapted for persons with disabilities, and those who may be willing to adapt units, to participate in the program; and (2) units

outside areas of poverty or minority concentration. Whenever a local property owner lists their property on [TNHousingSearch.org](http://TNHousingSearch.org), they have the opportunity to indicate what the units' accessibility features may be. Rental listings may include photographs and details about the unit. This website is accessible from any device with internet connection, twenty four hours a day, seven days per week. Special computers are set up in the HCV lobby and available to the public during normal business hours.

## **Communication and Written Notification**

[24 CFR 982.5](#)

When written notification is required from MHA to an applicant, participant or owner, MHA may deliver such notification via USPS mail, facsimile, email, text message or other electronic means at MHA's discretion. MHA may request that applicants, participants and owners provide email addresses, cellular telephone numbers and fax numbers. MHA will require a current mailing address be provided and will send written notification via USPS mail when other contact options (e.g. email/fax/text) are not available or the means to receive communication by other delivery mechanisms is not available.

## **Language Assistance Plan and Limited English Proficiency**

[Federal Register 1/22/07](#), [24 CFR 1](#)

MHA is committed to providing meaningful access to its programs and services to all eligible persons, including those who have Limited English Proficiency because of their national origin. MHA will take affirmative steps to communicate with people who need services or information in a language other than English. LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this Policy, LEP persons are HCV program applicants and participant families.

Based on U.S. Census data and the practices of other organizations within the jurisdiction, MHA has determined that the majority of participants speak English.

Although the Census Data revealed that less than 10% of the residents in MHA's jurisdiction speak languages other than English as a first language, MHA has implemented a plan to ensure that the entire local population, including those with LEP, is adequately provided meaning access to its programs and activities, without discrimination. MHA shall provide high quality customer service to persons with Limited English Proficiency as follows:

- Assist applicants and residents with issues related to MHA's housing programs and by providing information about the resources available for LEP families and how to access those resources.
- Vital documents, letters and signs to be posted in public places are translated in English.

Policies and practices are designed to provide assurances that all persons with disabilities are provided reasonable accommodation so that they may fully access and utilize the housing program and related services. The availability of specific accommodations may be made known by including notices on forms and letters to all families, and all requests may be verified so that these needs can be properly accommodated. All mailings may be made available in an accessible format upon request, as a reasonable accommodation. Organizations that provide assistance for hearing-impaired and sight-impaired persons may be utilized.

A. Language Assistance

1. If an individual asks for language assistance and MHA determines that the individual is an LEP Individual and that language assistance is necessary to provide Meaningful Access, MHA will make reasonable efforts to provide free language assistance. If reasonably possible MHA will provide this language assistance in the LEP Individual's preferred language. MHA has the discretion to determine whether language assistance is needed, and if so, the type of language assistance necessary to provide Meaningful Access.
2. Language assistance includes interpretation, which means oral or spoken transfer of a message from one language into another language, and/or translation, which means the written transfer of a message from one language into another language. When necessary, MHA shall make oral and written interpretation services available for all LEP Individuals.
3. MHA will re-evaluate these procedures as necessary based upon requests for interpreters and/or translation to determine if any changes are necessary.

B. Translation of Documents

In determining whether it is feasible to translate documents into other languages, MHA will consider the following factors:

1. The number of applicants and participants who do not speak English and speak another language for adequate understanding.
2. The cost per client of translating the documents into another language.
3. In determining whether it is feasible to provide translation of documents written in English into other languages, the following factors will be considered:
  - Number of applicants and participants in the jurisdiction who do not speak English and speak the other language.
  - Estimated cost per client of translation of English written documents into the other language.
  - The availability of organizations to provide translation services to families.
4. The availability of translation and/or interpreter services in MHA's jurisdiction. At a minimum, MHA will prepare the following information in a clearly written format:
  - Marketing and informational material;
  - Application process information;
  - The application;
  - All form letters and notices to the applicant/participant;
  - The PHA's general policy regarding reasonable accommodation;
  - New participant orientation materials;
  - The voucher and any applicable program rules;
  - Information on opening, closing and up-dating the waiting list; and
  - All information related to applicant/participant rights (informal/formal hearings, grievance procedures, etc.).

Documents intended for use by applicants and participants will be simple and clearly written to enable applicants with learning or cognitive disabilities to understand as much as possible. Sign language interpreters may be provided for hearing-impaired applicants and participants if requested



as a reasonable accommodation. For applicants and participants unable to read, staff will read and explain orally any documents they would normally provide to an applicant/participant to be read or filled out. Staff will assist in completing forms and other required documents for persons unable to write.

C. LEP Plan Distribution and Training

The LEP Plan will be:

1. Distributed to all staff likely to communicate with LEP Individuals.
2. Explained in training sessions for supervisors and other staff likely to communicate with LEP Individuals.

## **Reasonable Accommodation**

### [24 CFR Part 8](#)

This policy applies to applicants and participants. A reasonable accommodation is a change, modification, alteration or adaptation in a policy, procedure, practice, program or facility that is necessary for a qualified individual with a disability to have the opportunity to participate in, and benefit from a program or activity.

MHA will ask all applicants and participant families if they require any type of accommodations, in writing, on the application, reexamination documents, and notice of adverse action. The notice will include the name and phone number of the MHA contact person for requests for accommodation for persons with disabilities.

MHA will encourage the family to make its request in writing using a reasonable accommodation request form. However, MHA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted. If the request is made orally, MHA will document the request in writing including: request specifications, family name, date, and MHA staff taking request.

If a person with a disability requests an accommodation to an existing rule, policy, practice, or service in order to fully access and utilize MHA's housing programs and related services, MHA will verify and evaluate the request. MHA is not required to make changes that would fundamentally alter the program or create an undue financial and administrative burden.

### Legal Authority

This Policy is in compliance with the statutory requirements listed below:

- [Section 504 of the Rehabilitation Act of 1973](#) (Section 504);
- [Titles II and III of the Americans with Disabilities Act of 1990](#) (ADA);
- [The Fair Housing Act of 1968](#), as amended (Fair Housing Act);
- [The Architectural Barriers Act of 1968](#); and
- [24 C.F. R. Parts 8](#)

## Definition of Disability

Person with disabilities is a person who:

- Has a disability, as defined in [42 U.S.C. 423](#);
- Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
  - Is expected to be of long-continued and indefinite duration;
  - Substantially impedes his or her ability to live independently, and
  - Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
  - Has a developmental disability as defined in [42 U.S.C. 6001](#).
- Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome;
- For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence; and
- Means “individual with handicaps”, as defined in § [8.3](#) of this title, for purposes of reasonable accommodation and program accessibility for persons with disabilities.

## Examples of Reasonable Accommodations

- Allowing a larger unit size
- Allowing a live-in aide, with the owner’s approval
- Allowing a service animal, with the owner’s approval
- Alternative measures instead of termination
- Rescheduling appointments and/or hearings
- Attendance at a hearing of any other person approved by MHA
- Permitting an outside agency or family member to assist in an interview or meeting
- Permitting applications and reexaminations to be completed by mail

## Live in Aide

[24 CFR 5.403](#); [24 CFR 8](#); [24 CFR 5.609\(c\)\(5\)](#)

MHA will approve a live-in aide if needed for families with an elderly member or as a reasonable accommodation to make the program accessible to and usable by a family member with disabilities.

Live-in aide means a person who resides with one or more elderly persons or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons
- Is not obligated for the support of the persons, and
- Would not be living in the unit except to provide the necessary supportive services

A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and will not be considered a remaining member of a participant family.

A family's request for a live-in aide must be made in writing and is subject to MHA verification and approval. For continued approval, the family must submit a new, written request, subject to MHA verification at each annual reexamination or as required by MHA.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is:

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

MHA has the discretion not to approve a particular person as a live-in aide, and may withdraw such approval, if the person:

- Does not meet MHA's eligibility criteria
- Would cause the current unit to become overcrowded according to MHA standards and local codes
- Does not meet other applicable MHA criteria as stated in this plan

## **Physical Impairment**

[24 CFR Part 8.6](#)

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication is available at MHA office.

When visual aids are used in meetings or presentations, one-on-one assistance will be provided upon request.

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

## **Violence against Women Reauthorization Act (VAWA)**

[Violence Against Women Reauthorization Act 2005](#); [24 CFR 5.2005 \(b\), \(d\), \(e\)](#); [24 CFR 5.2003](#); [24 CFR 5.2009](#); [24 CFR 5.2007 \(a\)\(1\)\(v\)](#)

This Policy is applicable to all federally subsidized public housing administered by MHA, including the HCV program. MHA will not discriminate against an applicant or participant on the basis of the rights or privileges provided under the VAWA. This policy is gender-neutral, and its protections are available to persons who are victims of domestic violence, dating violence, sexual assault or stalking.

Neither VAWA nor this Policy implementing it will preempt or supersede any provision of Federal, State or local law that provides greater protection under VAWA for victims of domestic violence, dating violence, sexual assault or stalking (VAWA-protected acts or threatened acts of violence).

Per the requirements of the Violence Against Women Reauthorization Act of 2013 (VAWA), and as incorporated into the HAP Contract and Tenancy Addendum, MHA and unit owners/managers shall not

consider an incident or incidents of actual or threatened domestic violence, dating violence, stalking or sexual assault as serious or repeated violations of the lease or other “good cause” for termination of the assistance, tenancy, or occupancy rights of a victim of abuse.

Criminal activity directly related to abuse, engaged in by a household member, guest or other person under the tenant’s control, shall not be cause for denial of admission, termination of assistance, tenancy or occupancy rights if a member of the tenant’s immediate family is the victim or threatened victim of that abuse.

If an assisted household member engages in criminal acts of physical violence against family members or others, MHA may terminate assistance to the offending household member, or an owner/manager may “bifurcate” a lease, or otherwise remove the household member from the lease, in order to evict, remove, terminate occupancy rights, or terminate assistance for any individual who is a tenant or lawful occupant. These actions may be taken without penalizing the victim.

These statements do not limit the authority or ability of a unit owner/manager to evict, or MHA to terminate assistance to any tenant under program guidelines if either party can demonstrate an “actual and imminent threat” to other tenants or persons employed at or providing services to the property.

An assisted family may receive a voucher and move in violation of the lease under MHA’s portability policy if the family has complied with all other obligations of the voucher program and 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, stalking or sexual assault and who reasonably believed he or she was imminently threatened if he or she remained in the assisted dwelling unit.

MHA will request in writing that a family that seeks to move to another unit or prevent eviction, removal, termination of occupancy rights, or termination of assistance under a claim of abuse complete HUD-Form 50066, Certification of Domestic Violence, Dating Violence, Stalking or Sexual Assault. The victim shall provide the name of the perpetrator on the form only if the name of the perpetrator is safe to provide and is known to the victim. In lieu of, or in addition to the form, a victim may provide to MHA:

- a document that is signed by the applicant, participant, or tenant and an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional who assisted the victim relating to domestic violence, dating violence, sexual assault, or stalking. The professional must state, under penalty of perjury, that he or she believes that the abuse meets the requirements under VAWA;
- a Federal, State, tribal, territorial, or local police or court record;
- a record of an administration agency; or
- a statement or other evidence provided by the applicant, participant, or tenant at the discretion of MHA or the landlord.

The victim of the actual or threatened violence or stalking must complete the HUD Certification of Domestic Violence, Dating Violence, Stalking or Sexual Assault within 14 business days of receiving the written request for the certification from MHA. If the family member has not provided the requested certification by the 14th business day or any extension of the date provided by MHA, none of the

protections afforded to victims of domestic violence, dating violence, stalking or sexual assault (collectively “domestic violence”) will apply. MHA, at its discretion, may extend the 14-day deadline.

All information provided by the victim to an MHA employee or unit owner/manager relating to an incident of domestic violence, including the fact that an individual is a victim of domestic violence, dating violence, stalking or sexual assault must be retained in confidence and neither entered into any shared database nor provided to any related party, except to the extent that the disclosure is:

- Requested or consented by the individual in writing;
- Required for use in an eviction proceeding or termination of assistance; or,
- Otherwise required by applicable law.

MHA shall cooperate with organizations and entities that provide shelter or services to victims of domestic violence, dating violence, sexual assault, or stalking. If MHA staff becomes aware that an assisted person is a victim of domestic violence, dating violence, sexual assault, or stalking, MHA will refer the victim to shelter or other service providers as appropriate. This Policy does not create any legal obligation requiring MHA to maintain a relationship with a particular shelter or service provider to victims or to make a referral in any particular case.

## CHAPTER 3: Applying to the Program and Waiting List

### Application Process

When the HCV program waiting list is open, MHA uses a two-step application process. Under the two-step application process, MHA initially will require families to provide only the information needed to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and the amount of rent the family will pay when selected from the waiting list.

MHA will announce the reopening of the waiting list prior to the date pre-applications will first be accepted. If the list is only being reopened for a specified time-period or to certain categories of families, this information will be contained in the notice. MHA will advertise through a wide variety of sources including local and State newspapers, minority media, minority civic clubs, places of worship, service agencies, and broadcast media. An effort will also be made to notify elected officials, government agencies and other agencies that specifically address the needs of individuals with disabilities.

Completed pre-applications must be submitted in the manner specified (e.g. post office box or address; on-line via the internet). MHA reserves the right to accept pre-applications electronically via the internet or other automated system (including via telephone and/or with assistance from an MHA-authorized third-party via telephone) as deemed appropriate. MHA does not charge any fee for any part of the HCV pre-application or application process. No one will be denied the right to submit a pre-application when the HCV waiting list is open. When the HCVP waiting list is open, MHA will offer all applicants the opportunity to be listed on other MHA Program waiting lists, if open.

Accommodations will be made for interested, disabled applicants. In the event that on-line applications are utilized and an applicant needs assistance completing or submitting the on-line application, assistance may be provided over the phone or via other means as identified by MHA.

Only those pre-applications received by the due date as indicated by a postmark or other appropriate electronic submission verification tool during the time-period specified by MHA will be accepted as eligible pre-applications.

All fully complete pre-applications submitted will be placed on a list which will be used to create the waiting list for assistance. Duplicate pre-applications will be removed so that each applicant has only one opportunity to be placed in the random selection process. Applicants who have not completed their pre-applications will not be placed on the list for the random selection process. Applicants who submit pre-application forms after the closing date for submission will not be placed on the list for the random selection process.

An applicant is deemed preliminarily ineligible and not placed on MHA waiting list if:

- Currently housed in the same program and listed as the head of household or co-head of household.
- The pre-application is incomplete or missing required information.

At the time families are invited to complete a full application form, information provided will be verified by MHA, based on the criteria described in this Plan. Families that do not meet the income limits, other eligibility criteria, or do not provide the appropriate information will be determined ineligible.

## **Opening and Closing the Waiting List**

[24 CFR 982.206](#)

MHA may at its discretion open and close the waiting list.

The decision to close the waiting list will be based on the availability of HUD funding.

MHA will announce the reopening of the waiting list prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

MHA will advertise through a wide variety of sources including local and State newspapers, minority media, minority civic clubs, places of worship, service agencies, and broadcast media. An effort will also be made to notify elected officials, government agencies and other agencies that specifically address the needs of individuals with disabilities.

All notices and advertisements announcing the opening of the waiting list will include:

- The dates the list will be open;
- The office hours and location where applications are available and will be accepted;
- The availability of Housing Choice Vouchers;
- Eligibility guidelines;
- Preferences and methodology for the selection of applicants; and
- Any limitations which may apply.
- Instructions for electronic submission of applications in the event such technology is available.

## **Maintaining the Waiting List**

MHA maintains a single wait list for the Housing Choice Voucher and Project Based Voucher Programs.

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

- Name and address of head of household
- Number of family members
- Social security number (head of household)
- Random Wait List Selection Number
- Date of application
- Other criteria as deemed necessary by MHA or HUD

## Updating the Waiting List

The waiting list will be updated as needed to ensure that all applicant information is current. Failure to respond to MHA notices will result in the applicant being removed from the waiting list without further notice.

When a family is removed from the waiting list during the update process for failure to respond, no informal review will be offered. Such failures to act on the part of the applicant prevent MHA from making an eligibility determination; therefore no informal review is required.

If the family is removed from the waiting list for failure to respond, they will not be entitled to reinstatement unless verification of the following is received within the designated timeframe in MHA's initial notice or determination:

- The applicant provides evidence that a change of address was submitted to MHA prior to the notice being issued by MHA;
- During the time of any waiting list update or, at the time of notification for an interview, the applicant could not respond. For example, the applicant was incapacitated due to hospitalization or was unavailable due to active participation on Jury Duty;
- As a result of a data entry error, MHA computer system incorrectly recorded the address of the applicant; and, therefore, the applicant was improperly withdrawn from the waiting list for failure to respond to a MHA notice; or
- The applicant is a person with a disability who requires an alternative form of communication other than one normally used by MHA, and the applicant informed MHA, in advance, of the proper means of communication, as required by regulations.

At the time MHA conducts an opening of the waiting list to establish a new waiting list, no further requests for re-instatement will be accepted or considered from applicants claiming to have been on any prior waiting list. When MHA decides to update the Housing Choice Voucher waiting list, it will notify the applicants on the waiting list requesting updated information. The intent of the notification is also to determine whether the applicant is still interested in the Housing Choice Voucher Program.

Notices will be made available in accessible format upon the request of a person with a disability. An extension to reply to the update notification will be considered as a reasonable accommodation if requested by a person with a disability.

### Changes to Family Composition While on Waiting List

Changes to the family composition after an application has been submitted include addition of family members born to, adopted or otherwise granted custody to the family by operation of the law, which may include foster children, live in aides and spouses, provided the additional family member(s) meet all applicable waiting list requirements and remain eligible for the waiting list. MHA will require documentation that the head of household has authorization to include a minor as part of the household. Court approved custody or guardianship is not the only mechanism for establishing that a head of household has authorization to include a minor in the family composition.

Changes to the family composition may also be allowed for families in which one or more children less than eighteen years of age live with the designee of the parent or legal custodian, with the parent or custodians' written consent. Documentation can include but is not limited to court documents, pre-



need guardian, school records, other state and federal public assistance documentation, or durable powers of attorney. All other additions to the family shall be considered only on a case-by-case basis and must be documented at the time such changes occur. These additions may include immediate family members (sons, daughters, siblings, parents, grandparents, grandchildren) and may be made for humanitarian or extraordinary reasons.

## **Removal from the Waiting List**

All applicants are responsible for updating MHA regarding address changes. MHA will remove applicants from the waiting list if:

- The applicant has requested that their name be removed. In such cases, no informal review is required.
- The applicant has failed to advise MHA of his/her continued interest in the housing choice voucher program. This includes failing to notify MHA of any changes in family status, address, etc. and/or responding to MHA correspondence, even if no correspondence was received by the applicant because of a change of address.
- The applicant has failed to attend scheduled appointments and/or provide documentation in the required timeframes.
- MHA determines that the family is not eligible for admission at any time prior to admission.

## **Waiting List Placement and Selection**

Only applicants who submitted complete pre-applications prior to the deadline will be placed on the list for selection in the random selection process. Applicants who did not submit complete pre-applications or submitted the pre-application after the deadline will not be placed on the list for selection for the random selection process. Applicants selected in the computerized random selection process will receive notification that they have been placed on the waiting list. MHA may enhance addresses provided by applicants and/or in its system of record to standardize and/or make minor corrections to the address so that it is compliant with USPS regulations for mail delivery.

Once the list of all applicants has been created, families will be selected for the waiting list based upon a computerized random selection process. The waiting list will consist of the pre-determined number of families to be selected, in numeric order, based upon the random selection sequence of their pre-applications. Families will be selected from the waiting list in numeric order, based on a family's assigned sequential number with consideration provided for eligible preference/s. When a family is selected from the waiting list, the family will be required to submit a full application and documentation to determine eligibility prior to housing assistance becoming available.

## **Local Preferences**

[24 CFR 982.207](#)

Preferences establish the order of applicants on the waiting list. An admission preference does not guarantee admission. Every applicant must still meet MHA's selection criteria before being offered a voucher. If an applicant makes a false statement in order to qualify for a Local preference, MHA will deny the preference. If MHA denies a preference, MHA will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for an informal review.

