
Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

Part I: Administrative Fee Reserve. This part describes the HAPGC's policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

Part IV: Owner or Family Debts to the HAPGC. This part describes policies for recovery of monies that the HAPGC has overpaid on behalf of families, or to owners, and describes the circumstances under which the HAPGC will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect a HAPGC.

Part VI: Record-Keeping. All aspects of the program involve certain types of record keeping. This part outlines the privacy rights of applicants and participants and record retention policies the HAPGC will follow.

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the HAPGC's responsibilities for reporting, data collection, and record keeping relative to children with environmental intervention blood lead levels that are less than six years of age, and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the HAPGC's policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

The HAPGC must maintain an administrative fee reserve for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a PHA fiscal year. If funds in the administrative fee reserve are not needed to cover HAPGC administrative expenses, the HAPGC may use these funds for other housing purposes permitted by Federal, State and local law.

Pursuant to 24 CFR 982.155, PHAs maintain a single administrative fee reserve account for the Housing Choice Voucher (HCV) program. HAPGC must credit to the Administrative Fee Reserve the total of: (1) the amount by which program administrative fees (paid by HUD for the HAPGC fiscal year) exceed HAPGC program administrative expenses for the fiscal year; plus (2) interest earned on the administrative fee reserve. These reserves are referred to as unrestricted net asset (UNA) accounts.

Beginning with the Federal Fiscal Year (FFY) 2004 Appropriations Act, use of administrative fee reserves is restricted to activities related to the provision of Section 8 tenant based assistance, including related development activities. Accordingly, administrative fee reserves from FFY 2004 and subsequent funding periods (referred to as "post-2003" funds) are restricted to HCV activities even though under GAAP it is an "unrestricted" net asset. Administrative fee reserves remaining from funding periods prior to the FFY 2004 Appropriations Act (referred to as "pre-2004" funds) are restricted in use pursuant to 24 CFR 982.155(b)(1). Provisions for post-2003 and pre-2004 are discussed in PIH 2010-7.

This policy does not apply to PHA's approved for fundability under a Moving to Work (MTW) agreement or under an agreement for Section 901 Disaster Assistance.

Use of Administrative Fees

The HCV program regulations at 24 CFR 982.152 provide that HAPGC administrative fees may only be used to cover costs incurred to perform HAPGC administrative responsibilities for the program in accordance with HUD regulations and requirements. **During the HAPGC's current fiscal year, any administrative fees received in that HAPGC fiscal year may only be used for this purpose.** When the HAPGC fiscal year ends, the amount by which the program administrative fees paid by HUD for the HAPGC fiscal year exceed the HAPGC program administrative expenses for the fiscal year become administrative fee reserves. The eligible uses of the HAPGC Administrative Fee Reserve are restricted as set forth below.

Note that if the HAPGC lacks administrative fee reserves and needs to temporarily supplement the administrative fee provided by HUD with non-Federal, non-restricted funds in order to cover eligible HCV program administrative expenses, the HAPGC may use subsequent administrative fees to reimburse the source of the non-Federal, non-restricted funding used as the temporary bridge to cover the HCV program administrative expenses. However, HCV administrative fees

may never be loaned to another program in order to cover ineligible expenses, regardless of whether the HAPGC intends to reimburse the HCV program at a later date.

Pre-2004 Administrative Fee Reserves: Any administrative fees funded prior to the FFY 2004 Appropriations Act remain subject to the regulatory requirements at 24 CFR 982.155(b)(1), which states:

- *The PHA must use funds in the administrative fee reserve to pay program administrative expenses in excess of administrative fees paid by HUD for a PHA fiscal year. If funds in the administrative fee reserve are not needed to cover PHA administrative expenses (to the end of the last expiring funding increment under the consolidated ACC), the PHA may use these funds for other housing purposes permitted by State and local law. However, HUD may prohibit use of the funds for certain purposes.*

Due to the restrictions imposed by the FFY 2004 and subsequent appropriations, the use of administrative fee reserves for “other housing purposes permitted by State and local law” only applies to pre-2004 administrative fee reserves.

Post-2003 Administrative Fee Reserves

Administrative fees funded from the FFY 2004 Appropriations Acts and subsequent appropriations require that administrative fee reserves provided from these appropriations shall only be used for activities related to the HCV Program, including related development activities. Examples of related development activities could include: unit modifications to HCV units to provide accessibility features or project-based voucher development costs. Any post-2003 administrative fees moved into the administrative fee reserve account at year end may not be used for “other housing purposes permitted by state and local law.”

As provided in 24 CFR 982.155 b(3), if the HAPGC has not adequately administered HCV requirements, HUD may prohibit use of funds in the administrative fee reserve, and may direct the HAPGC to use funds in the reserve to improve administration of the HCV program or to reimburse ineligible expenses. Post 2003 administrative fee reserves may not be used for Low-Rent Public Housing (PH) development activities or PH maintenance; may not cover PH funding shortfalls nor be loaned to other HAPGC programs.

General Depository Agreement

Consistent with the Annual Contributions Contract (ACC) HAPGC must deposit all program funds in accordance with the terms of a General Depository Agreement. The General Depository Agreement Form HUD-51999 is executed between the HAPGC and the depository. The HAPGC may only withdraw deposited program receipts for use in connection with the program in accordance with HUD requirements.

The agreement with the depository institution must provide that if required under a written notice from HUD to the depository: (1) The depository must not permit any withdrawal of deposited funds by the HAPGC unless withdrawals by the HAPGC are expressly authorized by written notice from HUD to the depository. (2) The depository must permit withdrawals of deposited funds by HUD. If approved by HUD, the HAPGC may deposit under the depository agreement monies received or held by the HAPGC in connection with any contract between the HAPGC and HUD.

Reporting Requirements

HUD requires HAPGC to report any unused Administrative Fees as Unrestricted Net Assets (equity) in the Financial Assessment Subsystem (FASS) under account 512.1 Unrestricted Net Assets, the associated assets net of related liabilities (111 Cash; 131 Investments) should be reported on the Financial Data Schedule as unrestricted. Previously, there was no requirement for HAPGC to segregate unrestricted net assets as pre-2004 