If the preference denial is upheld, or the applicant does not request an informal review, the applicant will be placed on the waiting list without benefit of the preference.

### **MHA Public Housing Resident Preference**

MHA will give preference in admission to MHA public housing residents who are required to relocate due to one of the following conditions:

- As a resident of public housing, the family is living in a unit that has been identified as hazardous to the family because the family has one or more children under the age of six with an Environmental Intervention Blood Lead Level, as defined by 24 CFR Part 35; or, there is a presence of other serious environmental hazards that affect the family's health or safety. The preference may be given if there are no lead-free units available in any other public housing development. An application preference does not constitute issuance of a voucher. Any voucher issuance is dependent on funding availability.
- Families (including single persons) who are currently residing in public housing units and who will be displaced by demolition, disposition, rehabilitation, or vacancy consolidation.

Eligibility for this preference will be verified through MHA's public housing division. Applicants claiming this preference, but determined to be ineligible to receive it, will be returned to the waiting list according to their sequential number.

### **Homeless/Special Needs Set-Aside Program**

In response to local needs, MHA may set-aside up to twenty-five Housing Choice Vouchers annually when funding permits, to be used by homeless and/or special needs families who are referred by an approved local service provider. Eligible families may only be referred to MHA by an approved service provider that has been awarded funding by the City of Memphis Department of Housing and Community Development (HCD) Department. To qualify, families must have successfully completed an approved transitional housing and or supportive service plan as certified by the referring agency and commit to receiving on-going, case management and supportive services. Families admitted into this program must meet all regular admissions and eligibility criteria.

### **MHA Homeless Referral Preference**

MHA may give preference in admission to families who are certified as homeless and referred to MHA by a designated local service provider. To qualify, the family must have successfully completed an approved transitional housing and/or supportive service plan as certified by the referring agency and commit to receiving on-going, case management and supportive services.

### **Special Admissions**

24 CFR [982.203](#)

MHA will admit a family that is not on the waiting list, or without considering the family's waiting list position or preferences in certain circumstances prescribed by HUD. This may occur when HUD has awarded funding to MHA for a targeted group of households living in specified units. Targeted funding programs MHA may administer include Mainstream, Veterans Affairs Supportive Housing (VASH) and others as provided by HUD such as:

- Families displaced because of demolition or disposition of a public or Indian housing development;
- Families residing in a multifamily rental housing development when HUD sells, forecloses or demolishes the development;
- Housing covered by the Low Income Preservation and Resident Homeownership Act of 1990;
- Non-purchasing families residing in a development subject to a homeownership program;
- Families displaced because of a mortgage prepayment or voluntary termination of a mortgage insurance contract;
- Families residing in a development covered by a project-based Housing Choice Voucher HAP contract at or near the end of the HAP contract term;
- Non-purchasing families residing in a HOPE 1 or HOPE 2 development;
- Families in a witness protection program.

### Mainstream

The program guidelines for the Mainstream program are the same as the HCV program with the provision that assistance is provided for disabled families.

### Veterans Affairs Supportive Housing (VASH)

The Veterans Affairs Supportive Housing (VASH) program combines Housing Choice Voucher (HCV) rental assistance for homeless Veterans with case management and clinical services provided by the Department of Veterans Affairs (VA). VA provides these services for participating veterans at the VA medical center (VAMC).

MHA is committed to follow all applicable program rules and regulations as established by HUD and other applicable federal statutes in the administration and implementation of these program vouchers, particularly, but not limited to those published in the March 23, 2012, Federal Register, pp. 17086-19090 entitled Section 8 Housing Choice Vouchers: Revised Implementation of the HUD-VA Supportive Housing Program.

### Program Guidelines

Veterans who are receiving case management from the VA are referred to MHA by the VAMC.

The VASH program is operated the same as the Housing Choice Voucher program except that:

1. To remain eligible, the veteran must be receiving case management from the VA or have been determined by the VA to no longer need case management services.
2. VASH vouchers may only port to another jurisdiction where they will still receive case management.
3. Upon completion of case management, the veteran may transfer to a Housing Choice Voucher, if available, without being on the waiting list.

### Continuously Assisted Families

[24 CFR 982.4](#); [982.203](#)

MHA will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were issued a voucher by MHA. As noted in this Plan, families

being relocated from MHA's public housing have first priority for vouchers and qualify as continually assisted. In addition, families assisted under the U.S. Housing Act (including all families occupying units in properties receiving Section 8 project-based assistance) are considered continually assisted. All such families are treated in the regulations as "special (non-waiting list) admissions".

When continuously assisted families face loss of housing assistance either because the owner of the property in which they live chooses not to renew a subsidy contract or because the property must be vacated for demolition, sale or total rehabilitation, such families may receive vouchers as continuously assisted families (and special non-waiting list admissions).

## Relocation of Witnesses and Victims of Crime

### [HUD Witness Relocation](#)

Over a 12-month period, families who are active participants in a Witness Protection Program and who are in need of assistance to move and ensure their continued protection, may be referred to MHA by either a Federal or State Law Enforcement Agency. Each referral must include certification by the Law Enforcement Agency that the family is a victim and/or witness of a violent crime and in a life-threatening situation. MHA will take all appropriate steps to maintain the confidentiality of each referral. All referred applicants must meet Housing Choice Voucher eligibility requirements.

## Change in Circumstances

Changes in an applicant's circumstances while on the wait list may affect the family's entitlement to a preference. Applicants are required to notify MHA in writing when their circumstances change. When an applicant claims an additional preference, they will be placed on the waiting list in the appropriate order determined by the newly-claimed preference.

Changes to the family composition after an application has been submitted include addition of family members born to, adopted or otherwise granted custody to the family by operation of the law, which may include foster children, live in aides and spouses, provided the additional family member(s) meet all applicable waiting list requirements and remain eligible for the waiting list.

MHA will require documentation that the head of household has authorization to include a minor as part of the household. Court approved custody or guardianship is not the only mechanism for establishing that a head of household has authorization to include a minor in the family composition. Changes to the family composition may also be allowed for families in which one or more children less than eighteen years of age live with the designee of the parent or legal custodian, with the parent or custodians' written consent. Documentation can include but is not limited to court documents, pre-need guardian, school records, other state and federal public assistance documentation, or durable powers of attorney. All other additions to the family shall be considered only on a case-by-case basis and must be documented at the time such changes occur.

These additions may include immediate family members (sons, daughters, siblings, parents, grandparents, grandchildren) and may be made for humanitarian or extraordinary reasons.

## **Income Targeting**

[Quality Housing and Work Responsibility \(QHWRA\) Act](#), (Public Housing Reform Act or Housing Act of 1998)

MHA will monitor progress in meeting the Extremely Low Income (ELI) requirement throughout the fiscal year. Extremely-Low Income families are defined as families whose incomes do not exceed the higher of: Federal Poverty Level or 30 percent of Area Median Income. ELI families will be selected ahead of other eligible families on an as-needed basis to ensure that the income targeting requirement is met. Under limited circumstances, HUD rules allow admission of low-income families.

If an applicant on the waiting list is skipped over, they will retain their original sequential number placement and be the first applicant offered an opportunity for assistance after the extremely low-income targeting requirement has been met. Applicants to special programs such as VASH or other programs designated specifically to targeted populations may not be affected by income targeting.

MHA may exercise fungibility between the Housing Choice Voucher and public housing programs as allowed by HUD to meet income targeting requirements.

## **Selection from the Waiting List Notification**

MHA will notify the family when it is selected from the waiting list. The notice will inform the family of the date, time, and location of the eligibility appointment, who is required to attend, and the documents that must be provided.

If a notification letter is returned to MHA with no forwarding address, or within the specified time the family will be removed from the waiting list without further notice. Such failure to act on the part of the applicant prevents MHA from making an eligibility determination; therefore no informal review will be offered.

## Chapter 4: Initial and Continuing Eligibility

[24 CFR 982.4](#); [982.203](#)

### Qualifications for Admission

MHA will admit only applicants who are qualified according to all the following criteria:

- Have income at or below HUD-specified income limits. [24 CFR Part 5, Subpart F](#)
- Provide documentation of Social Security numbers for all household members, or certify that they do not have Social Security numbers. [24 CFR Part 5, Subpart B](#)
- Qualify on the basis of citizenship or the eligible immigrant status of family members. [24 CFR Part 5, Subpart E](#)
- Are a family as defined by HUD and MHA.
- Are in compliance with MHA's criminal background policy as stated in this plan.
- Consent to MHA's collection and use of family information.
- Fulfill all initial and on-going eligibility requirements.

### Income Eligibility

[24 CFR 982.201\(b\)](#); [982.4](#); [248.101](#) & [173](#)

For admission to the Housing Choice Voucher Program, a family must be income eligible in the area where the family initially leases a unit with housing assistance. A family porting into MHA must be eligible in the Memphis Metropolitan Statistical Area. A family porting out of MHA must be income eligible in the area where the family leases an assisted unit.

To determine if the family is income eligible, MHA will compare the annual income of the family to the HUD published income limit for the family's size. Thirty percent (30%) of the family's monthly-adjusted income may not equal or exceed the Payment Standard for the unit size the family has been assigned by MHA using the standards described in this Plan.

### Social Security Number Disclosure

[24 CFR 5.216](#), [5.218](#); [Notice PIH 2012-10](#)

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. (These requirements do not apply to noncitizens who do not contend eligible immigration status, though at least one member of the household must be a citizen or have eligible immigration status).

If MHA determines that the applicant is otherwise eligible to participate in a program, the applicant may retain its place on the waiting list for the program for up to 90 days but cannot become a participant until it can provide the documentation to verify the SSN of each member of the household.

If a child under the age of 6 years was added to the applicant household within the 6-month period prior to the household's date of admission, the applicant may become a participant, so long as the documentation required is provided to MHA within 90 calendar days from the effective date of the Housing Assistance Payment contract.

MHA may grant an extension of one additional 90-day period if MHA determines that, in its discretion, the applicant's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside the control of the applicant. If the applicant family fails to produce the documentation required within the required time period, MHA will follow HUD requirements.

## Citizenship and Eligible Immigration Status Requirements

### [24 CFR Part 5, Subpart E](#)

MHA will verify the citizenship/immigration status at the time other eligibility factors are determined. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

Each family member must declare whether the individual is a citizen, national or an eligible noncitizen. Family members who declare citizenship or national status will not be required to provide additional documentation supporting the individual's declaration of citizenship and national status unless MHA receives information indicating that an individual's declaration may not be accurate, such as a birth certificate.

Prior to being admitted, all eligible noncitizens must sign a declaration of their status, a verification consent form, and provide their original USCIS documentation. All eligible noncitizens who are 62 years of age or older will be required to sign a declaration under penalty of perjury and will be required to show proof of age. Family members who do not claim to be citizens, nationals or eligible noncitizens, or whose status cannot be confirmed, must be identified in writing to MHA by the family.

## Family Definition

### [24 CFR 5.403](#)

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

- A single person, who may be an elderly person, displaced person, or any other single person
- A group of persons residing together and such group includes, but is not limited to:
  - A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family); unborn children and children in the process of being adopted are considered family members for purposes of determining bedroom size, but are not considered family members for determining income limit.
  - An elderly family;
  - A disabled family;
  - A displaced family; and
  - The remaining member of a participant family.

For categorizing family as defined above, the terms disabled family and elderly family are:

- Disabled family means a family whose head (including co-head), spouse or sole member is a person with a disability.

- Elderly family means a family whose head (including co-head), spouse or sole member is a person who is at least 62 years of age.

A family may have a spouse or co-head but not both. The co-head is an individual in the household who is equally responsible for the lease with the head of household. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

Child (minor) relationship is determined only by: birth, adoption, a court order establishing custody, or a legal order from a qualified social service agency.

### Head of Household

The family may designate any qualified adult family member as the head of household. The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.

### Joint Custody

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family more than 50 percent of the time. When more than one applicant or participant (regardless of program) is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim the dependent(s), MHA will make the determination based on court orders and social service agency orders showing which family has custody.

### Family Break-Up

In the case of family break-up, MHA has the discretion to decide which members of an assisted family will continue to receive the housing assistance. If a court determines the disposition of property between members of an applicant or participant family as part of a divorce or separation decree, MHA will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, MHA will determine which family will retain their placement on the waiting list or will continue to receive the housing assistance. In making its determination, MHA will take into consideration the following factors:

- The interest of any minor children, including custody arrangements
- The interest of any ill, elderly, or disabled family members
- The interest of any family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking (VAWA) and provides documentation in accordance with this Administrative Plan

If a participant family breaks up into two otherwise eligible families, only one of the new families will continue to receive housing assistance.

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original waiting list position. Other family members may submit a new application if the waiting list is open. MHA will not approve a transfer of the voucher from one head of



household to another head of household where it constitutes a violation of waiting list and preference policies.

### Remaining Family Member

A remaining family member is defined by HUD and previously approved by MHA to live in the unit as a household member. Live in aides, foster children and foster adults do not qualify as remaining family members.

If the head of household dies or leaves the unit for any reason other than MHA termination of assistance, continued housing assistance by remaining household members is permitted if:

- The household reports the departure (or death) of the head of household in writing within 30 calendar days of the occurrence.
- A replacement head of household is identified and reported to MHA in writing within 30 calendar days of the occurrence.
- An adult who becomes the guardian or other caretaker of remaining household member(s) who are minors, may apply to become head of household and must meet MHA's eligibility criteria.
- The head of household agrees to a written repayment agreement for any rent or charges incurred by the former head of household.
- Those under 18 seeking to become the head of household must provide proof of emancipation.
- An adult who becomes the guardian or other caretaker of remaining household member(s) who are minors, may apply to become head of household and must meet MHA's eligibility criteria.

MHA may deny housing assistance if an action to terminate the former head of household's housing assistance began prior to the former head of household's departure from the unit.

### Student Head of Household

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

- Is enrolled as a student at an institution of higher education, as defined under section 102 of the [Higher Education Act of 1965 \(20 U.S.C. 1002\)](#);
- Is under 24 years of age;
- Is not a veteran of the United States military;
- Is unmarried;
- Does not have a dependent child; and
- 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.

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.

### Criminal Background Policy

[24 CFR 5.903](#); [24 CFR 5.905\(d\)](#)

MHA may conduct a criminal background check on all adult household members, 18 years of age or older, at new admission and adult additions to the household. MHA will prohibit admission to any

applicant household member (1) who has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally assisted housing or (2) who is subject to a lifetime registration requirement under a State sex-offender registration program.

MHA will also deny admission and may terminate assistance under the following circumstances:

1. Any household member has been convicted of drug-related or violent criminal activity, within the past five (5) years.
2. Any household member has been convicted of non-violent criminal activities, within the past five (5) years that may threaten the health, safety or right to peaceful enjoyment of the premises by other residents.
3. A household member has a pattern of arrests for engaging in criminal activity within the past five (5) years. MHA has reasonable cause to believe that the household member's pattern of criminal activity may threaten the health or safety of the owner, property management staff or MHA employees or their contractors and agents.
4. MHA has reasonable cause to believe that a household member's use of illegal drugs or alcohol abuse may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons.
5. Households who fail to meet HUD's social security number disclosure and verification requirements.
6. A household member who has been identified as ineligible due to outstanding debt or termination of assistance as provided in HUD's EIV verification system. In this case, HUD regulations regarding contesting EIV data will apply. Outstanding debts owed to MHA or other PHAs must be paid in full before admittance to the HCV program.

In the event that an applicant has been admitted into the program and MHA discovers after his or her admission that one or more of the offenses were committed by the applicant or other household member prior to admission into the program, MHA shall make a determination as to whether to recommend termination from the program. If the offense occurred before the applicant family completed a family declaration or disclosure and the family did not disclose the offense, the authority will deny assistance absent other compelling information.

If the application is denied due to criminal history, MHA may consider verifiable mitigating circumstances. Mitigating circumstances are facts relating to the applicants criminal history, that, when verified indicate:

- a. The reason for the unsuitable criminal history or behavior;
- b. That the reason is no longer in effect or is under control;
- c. Assertion that mitigating circumstances are directly related to a disability and a request for a reasonable accommodation is justified.

MHA, in its decision to deny assistance, may consider the seriousness of the case, and the effect of denial of assistance on other family members who were not involved in the action. MHA may admit such a family to the program, and may impose as a condition of assistance, the requirement that family members who participated in or were culpable for the action will not reside in the assisted unit. Applicants with an arrest record for drug-related criminal activity that has not been adjudicated by a court of law at the time of eligibility determination will be denied admission.

MHA will deny assistance if an applicant has committed an offense, as detailed above, with a disposition of the charge as guilty, guilty/convicted, no longer contender, convicted, fined, adjudicated or adjudication withheld. If the offense is dropped or the charge disposed of as not guilty, acquitted, dismissed, the family shall not be denied assistance. MHA will use the date that the applicant completed any related sentence to evaluate eligibility. The applicant must have completed serving any related sentence, including applicable parole or probation period, five years prior to admission.

In determining whether to deny or terminate assistance, MHA may take such action if the preponderance of evidence indicates that a family member has engaged in such activity, regardless of whether the family member has been arrested or convicted.

Extenuating circumstances, such as current or past participation in a rehab program, will be considered before final withdrawal of the applicant or termination of assistance. If MHA uses a criminal record report as the basis to deny or terminate assistance, MHA will provide the applicant/tenant with a copy of the criminal record, if requested, and give the family an opportunity to dispute the record.

Consistent with HUD's regulations concerning the limitations on disclosure of records, MHA will ensure that any criminal records received by MHA is:

- a. Maintained confidentially;
- b. Not misused or improperly disseminated; and
- c. Destroyed once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action.

MHA provides limited screening of applicants to include HUD's EIV programs, a criminal background check and records relevant to previous assistance by MHA. MHA does not screen for suitability for tenancy and or family behavior. Owners are responsible for screening and selection of the family to occupy the owners unit.

Memphis Housing Authority may conduct annual criminal background checks and/or at recertification for continued participation in the Housing Choice Voucher Program or as a component of an investigation regarding violations of participant responsibilities. MHA may also provide information to Law Enforcement officials; obtain daily arrest reports and other records regarding drug related or other criminal activity which may be in violation of HCV participant responsibilities

## **Interviews/Appointments and Information**

Families selected from the waiting list are required to participate in an eligibility interview. The family will be sent notification to their last known address indicating the date, time, place, who must attend and what documents must be presented at the interview. The family will either be mailed a packet of documents to complete or will be provided with the packet at the interview. The packet must be complete in order for eligibility to be determined.

All adult family members are required to attend the interview and sign the required forms and documents. Exceptions may be made for students attending school out of state or for members for whom attendance would be a hardship. The head and spouse/co-head are both required to attend the interview.

The family must provide the information necessary to establish the family's eligibility and to determine the appropriate amount of rent the family will pay. The family must also complete and sign required forms and submit required documentation. If the family does not provide the required information at the time of the interview, the family will be given a list of missing documents and the timeframe for returning the documents. If the documents and information are not returned within the required timeframe, MHA will determine that the applicant is no longer interested in housing assistance and will notify the family that it will be removed from the waiting list. Extensions to the timeframe may be allowed based on emergencies and reasonable accommodations.

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

### **Rescheduling the Eligibility Interview**

If the family is unable to attend a scheduled interview/appointment, the family must contact MHA in advance to schedule a new appointment. If the family fails to attend a second scheduled appointment without MHA approval, MHA will deny assistance based on the family's failure to supply information needed to determine eligibility.

### **Eligibility Notification**

MHA will notify a family in writing of their eligibility determination. When a family is determined to be ineligible, the notice will specify the reasons for ineligibility and will inform the family of its right to request an informal review within MHA's required timeframe as stated in the notice. Reasons why a family may be determined ineligible or denied assistance are included in this plan.

## **Duplicative Assistance or Multiple Subsidy**

### **[24 CFR 982.352\(c\)](#)**

A family may not receive HCV assistance while receiving housing assistance of any of the following assistance types, for the same unit or for a different unit:

- Public or Indian housing assistance
- Other Section 8 assistance (including other participant-based assistance)
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974)
- Section 101 rent supplements
- Section 236 rental assistance payments
- Participant-based assistance under the HOME Program
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration)
- Any local or State rent subsidy
- Section 202 supportive housing for the elderly
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance)

Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

## **Absences from the Unit**

### [24 CFR 982.312](#)

#### **Absent Family Member**

MHA will compute all applicable income of every family member including those who are temporarily absent. Income of persons permanently absent will not be counted. It is the family's responsibility to report changes in family composition and absences of family members.

Generally an individual who is or is expected to be absent from the assisted unit for 90 days or less in a 12 month period of time is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 90 days is considered permanently absent and no longer a family member.

The family must request MHA approval for the return of any adult family members that MHA has determined to be permanently absent. The individual is subject to the eligibility requirements stated in this Administrative Plan.

#### **Absence of Entire Family**

Notice is required when all family members will be absent from the unit for an extended period of time (greater than 30 days). Families are required to give MHA 30 days' notice before moving out of a unit.

The family must supply any information or certification requested by MHA to verify that the family is living in the unit, or relating to family absence from the unit.

If a family is absent from the unit for more than 180 days MHA will terminate assistance.

#### **Absent Student**

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

#### **Absences Due to Placement in Foster Care**

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

If the child(ren) are removed from the home permanently, the voucher bedroom size may be adjusted in accordance with MHA's subsidy standards.

#### **Caretaker for a Child**

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

- If a responsible agency has determined that another adult is to be brought into the unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
- If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases MHA will extend the caretaker's status as an eligible visitor.
- During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify for any deductions from income.
- If the caretaker is considered a family member, the caretaker must submit an eligibility application, pass all eligibility criteria, and his/her income will be counted as part of the household. Once eligibility is passed, the caretaker will be added as head of household.

### Absent Head or Spouse Due to Employment

If an employed head, spouse, or co-head is absent from the unit more than 180 days due to employment, she/he will continue to be considered a family member.

### Individuals Absent (Confined) for Medical Reasons

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member. If there is a question about the status of a family member, MHA will request verification from a responsible medical professional if the member will be gone less than 90 days (and up to 180 days after approval of the HCV Program Director or authorized designee) and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

### Absence Due To Incarceration

If the sole member is incarcerated for more than 30 days, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for 30 days. The family must remain current on its family obligations and payment of rent to owner during any period of incarceration.

MHA will determine if the reason for incarceration is for drug-related or any other criminal activity which is grounds for program termination.

### Guests/Visitors

Guests/Visitors are permitted based on the terms in the owner's lease; the owner has provided approval for the guest/visitor; and the guest/visitor is not an unauthorized person living in the unit.

A guest can remain in the assisted unit no longer than 30 days during any twelve month period or MHA will consider the person(s) unauthorized persons.

## CHAPTER 5: Tenant Rent and Housing Assistance Payment Calculation

### Definition of Income

[24 CR 5.609\(b\)](#)

MHA uses HUD's definition of Annual Income. Annual income is the total income from all sources, including net income derived from assets received by the household head and spouse (even if temporarily absent) and by each additional household member including all net income from assets for the 12 month period following the effective date of initial determination or reexamination of income, exclusive of income that is temporary, non-recurring or sporadic as defined below, or is specifically excluded from income by other federal statute.

### Assets

[24 CFR 5.609\(b\) and \(c\)](#)

An asset is an item of value that can be converted into cash, and may or may not earn income. Annual income includes income amounts derived from assets to which the family has access. Assets include, but are not limited to checking and savings accounts, investment accounts, equity in real property, personal property held as an investment, whole life insurance policies, and assets disposed of for less than fair market value.

Income from Assets: When the total value of assets is \$5,000 or less, MHA will accept a family's declaration of the amount of assets and the amount of income expected to be received from those assets without requiring additional documentation or verification. When the total value of assets is over \$5,000, MHA will use the greater of the actual amount of income from assets, or the imputed income from assets based on the Savings National Rate in effect at the time, (PIH Notice 2012-29 or any superseding notice).

### Disposed Assets

MHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$5,000.00. Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions.

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

Assets placed by the family in non-revocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments. All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Families must sign a declaration form at initial certification and each annual reexamination identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value.

## **Anticipating Income**

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

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

## **Future Changes**

If MHA verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period. The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family.

In such cases, MHA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if MHA's policy on reexaminations does not require interim reexaminations for other types of changes. When participant-provided third-party documents are used to anticipate annual income, they will be dated within 60 days of the documentation request.

## **Prorated Assistance**

HUD regulations prohibit MHA from providing housing assistance to noncitizens with ineligible immigration status. MHA will comply with all requirements of the regulations and MHA policies when determining and calculating prorated assistance. Prorated housing assistance payments are based on the number of eligible family members.

## **Determination of Rent and HAP**

[24 CFR 5.628](#); [5.630](#); [5.634](#)

The Housing Choice Voucher subsidy (HAP) is based on the established Payment Standard that reflects the cost to lease a unit in the area. If the gross rent (contract rent plus utilities) is less than the Payment Standard, the family pays the TTP. If the gross rent exceeds the Payment Standard, the family pays the TTP plus the amount by which the gross rent exceeds the Payment Standard. The determination of rent and HAP is calculated only after the family finds a unit. At admission or transfer to a new unit, families are prohibited from paying more than 40% of their monthly adjusted income for rent when the gross rent exceeds the payment standard.

MHA follows HUD regulations for determining the family's portion of rent and the HAP subsidy to the owner.



Total Tenant Payment is the higher of:

- 30% of adjusted monthly income; or
- 10% of gross monthly income;
- Not less than the Minimum Rent of \$50

Tenant Rent

- Tenant rent is calculated by subtracting the utility allowance for participant supplied utilities (if applicable) from the Total Tenant Payment.
- Where the utility allowance exceeds the Total Tenant Payment, the tenant will pay \$0 rent and may receive a reimbursement to be applied toward utilities.
- Where the owner pays for all utilities and provides the stove and refrigerator, Tenant Rent equals Total Tenant Payment.

Rent to Owner is the greater of:

- The Payment Standard less the Housing Assistance Payment; or
- The Gross Rent less the Housing Assistance Payment
- Minimum rent

### Payment Standards

[24 CFR 982.505](#); [24 CFR 982.503\(b\),\(c\),\(g\)](#)

The payment standard is used in the calculation of the housing assistance payment for a family. The payment standard for the family is the lower of:

- The unit size shown on the voucher, or
- The size of the actual unit selected by the family.

The payment standard is set by MHA between 90% and 110% of the HUD published FMR. As a reasonable accommodation, MHA may establish an exception payment standard of not more than 120% of the published FMR. Any unit approved under an exception payment standard must still meet the reasonable rent requirements.

MHA will review the payment standard at least annually to determine whether an adjustment is necessary to comply with HUD's range. In determining if an adjustment is appropriate, MHA will consider: assisted families' rent burdens, availability of suitable vacant units with rents below the payment standard, size and quality of units selected and/or the leasing success rate and available funding to support the program needs. Families with high rent burdens are paying more than 40% of income for rent. MHA will increase the payment standard to an amount within the basic range in an effort to reduce the number of families paying more than 40% of income for rent if HUD provides adequate funding to do so.

### Utility Allowances and Utility Reimbursements

[24 CFR 982.517](#); [Notice PIH 2016-05](#)

MHA maintains a Utility Allowance Schedule which is used in the housing assistance payment calculation to assist with the cost of utilities not included in the rent. The utility allowance calculation is based on the lower of:

- The voucher unit size based on MHA subsidy standards
- The size of the actual unit rented by the family
- In the case of a reasonable accommodation, MHA will use utility allowance for the unit size actually leased by the family

When the utility allowance exceeds the family's Total Tenant Payment, MHA will provide the family a utility reimbursement payment.

MHA has the option of making utility reimbursement payments not less than once per calendar-year quarter, for reimbursements totaling \$45 or less per quarter. In the event a family leaves the program in advance of its next quarterly reimbursement, MHA will reimburse the family for a prorated share of the applicable reimbursement.

MHA may make reimbursement payments retroactively or prospectively. In the event that MHA chooses to make the reimbursement payments retroactively, MHA will allow a family to request a hardship exemption from the quarterly payments if it results in a financial hardship for the family. If a family receives a hardship exemption, then MHA may either reimburse the family on a monthly basis or it may make prospective payments to the family, on a quarterly basis. MHA will review the utility allowance schedule annually and revise it when needed. Revised utility allowances will be applied in a family's rent calculation at the next annual reexamination or move.

## **Minimum Rent and Hardship Exemptions**

### Minimum Rent

MHA has adopted a minimum rent for the program of \$50. It is used as determined when applying the formula to calculate Total Tenant Payment as described above.

### Minimum Rent Hardship Exemption

MHA will grant an exemption from application of the minimum monthly rent to any family making a proper request, in writing that it is unable to pay the monthly minimum rent because of financial hardship, which includes:

- 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 an alien lawfully admitted for permanent residence under the Immigration and Nationalization Act, who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996;
- Family income has decreased because of changed circumstance, including loss of employment;
- A death in the family that affects the family circumstances; or
- Other circumstances as determined by MHA on a case-by-case basis.

If a family requests a hardship exemption, MHA will suspend the minimum rent charge and adjust the HAP payment effective on the first of the month following the change in the family's circumstances. The family must provide documentation of the hardship. MHA will determine if the hardship is temporary or long term.

If the hardship is determined to be temporary, the minimum rent will be suspended for a period of ninety (90) days from the date of the family's request. At the end of the 90-day period, the minimum rent will be reinstated retroactively to the date of suspension. MHA will offer to execute a reasonable repayment agreement to cover the minimum rent charges accumulated during the suspension period. If MHA determines that the hardship is long term, the exemption will be applied so long as the hardship continues. Hardship determinations are subject to MHA's informal hearing process.

## **Earned Income Disallowance (EID) Policy**

[24 CFR 5.617](#)

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

- Employment of a family member who is a person with disabilities who was previously unemployed for one or more years prior to employment.
- Increased earnings by a family member who is a person with disabilities whose earnings increased during participation in an economic self-sufficiency or job-training program.
- New employment or increased earnings by a family member who is a person with disabilities who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months.

The baseline income is the annual income immediately prior to the implementation of the disallowance for a person who is a member of a qualified family. The family member's baseline (qualifying) income remains constant throughout the period that he/she is receiving the EID.

### **Disallowance of Earned Income**

[24 CFR §§5.617, 960.255](#); [PIH Notice 2016-05](#)

***Initial 12-month exclusion:*** During the 12-month period beginning on the date on which a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, MHA will exclude from the annual income of a qualified family any increase in the income of the family member who is a person with disabilities as a result of employment over the baseline income of that family member.

***Phase-in of rent increase:*** Upon the expiration of the 12-month period and for the subsequent 12-month period, MHA will exclude from the annual income of a qualified family at least 50 percent of any increase in income of such family member who is a person with disabilities as a result of employment over the family member's baseline income.

Maximum 2-year disallowance: The disallowance of increased income of an individual family member is limited to a lifetime 24-month period. It applies for a maximum of 12 months for disallowance (initial 12 months) and a maximum of 12 months (second 12 months), during the 24-month period starting from the initial exclusion.

Families eligible for and participating in the disallowance of earned income prior to May 9, 2016 will continue to be governed by HUD regulations in effect immediately prior to that date. Those procedures are stated in MHA Management Procedure.

## CHAPTER 6: Voucher Issuance, Request for Tenancy Approval and Leasing

Eligible families are issued a voucher and may search for a unit within the jurisdiction of MHA, or outside of MHA's jurisdiction if they qualify for portability. Once a Voucher has been issued, it is the family's responsibility to locate suitable housing. The family must find an eligible unit under the program rules, with an owner/landlord who is willing to enter into a Housing Assistance Payments (HAP) contract with MHA within the timeframe listed on the voucher.

### Voucher Term

[24 CFR 982.303\(a\)](#)

The initial voucher term is 60 calendar days. The family must submit a Request for Tenancy Approval that is complete and a proposed lease within the 60-day period unless MHA grants an extension.

### Voucher Extensions

[24 CFR 982.303\(b\)](#)

Requests for extensions must be submitted to MHA in writing prior to the expiration of the voucher term. Extensions are permissible at the discretion of MHA up to a maximum of an additional sixty days. The maximum time limit on the voucher term (including extensions) is 120 days, except when a reasonable accommodation is granted for persons with disabilities. MHA is not obligated to grant an extension, but may consider any of the following circumstances in its decision:

- It is necessary as a reasonable accommodation for a person with disabilities.
- A serious medical condition which the family could not have anticipated. Documentation from a medical professional is required.
- MHA discretion for extenuating circumstances (e.g. when market conditions or administrative actions support a need for extension, owner fails to accept reasonable rent, occurrence of a natural disaster, etc.)
- HCV voucher holders are encouraged to select units which will meet HQS. Extensions shall not be granted beyond 30 days for purposes of complying with HQS. If a RFTA is received before the expiration date of the voucher, an inspection will be scheduled. In cases where the unit does not meet HQS, no further extension will be granted.

Extensions must be approved by authorized staff and must involve extenuating circumstances not related to HQS.

If the family has not found a unit within the maximum term allotted, with any extensions, the Voucher will expire and the family will be removed from the waiting list. Hearings or informal reviews are not required and shall not be given for denial of extensions. Families seeking another opportunity for assistance must reapply to the program upon the reopening of the waiting list.

## Voucher Suspension

MHA will suspend the term of the voucher from the date a complete Request for Tenancy Approval and proposed lease is accepted by MHA until the date MHA makes a final determination with respect to that Request for Tenancy Approval. If the family chooses to cancel the Request for Tenancy Approval (RTA), the term of the voucher will be reinstated the date MHA receives notice the RTA is cancelled by the family.

Additional extensions beyond the suspension time can only be given by the Director or his/her designee, and will only be considered under the following conditions:

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

## Family and Voucher Obligations

In addition to Policy included in this Plan, the family shall be obliged under the terms of its Voucher subsidy and family obligations to:

1. Supply such certification, release information or documentation as MHA determines to be necessary in the administration of the program, including information required by MHA for a regularly scheduled re-examination or interim re-examination of family income and composition or pursuant to a Quality Control Review or HUD Audit in accordance with HUD requirements.
2. Allow MHA to inspect the dwelling unit at reasonable times and after reasonable notice. The family must allow the owner/landlord access to make repairs.
3. Notify MHA, in writing or via prescribed electronic/on-line format, at least thirty (30) days before vacating the dwelling unit as well as providing MHA with a copy of the notice to vacate the unit submitted to the owner.
4. Use the dwelling unit solely for residence by the family and as the family's principal place of residence; and shall not assign the lease or transfer the unit.
5. Not receive Section 8 tenant-based program housing assistance while residing in a unit owned by a parent, grandchild, sister, brother, or any member of the family, unless MHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities.
6. Avoid creating a breach of HQS by:
  - a. Failing to pay for utility bills in the family's name and/or to make Utility Reimbursement payments directly to the Utility Company on the family's behalf;
  - b. Not allowing the landlord/owner access to the unit to make repairs;
  - c. Failing to provide and maintain any appliances the owner is not required to provide; or
  - d. Damaging or allowing any family member or guest to damage the unit or common areas.
7. The family must also correct, within 24 hours, any life-threatening breach of HQS it has caused, and any other violations within the timeframe specified by MHA.
8. The family and their guest(s) shall not:
  - a. Commit serious or repeated violations of the lease.

- b. Own or have any interest in the dwelling unit unless as a participant in the "SHAPE" Homeownership Program. However, if the owner is a cooperative, the family may be a member of the cooperative.
  - c. Commit any fraud, bribery or any other corrupt criminal act in connection with the Housing Choice Voucher Program;
  - d. Receive assistance (including each family member) under the Housing Choice Voucher Program while occupying, or receiving assistance for occupancy of, any other unit assisted under any Federal housing assistance program (including any *Subsidy Program*).
  - e. Engage in any drug-related criminal activity, violent or non-violent criminal activity, or illegally possess weapons.
  - f. Engage in the use of illegal drugs or abuse of alcohol that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.
  - g. Not engage in or threaten abuse or violent behavior toward MHA personnel.
  - h. Not damage the unit or premises (other than damages from ordinary wear and tear) or permit any guest to damage the unit or premises.
9. Families must report to MHA any absence of the entire household (circumstances in which all family members are absent and the unit has no occupants) of more than 30 days. At initial lease-up, and while preparing to move-in, MHA will allow the families to be absent from the unit up to a maximum of 30 days. Subsequent to move-in, MHA will permit absences of no more than 90 days, unless the participant can document a medical need. In no case may a participant be absent from a unit for more than 180 days. If the family leaves the household for more than 90 days for a reason other than medical need, the unit will not be considered the family's principal residence and the family shall be terminated from the program.
  10. Families must cooperate with MHA in complying with EIV regulations, by signing all required documents and providing requested information related to EIV data.

## **Subsidy Standards**

[24 CFR 982.401\(d\)](#)

The intent of HUD requirements is that the smallest appropriate bedroom size be assigned to participant families without overcrowding. The unit size on the voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented.

### **Subsidy Standards Chart**

[24 CFR 982.402](#)

The standards listed below serve as general guidelines when MHA determines the unit size on the family's voucher:

Voucher Unit Size	Persons in Household Minimum Number	Persons in Household Maximum Number
0-BR (bedroom)	1	2
1-BR	1	3
2-BR	2	5
3-BR	3	7
4-BR	4	9
5-BR	5	11
6-BR	6	13
7-BR	7	15

MHA generally assigns one bedroom to two people and does not determine who shares a bedroom or sleeping room. MHA will also consider the following conditions when determining the unit size designated for the family's voucher:

1. Adults of the opposite sex (other than spouses or cohabitants), and unrelated adults may occupy separate bedrooms.
2. Two minor children of the same sex, regardless of age difference, are required to share one bedroom. Children under the age of three may not be awarded their own bedroom except in cases involving a reasonable accommodation
3. Minor children of the opposite sex may occupy separate bedrooms.
4. Unborn children will be included in the size of the household.
5. A minor child, who is temporarily away from the home because of placement in foster care, is considered a member of the family in determining the family unit size.
6. MHA approves live-in aides to reside in the unit and be provided a separate bedroom as a reasonable accommodation for a family consisting of one or more elderly or disabled persons. However, MHA may deny or withdraw such approval at any time if the live-in aide: (1) commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program; (2) fails to pass a criminal background check for drug-related or violent criminal activity, or; (3) owes rent or other amounts to MHA or another PHA in connection with the Housing Choice Voucher Program or public housing assistance under the 1937 Act. Only one bedroom will be awarded for the live-in aide and any family members of the live-in aide, as long as Housing Quality Standards (HQS) are not violated and there are no more than two people per living/sleeping space. If additional family members result in a violation of HQS or do not meet the eligibility requirements, the specific live-in aide may not be approved.
7. Space will be provided for a family member who is away at school but who lives with the family during school recess.

MHA may assign a larger unit than permitted, using the above standards, if an individual with a disability and/or a medical need requests a reasonable accommodation and provides documentation of need from an authorized healthcare provider. MHA may request or require additional verification from the healthcare provider that the disabled individual meets the definition for persons with disabilities and to document the needs for a reasonable accommodation, as covered under the United States Housing Act of 1937 at 24 CFR 403.



### Unit Size Selected by Family

The family may select a different size unit than that listed on the voucher; however, the unit must meet housing quality standards, have a reasonable rent, and the rent must be less than 40% of the family's adjusted income at initial leasing. When calculating the Housing Assistance Payment (HAP), MHA will apply the payment standard and utility allowance for the lower of:

- The unit size shown on the voucher, or
- The size of the actual unit selected by the family.

### Under-Housed and Over-Housed Families

If a unit does not meet HQS space standards due to an increase in family size or change in family composition, MHA will issue the family a voucher to move to an appropriate sized unit. HQS requirements permit a maximum of two persons per living or sleeping room in the units.

Families will not be required to use rooms other than bedrooms for sleeping purposes in the Voucher size determination. Participants may elect to use other areas of the unit as living/sleeping areas in determining the total number of persons eligible to live in the unit as a result of the family's request to add household members. A total of two additional members per living/sleeping area may be approved at the request of the participant. MHA will only grant increases in voucher size in cases of birth, adoption, court awarded or other legally documented custody.

### Housing Choice Voucher Issuance and Briefing

All eligible applicants (based on full and complete verification) are required to participate in a briefing before a Voucher is issued. The briefings may be group, individual or online meetings. A Voucher will be issued after the applicant completes the briefing session.

#### Briefing Packet

Each family will receive a briefing packet containing, but not limited to, the following:

- The term of the Voucher;
- A description of MHA's policy on granting extensions or suspensions of term and how a family can request extensions;
- Information on computing the Housing Assistance Payment;
- Information on the Payment Standard and MHA's Utility Allowance Schedule;
- How MHA determines the maximum rent for an assisted unit;
- What the family should consider in deciding whether to lease a unit such as unit condition, reasonableness of rent, cost of tenant-paid utilities, whether the unit is energy efficient, and location of unit to public transportation, employment, schools and shopping;
- Where the family may lease a unit using portability and how portability works;
- HUD required tenancy addendum;
- Request for Tenancy Approval and the process of obtaining an inspection;
- MHA's policy on providing information to prospective landlords;
- MHA's subsidy standards including any exception to these standards;
- HUD brochure on selecting a unit;
- Information on Upfront Income Verification (UIV) tools used to verify income;

- HUD brochure, *Protect Your Family From Lead in the Home*;
- Fair Housing Brochure and information, (HUD-903) and a Discrimination Complaint Form (HUD-903a);
- List of landlords or real estate agents who may be willing to lease a unit or may be able to help the family locate a unit; or information regarding computerized databases listing available units such as TNHousingSearch.org.
- Notice that if the family includes a disabled person, the family may request a current listing of accessible units, known to MHA, that may be available;
- Family program obligations;
- HUD's EIV use;
- Grounds under which MHA may terminate the family's assistance;
- Informal hearing and review process and how to request a hearing;
- Other items as MHA may determine.

### Briefing Session

The briefing will cover the information in the packet and discuss the following topics:

- Family, Owner and MHA Responsibilities under the Lease and Contract
- Expiration and Extension of the Voucher
- A description of the general location and characteristics of neighborhoods in Shelby County
- Tips on Where to Look for Housing
- Sources of information on available units (e.g., newspapers, community bulletin boards) should be obtained. MHA will also provide a list or an on-line link to a database of owners who have indicated a willingness to participate in the Housing Choice Voucher Program.
- Housing Quality Standards
  - HQS, rent reasonableness and procedures for inspections will be addressed. Housing quality standards to be used are described in 24 CFR 982.401.
- Encouragement to consider all neighborhoods within Shelby County when searching for a unit. MHA will provide information on portability of the Voucher and its use to move out of areas of high poverty concentration.
- Landlord-Tenant Laws and Federal, State and Local Fair Housing Laws
- The participants' fair housing rights and what to do if discrimination is encountered will be discussed. In cases where discrimination is suspected, MHA will advise and assist the family to file a discrimination complaint with the Department of Housing and Urban Development.
- Assistance to Elderly and Individuals with Disabilities
- Additional assistance that is available for persons with disabilities or elderly households will be described. Housing Choice Voucher staff will provide as much assistance as possible and refer participants to social service agencies as needed.
- Calculations/Explanation of Total Tenant Payment, HAP, Maximum Subsidy, Utility Allowances, and Utility Reimbursements
- The applicable Payment Standard and Utility Allowance will be discussed as well as calculation of Total Tenant Payment, Family Share, and Family Rent to Owner, Housing Assistance Payment, Maximum Subsidy, and Utility Reimbursement. Allowances will also be explained.
- Information Provided to Prospective Landlords about Participants

Program participants will be informed how to contact the HCV program to discuss and assist with any program related issues. Participants will be instructed to contact owners directly to request needed maintenance or repairs; however, if the owner fails to respond within a reasonable period of time, the family should contact the MHA Inspections Department to schedule a complaint inspection.

## **Information to Owners**

[24 CFR 982.307\(a\)\(112\); \(b\)\(1\)](#)

It is the responsibility of the owner to determine the suitability of prospective families as MHA does not screen for suitability as renters. Owners are encouraged to screen applicants to determine the family's suitability as a renter. Owners may not discriminate on the basis of race, religion, sex, color, national origin, disability, sexual orientation, gender identity or familial status.

If requested by an owner in writing, MHA will provide the following information:

- Previous owner name, address and phone number, if known; and,
- Current owner name, address and phone number

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

## **Allowable Housing Types**

[24 CFR 982.601\(b\)\(2\)](#)

Generally, MHA does not offer special housing types as an option to Housing Choice Voucher families. However, MHA will not deny a family (with a disabled member) the right to use any of the following special types of housing in accordance with the program requirements: Single Room Occupancy; Congregate housing; Group home; Shared housing; or Cooperative housing. These housing types will be permitted only if needed as a reasonable accommodation for persons with disabilities.

## **Request for Tenancy Approval (RFTA)**

Links: [24 CFR 982.352\(2\)](#); [982.305](#) & [308-309](#); [982.401](#); [982.507-508](#); [982 Subpart M](#); [Form HUD-52517](#)

Before a family leases a unit, MHA must approve the unit selected by the family. A completed RTA received by MHA on or before the voucher expiration date will prompt the unit approval process. During the unit approval process, MHA will schedule the unit for inspection, review the landlord lease, determine rent reasonableness, and approve the owner. MHA may verify that the property taxes for the unit are not delinquent, and could void the RTA in instances of delinquent taxes. The voucher holder and the owner/landlord must submit the following:

- Complete RFTA, signed by both the family and the owner
- A copy of the lease
- Proof of ownership of the unit to be leased (see proof of ownership requirements below)
- The Owner's EIN or social security number

- A W-9 form completed by the owner
- If the property is in a corporation, the names of all parties
- Current street mailing address
- Business telephone number and email address
- For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead based paint disclosure statement.
- Other forms or information as requested by MHA

The RFTA and all associated documents must be submitted in-person, by mail, by email or by fax. The family may submit only one RFTA at a time. When the family submits the RFTA, MHA will review the RFTA for completeness. If the RFTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RFTA, MHA will notify the family and the owner of the information needed. MHA may void a RFTA if an approvable RFTA is not received within the required timeframe.

### Disapproval of RFTA

If MHA determines that the Request for Tenancy Approval cannot be approved for any reason the owner and the family will be notified. MHA will instruct the family of the steps that are necessary to approve the RFTA. If an RFTA is not approved and the voucher has not expired, MHA will furnish another RFTA to the family to continue searching for eligible housing.

### Proof of Ownership

MHA will require all property owners who request to rent their units through the HCV program to provide proof of ownership, the property parcel identification number, and a W-9 form. Acceptable forms of ownership documentation include a deed, property tax records and a HUD settlement statement (for transactions processed within the last 30 days of the date the HAP is to be executed). The owner must provide at least one (1) document establishing ownership. MHA may compare the documentation provided by the property owner with information available on the Shelby County Tax Assessor, Shelby County Trustee, the Register's Office, and other local government websites, when available.

In cases where the owner has elected to utilize the services of a property management company or has otherwise designated an agent to act on his/her behalf, MHA may request a copy of the management or agent agreement, a statement from the owner identifying the individual/s authorized to execute HAP Contracts on his/her behalf in addition to proof of ownership documentation.

MHA may not enter into a Housing Assistance Payment contract for any property until ownership, and, if applicable, authorization to act on the owner(s) behalf, are clearly established. MHA reserves the right to request additional documentation as necessary.

MHA utilizes direct deposit as the method of payment of HAP obligations. Owners are required to provide a Tax Identification Number (TIN) or a Social Security Number that matches their banking information. MHA will not enter into a contract where the owner is unable to establish a TIN/SSN that matches names or entities identified on ownership documents or where the owner elects not to accept direct deposit.

## Tenancy Addendum and Lease

[24 CFR 982.308](#); [HUD Form 52641](#)

The owner must use the HUD Tenancy Addendum or all provisions in the HUD-required Tenancy Addendum must be added to the owner's lease. If there is a conflict between the owner's lease and the Tenancy Addendum, the terms of the Tenancy Addendum shall prevail over any other provisions of the lease. This includes Federal regulation requirements that the lease include the following as grounds for lease termination:

- Drug-related criminal activity, violent criminal activity: engaged in on or near the premises by any tenant, household member or guest; or, engaged in on the premises for any other person under the tenant's control;
- Illegal drug use or a pattern of illegal use of a drug that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents;
- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including property management staff residing on the premises) and by persons residing in the immediate vicinity of the premises;
- When it is determined the tenant is fleeing to avoid prosecution or custody or confinement after conviction for a crime, or attempt to commit crime that is a felony under the laws of the state from which the individual flees; and
- When the tenant is violating a condition of probation or parole imposed by Federal or state law; any member of the family household is subject to a lifetime registration requirement under a State sex offender registration program in the state where the housing is located.

A lease between the owner and tenant shall be in a standard form used by the owner for other unassisted tenants. When the RFTA and proposed lease are submitted, MHA will review the terms of the RFTA for consistency with the terms of the proposed lease. If the terms of the RFTA are not consistent with the terms of the proposed lease, MHA may not move forward with the unit approval process. The proposed lease must comply with HUD requirements, as well as State and local law.

- Owners that use a standard lease for units rented to unassisted families must use the same lease, plus the HUD prescribed tenancy addendum for HCV assisted families.
- MHA will review the owner's lease, any optional charges, compliance with regulations, and any house rules.
- Responsibility for utilities, appliances and optional services must correspond to those provided on the RFTA.
- The initial lease term may be for less than one year.
- The owner must be approved and there must be no conflicts of interest (e.g. owner may not be a relative, etc.).

### Restriction on Renting to Relatives

Housing Choice Voucher recipients may not rent units which are owned by a close relative (defined as the parent, child, grandparent, grandchild, sister, or brother) of any member of the recipient's household. The exception to this rule is if the recipient household member has a disability and, renting from a close relative is determined to be a reasonable accommodation. This policy applies only to new

admissions and transfers. The policy does not affect current participants who are leasing units from close relatives until they decide to move or unless the owner wishes to amend the lease or execute a new HAP Contract for the same unit. It also does not affect families at the time that their subsidy is converted to the Housing Choice Voucher so long as they remain in the same unit under the same lease agreement.

### New Lease Required

- If there are any changes in lease requirements governing tenant or owner responsibilities for utilities or appliances;
- If there are any changes in lease provisions governing the term of the lease;
- If the family moves to a new unit, even if the unit is in the same building or complex.

### Security Deposit

[24 CFR 982.313 \(a\) and \(b\)](#)

The owner may collect a security deposit from the participant. The owner determines the amount of the deposit in accordance with local practices. MHA prohibits security deposits in excess of private market practice or in excess of amounts charged to unassisted tenants. MHA assumes no liability for damages, unpaid rent or vacancies.

### Separate Agreements

[24 CFR 982.451\(b\)\(4\)](#); [24 CFR 982.510\(c\)](#)

Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

### Initial Rent Burden

At initial leasing, the family's rent cannot be more than 40% of the family's adjusted income. At the family's request, MHA will negotiate with the owner to reduce the rent. If the rent is not lowered to at or below 40% of the adjusted income, the family may not lease the unit.

### Owner Disapproval

[24 CFR 982.54d\(8\)](#); [982.306](#); [982.161\(a\)](#)

MHA may disapprove the owner for any of the following reasons:

- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in any drug-related criminal activity or any violent criminal activity;
- The owner has a history or practice of non-compliance with the HQS for units leased under the participant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;
- The owner has a history or practice of failing to terminate tenancy of participants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the participant, any member of the household, a guest or another person under the control

of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents, of employees of MHA, or of owner employees or other persons engaged in management of the housing; (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity;

- The owner has a history or practice of renting units that fail to meet state or local housing codes; or
- The owner has not paid state or local real estate taxes, fines, or assessment.
- The owner has recently received payments for subsidy of a unit on which foreclosure and displacement of a participant occurred.
- MHA utilizes direct deposit as the method of payment of HAP obligations. Owners are required to provide a Tax Identification Number (TIN) or a Social Security Number that matches their banking information. MHA will not enter into a contract where the owner is unable to establish a TIN/SSN that matches names or entities identified on ownership documents or where the owner elects not to accept direct deposit.
- When HUD has informed MHA that disapproval is required because:
  - Owner has been disbarred, suspended, or subject to a limited denial of participation
  - Federal government has instituted an administrative or judicial action against the owner for violating the Fair Housing Act or other federal equal opportunity requirements and such action is pending;
  - Court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.

Before imposing any penalty against an owner, MHA will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance and the number of violations.

If an owner commits fraud or abuse or is guilty of frequent or serious contract violations, MHA may debar or suspend the owner from future participation in the. MHA may terminate some or all contracts with the owner.

Contracts or HAP agreements shall not be entered into or awarded to debarred or suspended owners or landlords. A debarment by the Authority shall be for a period of six (6) years. Suspensions may be issued for any period from one (1) to five (5) years.

If an owner, landlord or their designee, is determined by the Authority to have committed an act or action justifying the sanction of suspension or debarment, the landlord shall be advised in writing by regular and certified mail of the reason for the determination.

The Owner or Landlord will have fifteen (15) days from the date the notice is mailed to appeal the determination to the HCV Director in writing by certified mail. Upon receipt of said notice, the HCV Director will schedule a hearing for the owner before the HCV Hearing Officer/Panel or other designated review panel.

The HCV Hearing Officer/Panel will render an advisory decision in writing to the HCV Director. The HCV Director may accept, reject or amend the decision of the Panel and will notify the Owner or Landlord of

the disposition of the matter. The HCV Director's disposition shall be final and binding upon the Agency and Owner.

If the owner has been overpaid as a result of fraud, misrepresentation, or violation of the Contract, MHA may terminate the Contract and arrange for restitution to MHA and/or the family, as appropriate.

MHA must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of MHA (except a participant commissioner)
- Any employee of MHA, or any contractor, subcontractor or agent of MHA, who formulates policy or who influences decisions with respect to the programs
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs
- Any member of the Congress of the United States

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. MHA must submit a waiver request to the appropriate HUD Field Office for determination. Any waiver request submitted by MHA must include the following:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, MHA, or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by MHA or assistance under the HCV program for an eligible MHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program;
- If the case involves an investment on the part of a member, officer, or employee of MHA, description of the nature of the investment, including disclosure/divestiture plans.
- Where MHA has requested a conflict of interest waiver, MHA may not execute the HAP contract until HUD has made a decision on the waiver request.

In considering whether to request a conflict of interest waiver from HUD, MHA will consider certain factors such as consistency of the waiver with state and local laws, the existence of alternative housing available to families, the individual circumstances of a particular family, the specific duties of individuals



whose positions present a possible conflict of interest, the nature of any financial investment in the property and plans for disclosure/divestiture, and the possible appearance of impropriety.

## **CHAPTER 7: Housing Quality Standards and Inspections and Rent Reasonableness**

[24 CFR 982.305](#); [982.401](#); [982.405\(a\), \(b\)](#); [PIH Notice 2016-05](#)

### **Housing Quality Standards**

MHA adheres to Housing Quality Standards (HQS) standards as established in 24 CFR 982.401 to perform all required inspections. Interpretative guidance for HQS acceptability criteria is taken from Form HUD 52580-A, the HUD Housing Inspection Manual and MHA procedure memoranda. MHA will maintain reports for inspections in accordance with MHA's record retention and disposition policy.

Before any unit is approved under the Housing Choice Voucher Program, MHA requires compliance with HQS. Units must be inspected and pass HQS prior to approval of any lease, and at least annually thereafter. MHA may institute a biennial inspections process in accordance with HUD statute. Inspections may also occur on other occasions, as warranted, such as in the case of a request for inspection by the owner, family or government official.

If at the initial inspection there are defects or deficiencies which must be corrected to make the unit compliant with HQS, MHA will advise the owner and/or the owner's representative present at the inspection, of the defects or deficiencies. MHA will give the owner a specified date by which to correct the defects/deficiencies. Before a HAP contract is executed, any unit that fails must be re-inspected to ascertain whether the necessary work has been performed. The unit must be approved as compliant with HQS before execution of the contract.

### **Owner and Tenant Responsibilities**

It is the owner's and tenant's responsibility to maintain the unit within HQS compliance throughout the term of assistance. Failure to maintain HQS could result in HAP abatement, HAP contract termination and/or loss of program participation.

#### **Tenant Responsibilities**

[24 CFR 982.551\(d\)](#), [24 CFR 982.404\(b\)](#)

The family is responsible for correcting inspection failures caused by:

- Tenant-paid utilities not in service
- Failure to provide or maintain tenant-supplied appliances
- Smoke detector(s) missing
- Blocked window/doors (prevents egress from unit)

MHA may terminate the family's assistance if the family:

- Fails to correct a violation within the period allowed by MHA (and any extensions);
- Fails to allow the owner entry into the unit to complete repairs.

## Owner Responsibilities

### [CFR 985.3\(f\)](#)

The owner is responsible for all HQS violations not listed as a family responsibility above. MHA generally conducts no more than two inspections per unit during the annual inspection process. On occasion, MHA may grant an owner's request for a third inspection. MHA will charge the owner a non-refundable fee of \$100 for conducting a third inspection. The \$100 fee must be paid to MHA prior to scheduling of the third inspection, which will be scheduled within 30 days of the request and payment.

Owners are encouraged to inspect their property periodically during the term of the HAP contract to ensure compliance.

## Scheduling Inspections and Owner/Family Attendance

### [24 CFR 982.551\(d\)](#)

Owners/agents are encouraged to be present during an inspection of their unit(s) by MHA. The owner or representative must be present during an initial inspection. An owner is not allowed to cancel an annual, special or quality control inspection.

Families must have an authorized adult present during the inspection of the unit they occupy. The family must allow MHA to inspect the unit at reasonable times with reasonable notice. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than 48 hours. In the case of a life-threatening emergency, MHA will give as much notice as possible.

MHA will process termination of family program assistance and inform the owner of contract unit termination when the following occurs:

- The family cancels, does not allow entry, or fails to have an adult present on two consecutive scheduled inspections.
- The family cancels or fails to be present at the first scheduled inspection and fails to reschedule the inspection.
- If the family does not allow entry, is not present for the inspection, or fails to have an adult present, the attempted inspection is considered a failed inspection.

## Emergency Inspections

In cases of owner or tenant failure to repair life-threatening conditions within the required 24- hour time period, HAP contracts will terminate the end of the month following expiration of a 30-day notice to terminate. Life-threatening conditions include, but are not limited to:

- No heat between November 1 and March 1.
- No water and/or electricity in the entire unit.
- Inoperable smoke detector on every level.
- Natural gas leak or fumes from any fuel burning equipment.
- Major plumbing leaks or flooding (such as sewer backup or stoppage).
- Any electrical outlet, switch, stationary light fixture, fuse box or circuit breaker that smokes, sparks or short circuits, creating a fire hazard.

- Uninhabitable units due to fire, tornado, destroyed or vandalized property that prevents a tenant from using the bathroom or kitchen or from entering the dwelling unit.
- Unstable structural problems that may fall, including large tree branches, to the extent they are apparent.
- Other conditions that pose an immediate threat to health or safety, such as obstacles that prevent tenant's egress.

## **Rent Abatement and Contract Terminations for HQS Violations**

MHA will inform the owner and family of failed inspection results and the timeframe for correcting deficiencies. If life-threatening deficiencies are not corrected within 24 hours, and non-life threatening deficiencies are not corrected within the specified timeframe, generally less than 30 days (or any MHA-approved extension), the owner's HAP will be abated in accordance with MHA policy.

MHA will advise the owner, in accordance with the HAP contract, when MHA plans to abate housing assistance (HAP) payments. When an owner fails to correct cited deficiencies within the specified timeframe, HAP payments will be abated at the end of the month in which the failed reinspection occurred, and will continue until such time when:

- The owner corrects the deficiencies, in which case the housing assistance payments may be resumed as of that date; or
- The HAP contract expires or is terminated.

No retroactive HAP payments will be made for the period during which the rent abatement occurred. When the deficiencies are corrected, however, proration of the monthly HAP payment may be provided to the owner based on the date a MHA inspector certified the required work was completed. MHA will terminate HAP contracts which are under abatement at the earlier of: a) the month the family living in the unit has moved, or b) two months after the last HAP payment was made.

During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

If the owner is unable to gain access to the unit to make repairs due to the family's lack of cooperation, the owner is encouraged to enforce the lease and advise MHA of the lease enforcement action.

In the case of family caused deficiencies, MHA will advise the family that if corrections are not made within the specified timeframe (or any MHA-approved extension, if applicable) the family's assistance will be terminated in accordance with MHA policy. The HAP contract will be terminated when the family's assistance ends.

## **Owner Self-Certifications of Repairs**

[24 CFR 982.404\(a\)\(3\)](#); [Notice PIH 2011-29](#)

When a unit has been inspected and fails to meet the Housing Quality Standards, MHA may elect to accept a self-certification signed by the owner and the tenant that the repairs have been completed. Owners and tenants may submit photographs verifying repairs for Annual and Complaint inspections

only, in accordance with PIH Notices 2012-15 and 2013-17 or any superseding notice. Photos will be considered on a case-by-case basis. Units where verification of repair by self-certification and/or photographs are used, may be subject to additional quality control inspections. MHA will not accept self-certifications on initial inspections, life-threatening deficiencies, if an inspection had more than ten deficiencies, or when the agency deems it is in the best interest of the agency.

## **Extensions**

[24 CFR 982.404](#)

MHA will not grant extensions for life-threatening conditions. For conditions that are not life-threatening, MHA may grant an exception for correcting the failed item(s), if MHA determines that an extension is appropriate. Extensions will be granted in cases where MHA has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case by case basis, but will generally not exceed 60 days. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 30 days.

## **Poor HQS History**

MHA may deny a contract for a unit if the unit has a history of failed inspections for major infractions within the past 24 months. Major infractions include, but are not limited to failing paint issues, plumbing or sewage, heat or hot water, flooding or leaks at window or roofs, gas leaks, or ongoing electrical malfunctions, and evidence by previous participant tenants of excessive utility bills or other such infractions. A minimum of three or more complaint inspections or repeated failures during annual, quality control or complaint inspections in a 24 month period where major infractions were cited, or where ongoing HQS violations are documented may be cause for denial of a new contract or termination of an existing contract.

## **Alternate Inspections**

MHA may accept an alternate inspection from MHA-approved entities if MHA can reasonably determine from the result of that inspection that the unit would meet Housing Quality Standards. MHA may rely on an alternative inspection (an inspection conducted for another housing program) provided MHA obtains the results of the alternative inspection and if HCV units are included in the population of that housing program's unit population. Alternative housing program inspections include:

- HOME Investment Partnerships
- Low-Income Housing Tax Credits housing
- Inspections performed by HUD

## Rent Reasonableness

[24 CFR 982.507](#); [982.305\(a\)](#)

At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent determined by MHA.

MHA will not approve a subsidized tenancy until a determination has been made that the initial rent to the owner is reasonable. Rent reasonableness will be determined for all new leases, rent increase requests and at other times as deemed necessary by MHA or required by HUD. Rent increase requests submitted by the owner will not be considered until after the initial occupancy period and only if the unit is not in failed HQS status.

MHA will determine and document on a case-by-case basis that the approved rent is reasonable. A reasonable rent to the owner is defined as a rent that is not more than rent charged for comparable units in the private, unassisted market and for comparable unassisted units.

If MHA determines that the amount of rent requested by the owner is not reasonable, a reasonable rent will be computed and the owner will be provided the opportunity to accept the reasonable rent. Failure by the owner to accept the reasonable rent as determined by MHA will result in disapproval of the unit for the program. If the unit is disapproved and the family's voucher has expired, the family may be provided an extension in accordance with this Plan.

### Methodology

The reasonableness of the rent for the assisted unit will be determined by considering the following factors:

- Location;
- Quality;
- Size;
- Unit Type;
- Age of the Contract Unit;
- Amenities;
- Housing Services;
- Maintenance; and
- Utilities provided by the Owner in accordance with the Lease.

MHA may utilize an independent vendor to maintain and analyze market survey information on rents for comparable units in the area.

## CHAPTER 8: Housing Assistance Payment Contract

[Form HUD 52641-a](#)

MHA makes every effort to execute the HAP contract with the owner as quickly as possible on or after the unit passes inspection and all required documents have been submitted. If the HAP contract is not executed and/or required documents are not received within 60 days of the HAP effective date, MHA will void the HAP contract. Required documents include:

- Executed lease between the owner and the participant
- Ownership and tax documents stated in the RFTA section of this Plan

### HAP Payments

[24 CFR 982.451\(a\)\(5\)](#)

Once the HAP Contract is executed, MHA will process housing assistance payments to the owner. The HAP contract is not effective until the unit has passed HQS. MHA is not responsible for any part of the rent prior to the date the unit passes inspection and the HAP contract is fully executed.

MHA will make Housing Assistance Payments to the owner in accordance with the HAP Contract, as long as the family continues to occupy the unit and the contract is not in violation. By accepting the monthly HAP payment, the owner certifies that: the family is still in the unit, the owner is in compliance with the contract, the unit is HQS compliant, and that the rent to the owner is not more than the rent charged by the owner for comparable unassisted units.

- The Housing Assistance Payment to the owner may never exceed the rent charged by the owner, and is the lower of the:
- Payment Standard minus the Total Tenant Payment, or
- Gross rent minus the Total Tenant Payment.

Owner payments will be placed on hold if:

- The unit fails HQS
- Ownership of the unit has changed
- Unit ownership is in question
- Any other reason MHA determines that the HAP contract may have been breached

### Right to Recoup Amounts Paid

If a contract is terminated after a payment has been made, or it is determined that an owner accepted payments for a unit not occupied in accordance with the terms of the HAP contract, MHA may recoup amounts paid erroneously by withholding any payment owed to that owner, even if the payment owed is for another HCV participant. In limited circumstances, such as MHA error, an owner may have the option to enter into a repayment agreement with MHA to pay amounts owed to MHA. MHA may deny any new RTA for an owner who has a balance outstanding to MHA or withhold HAP payments on new contracts until outstanding balances have been satisfied. MHA may also pursue other means of collection for debts owed the PHA.

## Owner Rent Increases

[24 CFR 982.308\(g\)\(4\)](#); [982.309\(a\)\(3\)](#)

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

After the initial term of the lease, the owner may request a rent increase according to the terms in the lease and HAP contract. All rent increases must be submitted in writing to MHA by the owner, along with a copy of the rent increase notice to the participant. The owner must provide 60 days advance notice to the participant and the rent increase must be requested in MHA's approved format.

If the rent increase request is received as noted above, MHA will review the rent increase request and determine that the requested amount meets rent reasonableness requirements and that the family agrees to the increase. If approved, the rent adjustment will be effective the first day of month on or after the contract anniversary date or 60 days following receipt of the owner request on the first of that month, whichever is later. The family will be issued a voucher to move and the HAP contract will be terminated if:

- The rent is not reasonable and the owner is unwilling to negotiate an approvable rent amount; or
- The family elects to move because of the rent increase and provides proper notification to the owner in accordance with the lease terms and to MHA at least 30 days in advance.

MHA may, due to HUD funding constraints, limit, suspend and/or request voluntary deferment of rent increases.

## Unit Ownership Changes

MHA must receive a written request by the initial owner in order to change the HAP Contract payee and/or the address to which payment is to be sent. In the event prior written consent was not requested nor granted, the HAP contract is terminated. MHA will process a change of ownership provided the following documents are received from the new owner:

- Proof of ownership, i.e. copy of escrow statement, deed of trust, or other document showing the transfer of title (see Proof of Ownership in this Plan).
- Completed W9 with Social Security or Tax Identification Number (TIN)
- In cases where the owner has elected to utilize the services of a property management company or has otherwise designated an agent to act on his/her behalf, MHA may request a copy of the management or agent agreement, a statement from the owner identifying the individual/s authorized to execute HAP Contracts on his/her behalf in addition to proof of ownership documentation.
- MHA utilizes direct deposit as the method of payment of HAP obligations. Owners are required to provide a Tax Identification Number (TIN) or a Social Security Number that matches their banking information. MHA will not enter into a contract where the owner is unable to establish a TIN/SSN that matches names or entities identified on ownership documents or where the owner elects not to accept direct deposit.
- The effective date of the HAP contract assignment; and



- Other documents as required

When a change in ownership occurs, the new owner legally assumes the current lease and the current HAP contract. At MHA's or the new owner's request a new HAP contract may be executed, however the lease terms remain the same and new HAP term matches the existing lease. MHA is not responsible for funds already disbursed to the former owner.

## **HAP Contract Terminations**

[24 CFR 982.311\(b\)](#)

MHA will terminate a current HAP contract or deny approval of a new HAP contract when:

- A family vacates the unit either in violation of the lease or by mutual agreement with the owner before termination of the lease/contact;
- The lease is terminated by the owner or the family;
- The owner will not renew the HAP contract or extend the current lease;
- The sole participant dies;
- There has been no HAP for 180 calendar days;
- MHA terminates assistance for the family; or
- HQS space requirements are not met.

MHA may terminate the HAP contract for any owner breach of contract, including the following:

- HAP contract violation including not maintaining HQS;
- Any fraud or bribery or other corrupt or criminal act in connection with Federal housing programs;
- Has a history or practice of failing to terminate tenancy of tenants of assisted units for activity by the tenant, any member of the household, a guest or another person under the control of any member of the household that: (a) threatens the right to peaceful enjoyment of the premises by other residents; (b) threatens the health or safety of other residents, of employees of MHA, or of owner employees or other persons engaged in management of the housing; (c) threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or, (d) commits drug-related criminal activity or violent criminal activity;
- Engaging in any drug-related criminal activity or any violent criminal activity;
- Any failure to comply with mortgage insurance/loan program regulations, or bribery or other corrupt or criminal act in connection with the program. (Only for projects with mortgages insured or loans made from HUD);
- Seriously delinquent taxes; or
- Habitual failure to maintain HQS.

The nature and extent of circumstances will be considered when such HAP contract terminations are proposed.

The HAP contract will terminate on the last day of the month following the month in which MHA provided the owner with notice. No future subsidy payments on behalf of the family will be made by

MHA to the owner after the month in which the Contract is terminated. The owner must reimburse MHA for any subsidies paid by MHA for any period after the contract termination date or if it is determined that an owner accepted payments for a unit not occupied in accordance with the terms of the HAP contract. MHA may recoup HAP due to the Authority by withholding any payment owed to that owner, even if the payment owed is for another HCV participant (see Right to Recoup Amounts Paid in this Plan). MHA may deny any new RTA for an owner who has a balance outstanding to MHA or withhold HAP payments on new contracts until outstanding balances have been satisfied. MHA may also pursue other means of collection for debts owed to MHA.

If the family continues to occupy the unit after the HAP contract is terminated, the family is responsible for the total amount of rent due to the owner.

The owner may terminate the lease at the end of the lease term or at any time for lease violations. The owner must use the termination proceedings as prescribed in the lease and contract; the owner can:

- Institute court action, using the grounds for eviction cited in the lease.
- Try to obtain a mutual rescission of the lease with the participant. The mutual rescission must be signed by both parties and indicate the reason for the rescission.
- Issue proper notice not to renew the Lease Agreement.

If the owner has begun eviction and the family continues to reside in the unit, MHA will continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the family. HAP payment will stop the first of the month following the legal eviction or the date the family moves from the unit whichever is earlier.

The owner may not terminate tenancy for MHA's failure to pay the housing assistance payment.

#### HAP Termination due to Insufficient Funding

MHA may terminate the HAP contract if it is determined, in accordance with HUD requirements, that the funding under the consolidated ACC is insufficient to support the continued assistance for families in the program. In the event the termination of HAP contracts becomes necessary, MHA shall exempt the following:

- Elderly persons, sixty-two (62) years and older
- Disabled families
- Section 8 Homeownership Program applicants
- Families receiving voucher assistance as a result of relocation due to HOPE VI development
- Families receiving voucher assistance through special allocations in VASH, DHAP Mainstream programs

MHA reserves the right to determine the methodology of termination of HAP contracts. Such methodology shall be based on income. Families currently paying seventy-five percent (75%) or more of contract rent will have the HAP contracts terminated. If after terminating families paying seventy-five percent (75%) or more of contract rent, there continues to be insufficient funding, the families paying fifty percent (50%) to seventy-four percent (74%) of contract rent will be terminated. If there continues to be insufficient funding, then, families paying twenty-five percent (25%) to forty-nine percent (49%) of contract rent will be terminated. The order of families being terminated in these payment groups shall

be conducted on a first in, first out basis. i.e., those families who have participated the longest in the program by lease-up date will be the first HAP contracts terminated. Notice of the HAP contract termination will be provided to the tenant and owner. Families terminated due to lack of sufficient HAP funding leaving in good standing shall be afforded, when available, other housing opportunities. Families removed from the program shall be placed on a list until funding is available for re-housing.

## CHAPTER 9: Verifications

[24 CFR 982.516](#), [24 CFR 982.551](#), [24 CFR 5.230](#), [24 CFR 5.609\(d\)](#); [Notice PIH 2010-19](#); [Notice PIH 2013-23](#), [HCV GB p5-17](#),

It is the responsibility of the applicant/participant to provide timely and accurate information regarding income and other factors, to the extent that MHA is able to complete verification processes in accordance with HUD regulations. Failure on the part of the applicant/participant to provide necessary information may result in denial of the application or termination of program participation.

The family must supply any information that MHA or HUD determines necessary to the administration of the program and must consent to MHA verification of that information. All adult applicants and participants must sign the HUD-9886, Authorization for Release of Information. Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Failure to sign consent forms will result in denial of admission for applicants and program termination for participants. The family will be informed of the denial or termination in accordance with MHA policies, and will be provided information on requesting an informal review or hearing.

### Eligibility and On-going Participation Verifications

At the time of initial eligibility determination and reexamination, applicants and participants will be required to certify to all information they provide to MHA and to sign verification forms permitting the release of information. The following information will be verified to determine eligibility for initial and continued participation in MHA's HCV programs:

- Household composition
- Annual Income
- Assets and Asset Income
- Deductions from Income
- Social Security Numbers of all household members
  - Pending disclosure and documentation of social security numbers, MHA will allow the family to retain its place on the waiting list for 90 days. If all household members have not disclosed their SSNs at the next time a voucher becomes available, MHA will offer a voucher to the next eligible applicant family on the waiting list.
  - Citizens and lawfully present noncitizens who state that they have not been assigned a SSN by the SSA will make such declaration in writing and under penalties of perjury to MHA.
  - If the family provides an unacceptable document, MHA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to MHA within 60 days.
  - If the family certifies that the required evidence is temporarily unavailable and it needs more time, MHA 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.
- Applicant Criminal History Information
- Citizenship or eligible immigration status

- Preferences

## Methods of Verification

[Notice PIH 2010-19](#); [Notice PIH 2013-23](#)

MHA will rely primarily on Upfront Income Verification (UIV) tools and third party verification to verify income and other eligibility factors. Documentation of all verifications will be placed in the applicant/participant file. MHA follows HUD's hierarchy of verifications attempting the highest level of verification prior to moving on to another verification method.

- Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Up-front Income Verification (UIV) using a non-HUD system
- Written Third-party Verification provided by applicant or participant
- Written Third-party Verification Form
- Oral Third-party Verification
- Self-Certification

### EIV Verification Process

[24 CFR 5.233](#)

MHA uses HUD's Enterprise Income Verification (EIV) system to verify participant employment, earned income, unemployment benefits, and social security (SS), and supplement security income (SS) benefits information at annual and interim reexaminations. MHA will also use HUD's EIV system to monitor potential multiple subsidies, deceased individuals, household member identity, under and non-reported income, and immigration status. When required, MHA will also independently verify EIV information prior to taking adverse action against a family.

### Requirements for Non-EIV Verifications

- MHA will review documents provided by applicants/current participants and determine whether the documents are sufficient to satisfy HUD verification criteria. Documents provided by the family must not be damaged, altered or in any way illegible, and must be dated within 60 days of the request date.

### Third Party Written Verifications

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by MHA and will be sent directly to the third party.

MHA may use review of documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than \$5000 annually.

MHA will determine that third-party verification is not available when there is a service charge for verifying an asset or expense.

### Third Party Oral Verifications

MHA will document the oral verification or the attempt to verify in the family's file..

## Family Self-Certifications

Notice [PIH 2013-03](#)

The documents in the application packet and annual reexamination packet serve as the family's self-certifications. When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to MHA. MHA may require the family to certify that a family member does not receive a particular type of income or benefit.

## CHAPTER 10: ONGOING PROGRAM OPERATIONS

### Annual Reexaminations

[24 CFR 982.516](#); [24 CFR 5.612](#)

MHA will conduct a reexamination of income, assets, expenses and family composition at least annually. The annual reexamination process begins approximately 120 days in advance of the scheduled effective date. The annual reexamination will be effective on the first of the month.

MHA may prescribe completion of annual reexaminations by mail, in person or electronically. MHA will provide the participant with all required certification materials to be completed within the specified time period. The participant and all adult family members must complete and submit all the required documents, signatures and verifications within the specified period of time.

If the family size has changed, MHA will increase or decrease the voucher size as appropriate at the annual reexamination. The current utility allowance schedule will be used to complete the annual reexamination.

Participants are required to provide documents such as social security cards, birth certificates, citizen declaration forms, etc., upon request, at annual reexamination, interim certification, or at any time requested by MHA.

The annual reexamination will not re-verify eligibility income limits except where the Head of Household is a full-time student.

MHA may follow up by telephone, email and/or require in-person appointments with participants, as needed, to request additional information, seek clarification, review reexamination documents, and/or conduct quality control.

Participants will be provided up to two opportunities to complete the re-examination requirements within the prescribed timeframes. If all documents and information are not submitted to MHA within the timeframe, and any allowed extensions, the family's assistance will be terminated effective on the participant's reexamination effective date for the family's failure to comply with their family obligations. The termination process begins after one failure to return mailed documents plus one missed appointment, two missed appointments, or other opportunities as provided (e.g. on-line, via telephone, mail, etc.).

### Streamlined Income Determinations

[Notice PIH 2016-05](#)

For any family member with a fixed source of income, MHA may determine that family member's income using a streamlined income determination by applying, for each fixed-income source, the verified cost of living adjustment (COLA) or current rate of interest to the previously verified or adjusted income amount.

A family member with a fixed source of income is a family member whose income includes periodic payments at reasonably predictable levels from one or more of the following sources: Social Security,

Supplemental Security Income, Supplemental Disability Insurance; federal, state, local, or private pension plans; annuities or other retirement benefit programs, insurance policies, disability or death benefits, or other similar types of periodic receipts; or any other source of income subject to adjustment by a verifiable COLA or current rate of interest.

For any family member whose income is determined by a streamlined income determination, MHA may obtain third-party verification of all income amounts every 3 years.

## **Interim Reexaminations**

[24 CFR 960.257](#), [966.4](#)

Rent and other charges shall remain in effect for the period between regularly scheduled re-examinations, except when household composition or income changes in accordance with the following. The family must report changes in income expected to last more than thirty days and/or household composition to MHA within 30 days of the change. Families are not required to report cost of living adjustments to recipients of Social Security, SSI, TANF, and Veteran's Assistance.

### **Changes to Household Composition**

The family must inform MHA of an addition of a family member as a result of birth, adoption, or court-awarded custody of a child or the removal of a family member from the household within 30 days. MHA will require verification documents such as birth certificate and disclosure of Social Security number. If the member is a child six or under, the household has 90 days after move-in to submit the documentation.

A participant family must request from MHA and upon approval of MHA, may add an additional adult family member to the household under the following circumstances:

- A family member (spouse, sons, daughters, brothers, sisters, parents, grandparents, grandchildren, cousins, nieces, nephews) of an existing household member;
- Such member must be eligible for participation in the Housing Choice Voucher Program
- Such member has supplied documentation of Social Security Number prior to move-in.
- Such member's income must be considered in calculation towards rent; The addition of the family member shall be in consideration of a reasonable accommodation or for humanitarian reasons (requests to add a live-in aide to the household must also be in writing or prescribed electronic format); OR
- Unrelated/unmarried partners who show proof of intention to live as a family.

All other additions to participant families shall be considered only on a case-by-case basis and must be documented at the time such changes occur. A criminal background check is required for all requests to add adult household members or live-in aides to the household. MHA's prior approval of additions to the household is required.

MHA will not approve the addition of a new family member or household member unless the individual meets MHA's eligibility criteria and documentation requirements. MHA will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards. Only those persons listed on the most recent certification form and lease shall be permitted to be included in the family



composition. MHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

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

### Removing Household Members

Participant families must notify MHA within 30 days if a family member moves out. This notification must be in writing or other prescribed electronic format. Verification of the removed household member's new residence may be required before MHA will remove a household member.

### Interim Changes Affecting Income

Interim reexaminations may be scheduled either because MHA has reason to believe that changes in income may have occurred, or because the family reports a change.

Families are required to report changes in household income expected to last more than 30 days within 30 days.

### MHA-Initiated Interim Reexaminations

MHA may conduct an interim reexamination at any time:

- in order to make corrections or to investigate a participant fraud complaint.
- for families reporting zero (\$0) income.

During any reexamination, families reporting \$0 income may be required to have all adult household members sign a certification of zero income. MHA may also require all adults residing in the household to sign a Release allowing MHA to obtain a certified copy of any tax return submitted to the IRS. MHA may require the household to complete detailed family expense form to identify household income. Participants will be asked to provide information that verifies the source of income that allows them to meet monthly financial obligations. Failure to comply with these reexamination requirements will be considered grounds for termination of assistance.

### Interim Reexamination Effective Dates

If the family's share of rent is to increase:

- The increase will become effective on the first day of the second month following the date the change occurred.

If the family's share of rent is to decrease:

- The decrease will be effective on the first day of the month following the month in which the change was reported and all required and requested information has been received.

## Family Moves

### [24 CFR 982.1\(b\)\(2\)](#)

A family may request to move to a new unit if:

- The initial term of the lease has expired and proper notice has been given to the landlord and to MHA.
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family, and MHA has been provided proper documentation of the mutual rescission.
- For non-lease violations only: the owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family. The family must give MHA a copy of any owner eviction notice and eviction for lease violation may result in termination from the program.
- The family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member (VAWA). This condition applies even when the family has moved out of its unit in violation of the lease, with or without prior notification to MHA, if the family or family member who is the victim reasonably believed that he or she was imminently threatened by harm from further violence if he or she remained in the unit.
- The family is in good standing with MHA.
- The family does not owe MHA money.

Families are not permitted to move in the first term of the lease or while in any subsequent lease term unless the owner and family mutually agree to do so. If the owner refuses to a mutual rescission, the family will not be allowed to move unless MHA otherwise determines VAWA or other health and safety provisions prevail. Families will not be permitted to move more than once in a 12-month period unless required to do so by MHA to meet HQS or other program objectives, to protect the health or safety, or in the case of an emergency.

A participant family who wants to move, **must** vacate the unit in compliance with the lease (e.g. provide landlord with adequate notice). The family must provide MHA thirty (30) days written notice and a Request for Tenancy Approval in order to receive a Voucher to lease a new unit. Provided all obligations have been met, the family will be issued a Voucher to lease a new unit. MHA will not unduly deny the issuance of a voucher based on an owner's report of non-compliance that has existed prior to the tenant's request, i.e. The owner reported that the tenant has owed rent for several months, but has not previously notified MHA nor has taken legal action.

MHA may conduct a reexamination and may opt to conduct a criminal background check of the members of the household who are 18 years of age and older prior to approving the issuance of a voucher to move.

### Required Moves

MHA may require participant families to move from one unit to another unit if:

- MHA has terminated the unit for the owner's breach of the HAP contract or unit is in foreclosure; or

- MHA determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition.
- The unit is not in compliance with HQS.

## Denial of Moves

### [Notice PIH 2016-09](#)

MHA may deny moves in the following circumstances:

- Applicants who are seeking to move under Portability who are not income eligible in the receiving PHA's jurisdiction.
- Participant families that have moved out of their assisted unit in violation of the lease, provided the owner appropriately notifies MHA of the lease violation and provides supporting documentation. MHA will grant an exception to this in the situation where the only reason for the violation of the lease was due to circumstances surrounding being a victim or domestic abuse, dating violence or stalking, and who reasonably believed he or she was imminently threatened if he or she remained in the assisted unit (VAWA).

MHA may limit moves at any time due to HUD funding constraints.

MHA may deny permission to move when MHA does not have sufficient funding for continued assistance if: (a) the move is initiated by the family, not the owner or MHA; (b) MHA can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) MHA can demonstrate that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs.

Families denied a move due to insufficient funding, will be notified of the reason their move request was denied and that they may notify MHA if the request to move is due to a request for a reasonable accommodation or for protection due to domestic violence, dating violence or stalking (VAWA).

When funds become available, MHA will notify families previously denied to move due to insufficient funding and will begin to process requests to move in the order received – from oldest to newest – with preference to families whose request to move was due to a reasonable accommodation or VAWA.

Families who do not respond to MHA's notification shall have their move requests cancelled.

## Move Process

If MHA determines a family eligible to move, the family will be issued a voucher to move and provided any other necessary information. If the family and owner agree to extend the move date, the extension must be submitted to MHA in writing, signed by both the family and owner, must include the new effective date of the move, and must be submitted before the original effective date of the move notice.

All actions regarding moves (Request for Tenancy Approval, owner approval, initial inspection, initial rent burden, rent reasonableness, voucher term, voucher extensions, etc.) are the same as stated elsewhere in this Plan.

MHA's policy regarding moves applies to moves within MHA's jurisdiction as well as to moves outside its jurisdiction under portability.

## Portability

[24 CFR 982.353\(b\)](#)

Portability allows a family to move from one jurisdiction to another with continued assistance. Voucher holders may move anywhere there is a Housing Agency that administers a tenant-based program. Families are informed of portability requirements in the briefing session and information materials. MHA will always participate in assisting clients who wish to exercise portability.

### Outgoing Portability

[24 CFR 982.353\(c\), \(d\)](#); [982.355\(c\)\(1\)](#)

Families must notify MHA when they want to move out of MHA's jurisdiction using the portability feature. When a family notifies MHA that it wants to move under the portability procedures, MHA will contact the receiving Housing Authority. MHA will confirm the following to the receiving HA:

- The family is eligible for assistance, (i.e., meets the requirements of MHA); and
- A Voucher has been issued to the family.

Families that are new admissions to the HCV program must meet the income eligibility requirements both for MHA and also in the jurisdiction where the family intends to move ("the Receiving PHA").

MHA will not approve extensions to a voucher issued to an applicant or participant family porting out of MHA's jurisdiction except under the following circumstances:

- the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA
- the family decides to return to MHA's jurisdiction to search for a unit

If an applicant does not live in MHA's jurisdiction at the time that the family's application for assistance was submitted, the family must lease a unit within MHA's jurisdiction for at least 12 months before requesting portability.

MHA will consider exceptions to this policy for purposes of reasonable accommodation or reasons related to VAWA as stated in this Plan. MHA may deny portability to higher cost areas when funding is insufficient to support the move and could result in termination of current program participants.

### Incoming Portables

MHA may absorb or administer some or all incoming portable vouchers based on funding available and the best interests of the Agency. If MHA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, MHA will notify the initial MHA as required by HUD.

MHA may conduct a new reexamination of family income and composition, for any family moving into its jurisdiction under portability.

## **CHAPTER 11: Denial of Assistance to Applicants and Termination of Tenancy or Assistance to Participants**

[24 CFR 982.552\(a\)\(2\)](#); [24 CFR 982.553\(a\)](#)

### **Evidence and Considerations**

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, MHA will consider all of the circumstances of the 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. MHA will also consider the requirements contained in this Plan including its criminal background, VAWA and reasonable accommodation policies.

As a condition of receiving or keeping assistance, a family may agree to remove the culpable family member from the application or unit. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the HCV unit.

### **Denial or Termination of Assistance to Applicant/Participant Families**

[24 CFR 982.455](#); [24 CFR 982.551](#), [552](#), [553](#); [24 CFR 5.514](#); [24 CFR 5.218](#); [24 CFR 982.311\(d\)](#); [Notice PIH 2010-3](#); [Notice PIH 2010-9](#); [24 CFR 5.2005\(c\)\(1\)](#)

MHA may deny housing assistance to any applicant household:

1. Who does not meet eligibility requirements, including providing valid social security number information for all household members;
2. Who has any household member who refuses to sign or submit consent forms;
3. Wherein the Total Tenant Payment is greater than the Payment Standard;
4. Who has any household member who has been evicted from public housing within the past five years or has outstanding balances to any PHA as recorded in HUD's EIV data system;
5. If MHA has ever terminated assistance to any household member under the Housing Choice Voucher Program; and
6. Who has any household member who illegally possesses weapons.

MHA may deny or terminate housing assistance to any applicant or participant household who:

1. Violates program obligations, including compliance with HQS.
2. Commits fraud in connection with this program or any other Federal housing assistance program. If MHA determines that the family committed willful and intentional fraud, MHA may require the family to repay any amount owed in full or the family's assistance may be terminated. MHA may, at its discretion, offer the applicant or participant the opportunity to enter into an agreement to repay the amounts owed to MHA or another Housing Authority. If MHA elects to make such an offer, the agreement shall be on terms prescribed by MHA. MHA may, at any time, deny or terminate assistance for breach of such agreement. (See also Repayment Agreements in this Plan.)

3. Owes money to MHA or any other Housing Authority in connection with the Housing Choice Voucher Program or the Public Housing Program, if an applicant; or owes money to MHA and breaches a reimbursement agreement, if a Housing Choice Voucher participant;
4. Has engaged in or threatened abusive or violent behavior toward MHA personnel;
5. Has \$0 in housing assistance payments paid on the family's behalf for six months;
6. Is convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally assisted housing. The premise is defined as the building or complex in which the dwelling unit is located, including common areas and grounds.
7. Is convicted of other drug-related, violent or non-violent criminal activity within the past five years.
8. Is subject to a lifetime registration requirement under a State sex-offender registration program in the state where the housing is located and in other states where the household is known to have lived.
9. Has any household member who illegally possesses weapons.
10. The family fails to provide required documentation and/or fails to sign and submit any required consent forms.
11. Any other HUD required reason.

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, MHA will consider all of the circumstances of the 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.

Per the Violence Against Women Act, the following tenancy protections have been instituted for victims of actual or threatened domestic violence or stalking:

- Incidents of actual or threatened domestic violence, dating violence, stalking or sexual assault will not be considered to be "serious or repeated" violations of the lease or other "good cause" to terminate the assistance of victims of abuse.
- Criminal activity directly related to abuse, engaged in by a household member, guest or other person under the tenant's control, shall not be cause for termination of assistance if a member of the tenant's immediate family is the victim or threatened victim of that abuse.
- If an assisted household member engages in criminal acts of physical violence against family members or others, MHA may terminate assistance to the offending household member in order to terminate assistance for any individual who is a tenant or lawful occupant. These actions may be taken without penalizing the victim.
- These protections will only be accorded to participants that complete the HUD Certification of Domestic Violence, Dating Violence, Stalking or Sexual Assault or provide other documentation in lieu of the form within specified timeframes. See Section O for documentation requirements.
- These statements do not limit the authority or ability of MHA to terminate assistance to any tenant under program guidelines if either MHA or the unit owner/manager can demonstrate an "actual and imminent threat" to other tenants or persons employed at or providing services to the property.

MHA will deny admission to an applicant family if MHA determines that any household member is currently engaged in, or has engaged in any of the activities within the past five (5) years in accordance with the Criminal Background policy in this Plan.

## Notice of Denial

MHA will notify applicant families in writing of any decision to deny assistance. The notice will contain:

- Reason(s) the family is ineligible
- Procedure for requesting a review if the applicant does not agree with the decision
- Time limit for requesting a review: The applicant must submit the written request for an informal review within 15 business days of the date of the denial notice.

If the request is not submitted timely, it will mean that the applicant waived his/her right to request an informal review.

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, MHA will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 15 days to dispute the accuracy and relevance of the information. If the family does not contact MHA to dispute the information within that 15 day period, MHA will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal hearing process.

## Denial of Assistance for Noncitizens

[24 CFR 5.514\(d\)](#)

Denial of assistance based on immigration status is subject to special hearing and notice rules. MHA will notify applicant families of denial of assistance in accordance with HUD regulations. When MHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice of the determination. The notice will explain the reasons for the denial of assistance and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with MHA. The informal hearing with MHA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice will inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

When MHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, MHA will notify the family of the results of the USCIS verification. The family will have 30 calendar days from the date of the notification to request an appeal of the USCIS results. Appeals must be made by the family in writing directly to the USCIS. The family must provide MHA with a copy of the written request for appeal and proof of mailing within 10 business days of mailing the request to the USCIS.

MHA will send written notice to the family of its right to request an informal hearing following receipt of notice of the USCIS decision regarding the family's immigration status.

## Termination Notification

- In any case where MHA decides to terminate assistance to the family, MHA will give both the family and the owner a 30-day written termination notice. However, if a family vacates the unit without informing MHA or the sole family member is deceased, 30 days-notice will not be given. In these cases, the termination will be effective at the end of the month in which the family vacated the unit.

When a family requests to be terminated from the program they must do so in writing to MHA.

## Removal of a Family Member

[24 CFR 982.552\(c\)\(2\)\(ii\)](#)

As a condition of receiving assistance, a family may agree to remove the culpable family member from the household. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the assisted unit.

After admission to the program, the family must present evidence of the former family member's current address upon MHA request.

## Termination of Tenancy

*By the Owner:*

An owner may evict the resident from the unit only by instituting a court action and only for one of the following reasons:

- Serious violation (including but not limited to failure to pay rent or other amounts due under the lease) or repeated violation of the terms and conditions of the lease;
- Violation of Federal, State or local law which imposes obligations on the resident in connection with the occupancy or use of the dwelling unit and surrounding premises; or
- Other good cause (only permitted after expiration of the initial lease term).

Owner termination of residency for other good cause may include:

- The tenant's failure to accept the offer of a new lease in accordance with HUD regulations
- A history of disturbances of neighbors or destruction of property;
- Living or housekeeping habits resulting in damage to the unit or property;
- Criminal activity by family members involving crimes of physical violence to persons or property;
- A business or economic reason; and
- The owner's desire to utilize the unit for personal or family use.

Per the requirements of the Violence Against Women Reauthorization Act of 2013 (VAWA), unit owners/managers shall not consider an incident or incidents of actual or threatened domestic violence, dating violence, stalking or sexual assault as serious or repeated violations of the lease or other "good cause" for termination of the assistance, tenancy, or occupancy rights of a victim of abuse.



Criminal activity directly related to abuse, engaged in by a household member, guest or other person under the tenant's control, shall not be cause for termination of tenancy or occupancy rights if a member of the tenant's immediate family is the victim or threatened victim of that abuse.

If an assisted household member engages in criminal acts of physical violence against family members or others, an owner/manager may 'bifurcate' a lease, or otherwise remove the household member from the lease, in order to evict, remove, or terminate occupancy rights for any individual who is a tenant or lawful occupant. These actions may be taken without penalizing the victim.

These statements do not limit the authority or ability of a unit owner/manager to evict any tenant under program guidelines if s/he can demonstrate an "actual and imminent threat" to other tenants or persons employed at or providing services to the property.

This list of examples is intended as a non-exclusive statement of some situations included in "other good cause," but shall in no way be construed as a limitation on the application of "other good cause" to situations not included in the list.

If the owner opts not to renew the Lease or to terminate the HAP contract for a business or economic reason (such as the sale of the property, renovation of the unit or desire to rent the unit at a higher rate) or if the HAP contract is to expire, the owner must give written notice to the family and MHA in accordance with the lease.

The owner must notify MHA in writing of the commencement of procedures for termination of tenancy at the same time that the owner gives notice to the resident under State and local law. The notice to MHA may be given by furnishing to MHA a copy of the notice to the tenant.

***By the Tenant:***

The tenant may terminate the lease without cause at any time after the initial term of the lease, according to the requirements stated in the lease, with written notice by the tenant to the owner (with a copy to MHA). The tenant may, however, only receive a Voucher to move if it has been at least 12 months since the last household move with assistance.

The requirement to vacate the unit in compliance with the lease may be waived if a family requests a portability move due to actual or threatened domestic violence, dating violence, stalking or sexual assault. MHA will request in writing that tenants that seek to move under a claim of abuse complete the HUD Certification of Domestic Violence, Dating Violence, Stalking or Sexual Assault or provide other documentation in lieu of the form. See VAWA in this Plan.

## **Reasonable Accommodation Related to Denials or Terminations**

[24 CFR 982.552\(2\)\(iv\)](#)

MHA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of MHA's reasonable accommodation policy.

When applicants with disabilities are denied assistance, the notice of denial must inform them of MHA's informal review process and their right to request a review. In addition, the notice will inform applicants

with disabilities of their right to request reasonable accommodations to participate in the informal review process. If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, MHA will determine whether the behavior is related to the disability. If so, upon the family's request, MHA will determine whether alternative measures are appropriate as a reasonable accommodation. MHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of assistance.

## **Repayment Agreements**

If a participant owes money to MHA, MHA may require the participant to enter into a repayment agreement or may require repayment on demand. MHA will enter into a repayment agreement when required by HUD regulations. If the participant does not comply with the repayment agreement, MHA may terminate the participant from the program. However, MHA will consider extenuating circumstances on a case-by-case basis.

If MHA determines that the family committed fraud or was grossly irresponsible, MHA may require the family to repay the entire amount in full or have its assistance terminated, since fraud or gross irresponsibility are considered a violation of a family obligation.

MHA may, at any time, not enter into a repayment agreement and instead terminate the family's tenancy and pursue alternative collection methods. If the family's assistance is terminated and repayment has not been made, the money will still be considered to be owed and may be reported in HUD's EIV system as a debt owed. MHA may take such action, as necessary, to collect the amounts owed.

## CHAPTER 12: Informal Reviews and Informal Hearings

[24 CFR 982.554](#); [24 CFR 982.555](#); [24 CFR 982.552](#)

When possible and allowed by regulation/law, MHA may conduct administrative reviews of informal hearing/review requests and provide alternate resolutions at its discretion.

### Informal Review Procedure

An applicant may request an informal review of MHA's decision to deny the applicant's participation in the Housing Choice Voucher Program. The exception is that when an applicant is denied assistance for citizen or eligible immigrant status, the applicant is entitled to an informal hearing.

An applicant may request an informal review if the applicant is denied:

- Listing on the waiting list or for a preference
- Issuance of a voucher
- Participation in the program

Informal reviews will not be granted to applicants who dispute:

- The unit size (number of bedrooms) stated on the voucher.
- A determination that a unit does not comply with Housing Quality Standards including space requirements.
- A determination that a proposed lease is unacceptable.
- A decision to not approve a request for an extension of the term of the voucher.
- General policy issues, class grievances, or discretionary administrative determinations.

Informal review requests must be made in writing within 15 business days from the date of MHA's denial notice. The informal review will be conducted by a person or panel including other than the person who made the decision under review or a subordinate of such person. The applicant will be provided an opportunity to present written or oral objections to the decision of MHA. The review decision will be based only on evidence presented at the review by both parties. Evidence presented after the review will not be considered. Extensions for evidence will not be granted.

If the family fails to appear for their informal review, the denial of admission will stand. Notification of the informal review result will be given personally to the family or sent to the last known address.

### Informal Hearing Procedure

When MHA determines that a participant should be terminated from the program, MHA will notify the participant of their proposed termination in writing. The participant must submit a request in writing or prescribed electronic format for an informal hearing within 15 business days of the date of the MHA's notice of adverse action.

Informal hearings may be requested for the following reasons:

- Determination of the amount of the total tenant payment, family share, family rent to owner or payment standard.

- Decision to terminate assistance
- Appropriate utility allowance used from schedule (not the schedule itself)
- Family unit size (number of bedrooms on the Voucher) under MHA subsidy standards
- A decision to delay, terminate or deny assistance because of ineligible immigration status (this applies to both applicants and participants).

MHA is not required to provide an informal hearing in the following cases:

- Discretionary administrative determinations by MHA, or to consider general policy issues or class grievances
- Determination that the unit does not comply with MHA's Housing Quality Standards including space requirements for family size, that the owner failed to maintain the unit in a decent, safe, and sanitary manner in accordance with the Housing Quality Standards (HQS)
- Decision to exercise any remedy against the owner under an outstanding contract, including the termination of Housing Assistance Payments to the owner
- Decision not to approve a family's request for an extension of the term of the Voucher issued to an assisted family which wants to move to another dwelling unit with continued participation
- Establishment of MHA schedule of utility allowances for families in the program
- Disapproval of unit or lease

## Conducting Informal Hearings

The informal hearing for participants shall be conducted in accordance with the following procedures:

1. MHA shall appoint a hearing officer or panel to conduct the hearing, other than the person who made or approved the decision under review or a subordinate of such person;
2. The family has a right to a private hearing unless the participant requests a public hearing;
3. The family, at its own expense, may be represented by a lawyer or other representative;
4. The family or its counsel/representative shall be given an opportunity to examine evidence, question adverse witnesses, and to present testimony and evidence in its favor;
5. Evidence shall be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings;
6. The hearing officer or panel shall issue a written decision stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the participant shall be based on the evidence presented at the hearing; and
7. A copy of the hearing decision shall be furnished promptly to the participant and the HCV department;
8. If a family does not appear at a scheduled review/hearing and has not rescheduled the hearing in advance, the hearing officer/panel will assume the family is no longer interested in the program and will uphold the denial/termination.
9. MHA will also notify the owner whether the termination was upheld or overturned.

## Decisions Not Binding to MHA

The decision of the hearing officer will be binding unless MHA's Board determines that:

1. The grievance does not concern PHA action or failure to act in accordance with or involving the complainant's lease on PHA regulations, which adversely affects the complainant's rights, duties, welfare or status; or
2. The decision of the hearing officer is contrary to applicable Federal, State or local law, HUD regulations or requirements of the annual contributions contract between HUD and MHA.

If MHA determines that it is not bound by a hearing decision, MHA shall promptly notify the participant of the determination and of the reasons for the determination.

### Hearing Provisions for Restrictions on Assistance to Non-Citizens

Full or prorated assistance to an applicant or currently assisted household, with at least one person with documented status, will not be delayed, denied or terminated on the basis of ineligible immigration status for the following reasons:

1. The USCIS verification process is not completed;
2. The family member in question moves;
3. The USCIS appeals process has not been completed;
4. For a currently assisted household, the informal hearing process is not complete;
5. Assistance is prorated; or
6. Mixed family assistance is continued or deferral of termination of assistance is granted.

Once the USCIS appeal process is completed, assistance to a family will not be terminated or denied while MHA hearing is pending; however, assistance to an applicant may be delayed pending MHA hearing.

Assistance to an applicant will be denied and a currently assisted household's assistance terminated when:

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

### USCIS Determination of Ineligibility

If a family member claims to be an eligible immigrant, and the USCIS SAVE system does not verify the claim, MHA will notify the applicant/family of their right to appeal to the USCIS within thirty (30) calendar days or to request an informal hearing with MHA either in lieu of or subsequent to the USCIS appeal.

- If the family appeals to the USCIS, they must give MHA a copy of the appeal and proof of mailing, or MHA may proceed to deny or terminate. The time period to request an appeal may be extended by MHA for extenuating circumstances.
- The request for a MHA hearing must be made within 15 business days of receipt of the notice offering the hearing or, if an appeal was made to the USCIS, within 15 business days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in this Plan for both applicants and families. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members MHA will:

- Deny the applicant family.
- Terminate the family if the family does not qualify for deferral.

If there are eligible members in the family, MHA will offer to prorate assistance or give the family the option to remove the ineligible members.

If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied or terminated for failure to provide.

Families whose assistance is prorated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights describes above) are entitled to a hearing based on the right to a hearing regarding determinations of Total Tenant Payment.

Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

## **CHAPTER 13: Program Integrity**

24 CFR [982.552\(c\)\(iv\)](#); [24 CFR 985](#)

MHA anticipates that the majority of families, owners and MHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors. MHA will maintain records in applicant and participant files in accordance with MHA records retention policy; records include applications, eligibility and ineligibility determinations, verifications, HQS inspections, leases, contracts and payment information. Inactive files and records related to immigration status will be maintained and disposed of in accordance with HUD and MHA requirements.

All other aspects of monitoring program performance will be performed in accordance with HUD requirements and MHA's policies.

In order to ensure adherence to the Housing Quality Standards and to monitor inspection determinations, a qualified staff person or agent of the Authority, who did not conduct the original or re-inspection, will re-inspect a random sample of the approved units.

## CHAPTER 14: Project Based Vouchers

[24 CFR 983](#); [49 CFR Part 24](#); [24 CFR 152](#)

Except as noted in this chapter, the Administrative Plan policies stated for the HCV program also apply to the PBV program.

### Overview

MHA may use up to 25 percent of allocated Housing Choice Voucher budget authority for project based assistance. MHA uses project-based vouchers to encourage new construction or rehabilitation, promote voucher utilization and increase supportive housing options. The proposed location of any PBV units must comply with the goals of deconcentrating poverty, expanding housing opportunities, affirmatively furthering fair housing and expanding housing and economic opportunities.

The project-based voucher program is intended to provide housing assistance to individuals and families so that specific objectives can be accomplished in accordance with HUD's regulations as follows:

- To encourage developers or property owners, including non-profit housing development corporations, to construct standard, or to upgrade substandard, rental stock throughout Memphis;
- To make existing, newly constructed or rehabilitated dwelling units available to very-low and low-income persons at rents within the MHA's applicable payment standard.

Preference will be given to proposals that intend to attach project-based assistance to projects that meet or exceed targeted development areas as defined by the Consolidated Plan, or that compliment development priorities of the MHA. Projects that serve elderly or disabled populations or enhance participant self-sufficiency will receive greater consideration.

However, as permitted under 24 CFR 983.51, beside selection through MHA's Request for Proposal (RFP) process, the agency may select developments for project based vouchers that have gone through a competitive selection process for housing assistance under a local, state or federal program.

### Program Requirements

At its discretion, MHA will solicit proposals from developers, property owners and nonprofit housing corporations to participate in the project-based voucher program. Project based assistance may be attached to existing units, units to be rehabilitated and newly constructed units. In addition, a maximum of twenty-five percent (25%) percent of the units in any one project may receive project-based voucher assistance. However, single-family properties and properties designated for elderly families, disabled families, or families receiving supportive services are exempt from the twenty-five percent (25%) limit. The types of services that MHA will deem eligible to qualify a project to meet HUD's definition of families receiving supportive services include, but are not limited to:

- Household Training (e.g.: homemaking, parenting skills, money management);
- Job Training (preparation and counseling, job development and placement,
- follow-up assistance after job placement, completion of FSS "Contract of
- Family Participation);



- Self Sufficiency Services and Resources (appropriate to assist families to achieve economic independence and self-sufficiency);
- Remedial Education (education for the completion of Secondary or post-secondary education); and
- Substance Abuse Treatment (counseling and treatment for substance abuse).

It is not necessary that the services be provided at or by the project, if they are approved services. To qualify for occupancy of an exempt supportive services unit, the family residing in must have at least one member receiving at least one qualifying supportive service. The MHA will require owners of such projects to submit a Progress Report to ensure compliance with the supportive service exemption on the number of units per project. MHA shall use the Progress Report to monitor the family's continued receipt of supportive services, and shall take appropriate action regarding those families that fail without good cause to complete their supportive services requirements.

For the purposes of the project-based voucher program, existing units require a minimum expenditure of no less than \$1,000 per assisted unit, including a prorated share of work on common areas or systems to comply with federal housing quality standards (HQS) at the time MHA notifies the applicant of selection. Rehabilitated units, for the purpose of the project-based voucher program, are units that require a minimum expenditure of \$1,000 per assisted unit, including a prorated share of work on common areas or systems to comply with HQS.

All subsidized units in the building receiving project-based assistance shall be inspected for HQS, as stipulated in this Administrative Plan. MHA shall inspect each unit on an annual basis. Only units that comply with HQS shall be included in the HAP contract.

For units undergoing rehabilitation or new construction concerning site and neighborhood standards apply. The site shall be accessible to social, recreational, educational, commercial, health facilities, and other appropriate municipal facilities and services.

Properties to be assisted under the project-based voucher program will be subject to the Uniform Relocation Assistance and Real Property Acquisitions Policies Act (URA) and the requirements of 49 CFR, Part 24, subpart B.

### Location of Project-Based Vouchers

MHA may administer the program on a city-wide basis. In compliance with the federal regulations and the MHA's Equal Housing Opportunity Plan, suitable dwelling units must be made available under the project-based voucher program in structures that exceed in quality, design or type units generally available in the local market if they are not are located in areas outside of low income and minority concentrations, unless a waiver is requested from and granted by HUD.

MHA may request exceptions of the requirement that project-based assistance be located in census tracts with a poverty rate of less than twenty percent (20%) percent, based upon the review of the proposals submitted to MHA.

### Administrative Approach

MHA shall perform traditional Housing Choice Voucher program administrative responsibilities associated with the implementation of the project-based voucher program. These functions include, but

are not limited to, outreach, review and selection of proposals, inspections, tenant selection from the waiting list, determination of tenant eligibility, and annual recertifications, in accordance with this Administrative Plan, for applications that involve new construction or rehabilitation of units. MHA Capital, accounting staff or designee may also perform work write-ups, cost estimates, and feasibility analyses.

MHA reserves the right to solicit proposals from private contractors to perform selected administrative responsibilities in the implementation of the project-based voucher program or may contract with the property owner or developer of the project-based property for any administrative functions that are the responsibility of the housing agency.

## **Administration of Project-Based Program**

### **Solicitation of Owner Proposals**

MHA will solicit owner participation by advertising in four newspapers of general circulation, such as The Commercial Appeal, The Daily News, La Prensa Latina and The Tri-State Defender, stating proposals to attach rental assistance for specific properties will be accepted.

The advertisement may be published at least three times over a period of not less than thirty (30) days, and will include a statement that applications will not be accepted beyond the specified 30-day deadline. The advertisement will also specify the number of dwelling units the MHA estimates that it will be able to assist under the funding that MHA is making available for this purpose and that only applications submitted in response to the advertisement will be considered. The advertisement will also state MHA's selection policies.

For proposals requiring new construction or rehabilitation of assisted units, MHA will establish competitive procedures for the submission of proposals, which will be submitted to HUD for approval.

An application packet will be prepared for distribution to interested parties, and will also be made available at MHA's administrative offices. The packet will contain a description of the project-based voucher program, an outline of the rules and regulations governing the project-based voucher program, the required contents of owner proposals, and the criteria that MHA will use in the selection of eligible proposals.

At MHA's discretion, additional information may be provided at pre-proposal conferences or workshops.

### **Requirements for the Submission of Proposals**

The owner's submission of the application to the MHA must contain:

- Description of housing to be assisted, including the number of units by size (square footage); bedroom count; bathroom count; sketches of proposed new construction or rehabilitation, if applicable; unit plans; listing of amenities and services and estimated date of completion for units to be rehabilitated or constructed. For rehabilitation, the description must describe the property "as-is" and must also describe the proposed rehabilitation.
- Evidence of site control, and for new construction, identification and description of the proposed site, site plan and neighborhood.

- Evidence that the proposed new construction or rehabilitation is permitted by current zoning ordinances or regulations or evidence to indicate that the needed rezoning is likely and will not delay the project.
- The proposed contract rent per unit, including an indication of which utilities, services and equipment are included in the rent and which are not included.
- Information concerning the occupancy status of the units to be assisted under the project-based voucher program, including applicability of permanent and temporary relocation of site occupants.
- A certification from the owner that there will be no displacement of residential tenants from units to be assisted under the project-based voucher program.
- The identity of the owner, developer, builder, architect, management agent (and other participants) and the names of officers and principal members, shareholders, investors, and other parties have a financial interest; a disclosure of any possible conflict of interest by any of these parties; and information on the qualifications and experience of the principal participants, including previous participation in any HUD programs.
- The owner's marketing plan.
- The owner's plan for managing and maintaining the units.
- Evidence of financing or lender interest and the proposed terms of financing.
- The proposed term of the HAP Contract.

### Initial Inspection

Prior to the ranking and rating of proposals, an initial inspection will be performed by MHA staff for properties included in proposals accepted for consideration of rating and ranking. MHA will not inspect properties included in the proposals that do not meet threshold requirements for further consideration.

- The inspection will determine if the property is eligible as defined at 24 CFR § 983.101, meets federal HQS, and the occupancy status of the units to be assisted.
- For proposals which will involve rehabilitation, the inspection will also determine if the property can be rehabilitated without causing displacement of residential tenants from units to be assisted, will identify the rehabilitation work meets the minimum \$1,000 per unit requirement, and if the specific work items will bring the units in compliance with HQS.
- For proposals in which there will be new construction, the inspection will determine that construction work has not begun.
- Should MHA discover as a result of the initial inspection that the proposal does not meet program requirements, the owner will be informed in writing of the reasons for the rejection.

### Rating and Ranking of Proposals

The rating and ranking of proposals will be performed by MHA staff. With regard to the initial screening of proposals, the criteria that will be utilized to determine whether a proposal should be rejected without further review or accepted for further consideration of rating and ranking will include:

- Receipt of the proposal by the date and time as specified in the advertisement
- Receipt of the proposal in the proper format, including submission of all specified forms with all of the entries completed as required
- Proposals that indicate gross rents will exceed one-hundred percent (100%) of MHA payment standards, or which clearly indicate that the proposed project is infeasible, will be rejected

- Proposals involving ineligible properties or housing types identified in 24 CFR 983.53 will be rejected.

Proposals will be evaluated based on the factors determined by MHA to rate and rank proposals. Among the factors to be considered in the ranking and rating of proposals include: suitability of the site to accommodate the number and type of units proposed for assistance, including environmental and health and safety concerns; design elements, with preference to proposals that offer larger units to be assisted; experience of the owner and other participants in providing affordable housing; plan for the relocation of current tenants, if applicable; and financial feasibility of the project.

For proposals that involve new construction or rehabilitation of units, additional factors will be considered: the estimated cost per unit of construction or rehabilitation, and the experience of the owner and other participants in construction or rehabilitation of rental properties in accordance with HUD regulations.

### Notification to Owners

Proposals that have been received in response to the MHA's advertisement which comply with all of the prescribed selection criteria and procedures and are deemed feasible will be rated and ranked in accordance with MHA's written policies. The Owners who submitted the highest ranked feasible proposals will be sent a written Notice of Acceptance stating the tentative number of units to be assisted.

### Selection of Contractor

Owners are responsible for the selection of a competent contractor to undertake the new construction or rehabilitation work under the AHAP contract. The owner, contractor and his/her subcontractors are subject to Section 3 of the Housing and Urban Development Act, as amended in 1968, and the regulations at 24 CFR part 135, which requires that training, employment and contracting opportunities be provided, where feasible, to low-income Section 3 residents. MHA shall provide oversight and assistance regarding the owner's responsibility under Section 3.

### Uniform Federal Accessibility Standards: Section 504 and Fair Housing Act

The owner and his/her contractors and subcontractors are subject to compliance with the Fair Housing Acts, Americans with Disabilities Act and Section 504 of the Rehabilitation Act and are required to comply with Uniform Federal Accessibility Standards requirements for persons with disabilities and the Fair Housing Amendments Act. MHA will coordinate Section 504/ADA requirements.

### Execution of the Agreement

When all required pre-Agreement procedures have been satisfactorily completed, the AHAP contract shall be executed. The AHAP must be executed before the start of any new construction or rehabilitation to be performed under the AHAP. Under the AHAP, the owner agrees to construct the units in accordance with MHA approved working drawings and specifications or to rehabilitate the units in accordance with MHA approved work write-ups.

## **New Construction or Rehabilitation Phase**

### **Timely Performance of Work**

Immediately following the execution of the AHAP contract, the owner shall promptly proceed with the construction or rehabilitation work as provided in the agreement. In the event the work is not so commenced, diligently continued, or completed, MHA may terminate the Agreement or take other appropriate action.

### **Inspections**

MHA, or its designee, shall conduct periodic inspections during the new construction or rehabilitation phase to ensure that work is proceeding on schedule and is being accomplished in accordance with the terms of the AHAP. Inspections shall be performed at such intervals so as to ensure that the work meets the levels of materials specified in the work write-ups or working drawings and specifications, and meets typical levels of workmanship in the area.

### **Changes to Work**

Owners must obtain prior approval from the MHA for any changes from the work specified in the AHAP contract that would alter the design or quality of the required new construction or rehabilitation. If the owner makes any changes without the prior approval of MHA, MHA may request HUD to lower the initial contract rents in the amount determined by HUD, and may require the Owner to remedy any deficiencies, prior to, and as a condition for, acceptance of the units. MHA shall have the right to disapprove any changes requested by the owner.

### **Completion of New Construction or Rehabilitation**

The owner must notify MHA in writing when the work is completed and submit evidence of completion. Among the documents the owner must submit is a Certificate of Occupancy or other official approvals required by the locality, and a certification that the work has been completed in accordance with the requirements of the AHAP.

The MHA will conduct a final inspection to verify the completion of all the work items required by the AHAP and a determination regarding compliance with Section 504/ADA/ Fair Housing Act, and other applicable laws, regulations and executive orders, HQS and the City of Memphis Building Code. If MHA determines from the review and inspection that the unit(s) has been completed in accordance with the AHAP contract, MHA shall accept the unit(s).

If there are any items of delayed completion that are minor items or that are incomplete because of weather conditions, and in any case that do not preclude or affect occupancy, and all other requirements of the AHAP contract have been met, MHA shall accept the unit(s); however, MHA shall require the owner to deposit in escrow with MHA an amount MHA determines to be sufficient to ensure completion of the delayed items. In addition, the owner and MHA shall execute a written agreement, specifying the schedule for completion of these items. If the items are not completed within the agreed time period, MHA may terminate the AHAP contract or exercise other rights under the AHAP contract.

## **Housing Assistance Payments (HAP) Contract**

### **Time of Execution**

MHA and the owner shall execute the Housing Assistance Payments (HAP) contract if MHA determines from review and inspection that the unit(s) has been completed in accordance with the AHAP contract

and the owner has submitted the required evidence of completion as set forth herein. The effective date of the contract may not be earlier than the date of MHA's inspection and acceptance of the unit(s).

### Term of Contract

The HAP contract shall have a term no greater than fifteen (15) years, subject to available funding. At the discretion of the MHA and for a term determined by MHA, extension to the contract may be granted beyond the original term, contingent upon continued funding to achieve long-term availability of affordable housing for eligible households or to expand housing opportunities.

### Initial Contract Rents

The HAP contract shall establish contract rents that will not exceed one-hundred percent (100%) of the Fair Market Rent (FMR) and will be the lowest of the reasonable rent or the rent requested by the owner. The initial contract rent must be reasonable in relation to rents currently being charged for units in the private unassisted market, taking into account the location, size, structure type, quality, amenities, facilities, and management and maintenance service of the unit.

If the property has been allocated low-income tax credits, but it is not located in a "qualified census tract", the rent to owner must not exceed the lowest of: the tax credit rent minus any utility allowance, the reasonable rent or the rent requested by the owner.

### Contract Rent Adjustments

The HAP contract allows for adjustments in contract rent during the contract term and such adjusted rents shall be reasonable.

### Vacancy Payment

If a unit becomes vacant as a result of a tenant moving out, MHA may continue to provide assistance for the unit for up to a maximum of sixty (60) days. Such payment may be made only if the vacancy is not a result of the owner's failure to take reasonable action to minimize such vacancies.

### Reduction of Contract Units after Vacancy

If no eligible family rents a vacant unit with one hundred and twenty (120) days of the vacancy, the MHA may terminate its commitment to make additional assistance payments for the unit for the balance of the HAP contract.

In the event that MHA is the owner, developer or operator, all required approvals will be obtained from HUD or it's designee in lieu of MHA.

## Management Phase

### Family Selection and Participation

MHA may accept applications for project-based properties serving special needs populations (such as elderly, disabled, self-sufficiency) via referral from the property owner. The selection of tenants for the project-based voucher program will be consistent with the procedures detailed in this Administrative Plan. An applicant who rejects an offer of a project-based unit or who is rejected by the owner of the housing unit will remain in the same position on the tenant-based assistance list, as if the offer had not been made. If a dwelling unit to which assistance is to be attached under the project-based voucher program is occupied, MHA must determine whether the unit's occupants are eligible for assistance. If a unit is occupied by an eligible family and the unit is selected by MHA, the family must be placed in an

appropriately size project-based assisted unit in the project without requiring the family to be placed on the MHA's waiting list.

In the event that there are an insufficient number of eligible persons on the waiting list, the MHA shall place applicants referred by the owner on the waiting list. Eligibility for selection in the Project-based voucher program shall be consistent with the MHA's tenant-based and project-based assistance programs.

Should a family elect to move from a unit assisted under the project-based voucher program after the initial year, MHA must provide the family with a Housing Choice Voucher. If no vouchers are available to the family, MHA must give the family priority to receive the next available tenant-based voucher.

### Briefing of Families

When a family is selected to occupy a unit under the program, MHA shall provide the family with written information concerning the tenant rent and any applicable utility allowance. The information conveyed at the briefing will include, but not be limited to:

- Family and owner responsibilities,
- That the subsidy is tied to the unit and the family must occupy an approved unit under the program,
- The likelihood of the family receiving a Housing Choice Voucher after the HAP contract expires,
- The family's options under the project-based voucher, program, if the family is required to move because of a change in family size or composition, and
- Hearing procedures, including a description of the circumstances in which the MHA or its authorized contractor is required to provide the opportunity for an informal hearing and of the procedures for requesting a hearing.

### Lease Requirements and Termination of Tenancy

The lease between the family and the owner shall be for one (1) year, or the remaining term of the HAP contract, if the contract will expire within one (1) year. The lease may contain a provision permitting the family to terminate the lease on not more than sixty (60) days advance written notice to the owner. In the case of a lease term for more than one (1) year, the lease must contain a provision permitting the family to terminate the lease on not more than sixty (60) days advance written notice to the owner after the first year of the term.

### Informal Hearing and Review

The regulations at 24 CFR §§ 982.554 and 982.555 regarding informal reviews for applicants and informal hearings for participants, apply to this program. See the Administrative Plan for the MHA's informal review and hearing procedures.

### Overcrowded and Under-Occupied and Accessible Units

- If MHA determines that a family is occupying an overcrowded or under-occupied unit, or a unit with accessibility features that the family does not require, and the unit is needed by a family that requires the accessibility features, MHA must notify the family and the owner of this determination and of MHA's offer of continued assistance. The continued assistance offer may be:

- Project-based voucher assistance in an appropriate size-unit (in the same building or another building);
- Other project-based housing assistance;
- Tenant-based rental assistance under the voucher program;
- Other comparable public or private tenant-based assistance (e.g. under the HOME program.)

The determination of the offer of continued assistance will be at the discretion of the MHA. However, if the MHA offers the family the opportunity to receive tenant-based rental assistance under the voucher program, MHA must terminate assistance payments for the project-based unit at the expiration of the term of the voucher.

If MHA offers the family the opportunity for another form of continued housing assistance, except for tenant-based voucher assistance, and the family does not accept the offer, does not move out of the Project-based Voucher unit within a reasonable time, or both, the MHA must terminate the housing assistance payments for the project-based unit.



# CHAPTER 15: Rental Assistance Demonstration (RAD) Project Based Voucher Conversions

[Notice PIH 2012-32 Rev. 1](#)

## Overview

Public housing units converting to assistance under Rental Assistance Demonstration (RAD) long-term Project Based Voucher (PBV) contracts are no longer subject to the public housing program rules. The former public housing units which become PBV units are subject to the rules of the Section 8 program, as modified by a few rules specific to RAD converted units. These specific RAD-related rules apply a few important provisions of the public housing rules to the RAD converted units, even though they would not normally be applicable in the HCV context.

MHA anticipates converting public housing units to PBV units using RAD conversions. Upon conversion to PBV, MHA will adopt the resident rights, participation, waiting list and grievance procedures applicable to the RAD PBV units. The units converted to PBV under the RAD program will be operated consistent with MHA's PBV program rules referenced in this Administrative Plan to the extent not specifically required to operate in a different manner by the regulatory and statutory requirements of the RAD PBV program referenced above.

## Resident Rights

### No Re-screening of Tenants upon Conversion

Pursuant to the RAD statute, at conversion current households are not subject to rescreening, income eligibility, or income targeting provisions. Current households will be grandfathered for conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion.

A unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Once that remaining household moves out, the unit must be leased to an eligible family.

### Right to Return

Any residents that need to be temporarily relocated due to rehabilitation or construction have a right to return to an assisted unit at the site once rehabilitation or construction is completed. If transferred, residents of the converting site have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete.

Residents of a site undergoing RAD conversion may voluntarily accept MHA's offer to permanently relocate to another assisted unit, and thereby waive their right to return to the site after rehabilitation or construction is completed.

### Renewal of Lease

Under RAD, MHA must renew all leases upon lease expiration, unless cause exists. This provision must be incorporated by the PBV owner into the tenant lease or tenancy addendum.

## Phase-in of Tenant Rent Increases

MHA has established a policy setting the length of the phase in period at three years. If a tenant's monthly rent increases by more than the greater of 10 percent or \$25 solely as a result of RAD conversion, the rent increase will be phased in over 3 years.

The below method explains the percentage-based phase-in MHA will follow. For purposes of this section "standard TTP" refers to the TTP calculated in accordance with regulations at 24 CFR §5.628 and the "most recently paid TTP" refers to the TTP recorded on line 9j of the family's most recent HUD Form 50058.

### Three Year Phase-in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 33% of difference between most recently paid TTP and the standard TTP
- Year 2: Year 2 Annual Recertification (AR) and any Interim Recertification (IR) prior to Year 3 AR – 66% of difference between most recently paid TTP and the standard TTP
- Year 3: Year 3 AR and all subsequent reexaminations – Full standard TTP Five Year Phase in:

In the three-year phase-in, once the standard TTP is equal to or less than the previous TTP, the phase-in ends and tenants will pay full TTP from that point forward.

## Family Self-Sufficiency

Current FSS participants will continue to be eligible for FSS once their housing is converted under RAD, and MHA is allowed to use any remaining Public Housing FSS funds to serve those FSS participants who live in units converted by RAD.

## Choice-Mobility

MHA provides a Choice-Mobility option to residents of RAD projects based on the following:

- Resident Eligibility: Residents have a right to move with tenant-based rental assistance 12 months after the move-in date, subject to the availability of tenant-based vouchers. Households must submit a written request after the 12 month period has expired if they wish to be issued a tenant-based voucher. Households requesting tenant-based vouchers will be reviewed and if the required 12 month PBV period has occurred, will be moved to the top of the HCV waiting list based on the date and time of their written request.

If a resident is already a resident of the covered project at the time of conversion to PBV, the resident may request a tenant-based voucher after 12 months of PBV assistance, subject to the availability of tenant-based vouchers. When requests for tenant-based vouchers are made after 12 months of PBV residency, residents must submit a written request for a tenant-based voucher which will be reviewed and if the required 12 month PBV period has occurred, will be moved to the top of the HCV waiting list based on date and time of written request.

## Resident Participation and Funding

Residents of RAD projects converting to PBVs have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and are eligible for resident participation funding.

## Waiting List

[24 CFR 903.7\(b\)\(2\)\(ii\)-\(iv\)](#)

MHA will follow its waiting list selection policy and may accept owner referrals. MHA will ensure that applicants on MHA's public housing and HCV waiting lists are offered placement on the RAD project's initial site-based waiting lists. Applicants from the PH and/or HCV waiting lists will be placed on the new PBV site based waiting list(s) based on the date and time of their original application to the PH and/or HCV program.

## Earned Income Disregard (EID)

[24 CFR 5.617](#)

Tenants who are employed and are currently receiving the EID exclusion at the time of RAD conversion will continue to receive the EID after conversion. Upon the expiration of the EID, the rent adjustment will not be subject to rent phase-in. The rent will automatically increase to the appropriate rent level based upon tenant income at that time.

Under the HCV program, the EID exclusion is limited to only persons with disabilities. However that requirement is not in the public housing program, i.e. the units prior to conversion to RAD. In order to allow all RAD public housing conversion tenants who are employed and currently receiving the EID at the time of conversion to continue to benefit from EID in the PBV project, the provision limiting EID to only disabled persons is waived. The waiver only applies to public housing tenants receiving the EID at the time of RAD conversion to PBV.

## Termination Notification

[24 CFR 5.617](#)

The termination procedure for RAD conversions to PBV will require MHA provide adequate written notice of termination of the lease which will not be less than:

- A reasonable period of time, but not to exceed 30 days:
  - If the health or safety of other tenants, MHA employees, or persons residing in the immediate vicinity of the premises is threatened; or
  - In the event of any drug-related or violent criminal activity or any felony conviction;
- 14 days in the case of nonpayment of rent; and
- 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply.

## Grievance Process

[4 CFR 982.555\(a\)\(1\)\(i\)-\(iv\)](#)

For RAD converted PBV units, the additional RAD program rules apply:

- An opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to an MHA (as owner) action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.
  - For any hearing for participants, the contract administrator will perform the hearing.
  - For any additional hearings required under RAD, MHA (as owner) will perform the hearing.

An informal hearing will not be required for class grievances or to disputes between residents not involving MHA (as owner) or contract administrator.

MHA (as owner) will provide opportunity for an informal hearing before an eviction.

Notice and other informal hearing policies are the same as stated in this Administrative Plan for the HCV program.

## Chapter 16: Reserved

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# APPENDIX 1

## Definitions of Terms

### Adult

A household member who has reached the age of legal majority in the State of Tennessee (18 years old) or a head, spouse, under the age of 18 who has executed the appropriate emancipated adult form.

### Allowance for Dependents

A \$480 deduction is allowed for each family member who is a dependent. (See definition of Dependent.)

### Allowance for Disability Assistance Expenses

The amount of Disability Assistance Expense in excess of three percent of annual income that enables a family member (including the disabled person) to work. The allowance may not exceed the annual income earned by the family member who is enabled to work. Disability assistance expenses include costs for care attendants and auxiliary apparatus (e.g., wheelchairs, adaptations, to vehicles, special equipment) if directly related to permitting the disabled person or other family members to work.

### Allowance for Medical Expenses

For Elderly and Disabled Families (see definition of Elderly Family below) the amount of medical expenses (see definition of Medical Expenses below) in excess of three percent of annual income.

### Annual Income

The anticipated total annual income, before deductions, of an eligible family from all sources for the 12-month period following the date of determination of income. When the cash value of a family's assets is greater than \$5,000, the annual income derived from assets shall be the greater of the actual income derived or the imputed income computed at the passbook savings rate determined by HUD.

### Applicant

A person who has filled out an application or pre-application with MHA for housing assistance.

### Application

The full, formal and complete family information form signed by the head of household when the family is invited to complete eligibility determination. The applicant's signature (written or electronic) on the application form certifies that all information provided is complete and accurate.

### Assets

The value of equity in real property, savings, stocks, bonds, checking, and other forms of capital investment. The value of necessary items of personal property such as furniture and automobiles is not considered an asset. The value of such assets will be determined in accordance with HUD guidance.

### Certification

To formally confirm the information provided in a document through written or electronic signature.

### Child

A child is defined as a minor.

### Child Care Expenses

Amounts anticipated to be paid by the family for the care of children under 13 years of age (including foster children) during the period for which Annual Income is computed, but only where such care is necessary to enable a family member to be gainfully employed or to further his or her education. The amount deducted shall reflect reasonable charges for childcare and in the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of income received from such employment.

### Citizen

Means a citizen or native of the United States.

### Continuously Assisted

An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance or was receiving assistance in the past 90 days under any 1937 Housing Act program when the family is admitted to the Voucher Program.

### Dependent

A member of the household (excluding foster children) other than the family head or spouse, who is under 18 years of age or is a Disabled Person, or is a Full-time Student.

### Disabled Family

A family in which the head of household, spouse, or co-head of household is a disabled person.

### Disabled Person

A person is considered disabled if one of the following definitions is met.

- a. Section 223 of the Social Security Act defines disability as an inability to engage in any substantial gainful activity because of any physical or mental impairment that is expected to result in death or has lasted or can be expected to last continuously for at least 12 months; or,

for a blind person at least 55 years old, inability because of blindness to engage in any substantial gainful activities comparable to those in which the person was previously engaged with some regularity and over a substantial period.

- b. A person having a physical or mental impairment that:
  - 1. Is expected to be of 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.
- c. A developmental disability is a severe, chronic disability which:
  - 1. Is attributable to a mental and/or physical impairment;
  - 2. Was manifested before the age of 22;
  - 3. Is likely to continue indefinitely;

Results in substantial functional limitations in three or more of the following areas: capacity for independent living; self-care; receptive and expressive language; learning; mobility; self-direction; and economic self-sufficiency; AND

Requires special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned or coordinated.

- d. No individual shall be considered a person with disabilities, for the purpose of eligibility for Housing Choice Voucher Housing assistance, on the basis of any drug or alcohol dependence.

#### Displaced Person

A person displaced by government action 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.

#### Elderly Family

A family whose head or spouse (or sole member) is a person who is 62 years of age or older. It may include two or more Elderly Persons living together, or one or more such persons living with one or more persons who are determined to be essential to their care or well-being.

#### Elderly Person

A person who is at least 62 years of age.

#### Eviction

The dispossession of the tenant by the unit owner (in accordance with a court order) from the leased unit as a result of the termination of the lease, for serious or repeated violation of material terms of the lease such as failure to make payments due under the lease or to fulfill the tenant obligations set forth in HUD regulations, Federal, and Tennessee law, or for other good cause.

#### Extremely Low Income Family

A family whose Annual Income does not exceed the higher of the Federal poverty level or 30% of the median income for the area, as determined by HUD with adjustments for family size.



### Family and Family Composition

Regardless of actual perceived sexual orientation, gender identity or marital status, a family is:

- a. A single person, who may be an elderly, displaced person, disabled person, near-elderly person or any other single person family. A single, pregnant woman is considered a two-person family for purposes of the Housing Choice Voucher Program.
- b. A group of persons residing together and such group includes, but is not limited to a family with or without children; an elderly family; a near-elderly family; a disabled family; a displaced family and the remaining member of a tenant family whose income and resources are available to meet the family's needs.

### Family Share

The full amount of housing costs for which the family is responsible.

### Family Rent to Owner

The amount paid by the family that is calculated by subtracting the amount of the housing assistance payment to the owner from the rent to owner.

### Foster Care Payment

Payment to eligible households by state, local or private agencies for the care of a child placed in the home by an agency.

### 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.

### Disability Assistance Expenses

Reasonable expenses in excess of three percent of annual income 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.

### Extremely Low-Income Family

A family whose annual income does not exceed 30% of the area median income or the Federal poverty level, whichever is higher.

### Gender Identity

Actual or perceived gender-related characteristics.

Head of Household

An adult, 18 years of age or older, whom the members of the family have routinely looked to as the head of the family, and who is legally competent to sign a binding contract.

History or Practice

A history or practice refers to actions or activities that have occurred more than once (i.e. repeated).

HUD

The U.S. Department of Housing and Urban Development or its designee.

Lease

A written agreement between the family and the owner of a housing unit.

Live-in Aide

A person who resides with someone who is age 50 or older, disabled or handicapped person or persons and who:

- a. Is determined by MHA to be essential to the care and well-being of the person(s);
- b. Is not obligated for support of the person(s); and

Would not be living in the unit except to provide necessary supportive services.

A live-in aide does not qualify as the remaining member of a tenant family. A live-in aide may include more than one person.

Low Income Families

A family whose annual income does not exceed 80% of the median income for the area, as determined by HUD with adjustments for family size.

Medical Expenses

Those medical expenses that are anticipated during the period for which Annual Income is computed, and that are not covered by insurance, including medical insurance premiums, payments on accumulated major medical bills, dental expenses, prescription medicines, eyeglasses, hearing aids, and batteries, cost of care attendant, and transportation expenses directly related to medical treatment.

MHA

Memphis Housing Authority.

Minimum Rent

The minimum monthly rent contribution to be paid by a family assisted under the Housing Choice Voucher program. The minimum rent established by MHA is \$50 per month.

Mixed Family

A family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status.

Monthly Adjusted Income

1/12 of Annual Adjusted Income.

Monthly Income

1/12 of Annual Income.

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.

Net Family Assets

Value of equity in real property, savings, stock, bonds, life insurance policies, and other forms of capital investment, excluding interests in Indian trust land. (The value of necessary items of personal property such as furniture and automobiles is excluded.) Value of savings and checking accounts is determined utilizing the most recent ending (current) balance.

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.

In determining the Net Family Assets, MHA shall include the value of any assets greater than \$5000 which were disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of any consideration received for the asset.

Owner (including a principal or other interested party)

Possessor of property.

Overcrowded Household

A participant family with an insufficient number of bedrooms for the number of persons in the family, according to the HQS defined in the regulations.

Overhoused Household

A participant family with a greater number of bedrooms than required for the family members.

### Pre-Application

A preliminary application form designed to collect information to determine preliminary eligibility for placement on the waiting list.

### Portability Eligibility

Families whose head of household or spouse lived in the MHA jurisdiction at the time of application.

### Reexamination

The process of securing documentation to recomputed rent and subsidy, and to determine that participants meet the eligibility requirements for continued assistance.

### Reexamination Effective Date

The date established by MHA on which a rent change becomes effective following verification of all income, assets, expenses and circumstances. The anniversary of the first of the month the tenant was assisted under the assistance contract in effect.

### Remaining Member of the Tenant Family

A remaining family member is defined as a family member listed on the most recent recertification who is 18 years of age or older, who meets all other eligibility criteria, and is a member of an Authority tenant family, but not a signatory to the lease and who continues to live in the unit after all other family members have left. A live-in aide, foster children and foster adults do not qualify as the remaining member of a tenant family.

### Rent to Owner

The rent charged by the owner, including owner paid utilities.

### Service Provider

A person or organization qualified and experienced in the provision of supportive services, that is in compliance with applicable licensing requirements imposed by state or local law for the type of service to be provided. The service provider may be either a for-profit or a non-profit entity.

### Sexual Orientation

Homosexuality, heterosexuality or bisexuality.

### Single Person

A person who lives alone or intends to live alone.

### Spouse

Either member of a married pair in relation to the other; the husband or wife of the head of household.

### Stalking

For purposes of interpreting the Violence Against Women Act, to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass or intimidate; or to place under surveillance with the intent to kill, injure, harass or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) that person, (ii) an affiliated individual of that person; or (iii) the spouse or intimate partner of that person.

### Supportive Services

Services that help support a family's successful tenancy and address their needs in a broad range of areas, including but not limited to: Household Training, Job Training, Self Sufficiency Services and Resources, Remedial Education and Substance Abuse Treatment.

### Temporary Deferral of Termination of Assistance

A specific period of time in which the family would continue to receive full assistance before assistance is terminated.

### Tolling

The suspension of the search time that a family is allotted on their voucher.

### Total Family Income

Annual Income as defined above.

### Total Tenant Payment

An amount equal to 30 percent of the family's monthly-adjusted income; 10 percent of the gross monthly income of the family occupying the dwelling unit; or the monthly minimum rent of \$50, whichever amount is greater. The Total Tenant Payment does not include charges for excess utility consumption or other miscellaneous charges.

### Utility Allowance

An amount determined by MHA as an allowance for the cost of utilities (except telephone and cable TV) payable directly by the tenant.

### Utility Reimbursement

The amount by which the Utility Allowance for the unit exceeds the Family Share (negative rent).

### Very-Low Income Family

A family whose Annual Income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for family size.

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. Also known as Temporary Assistance to Needy Families (TANF).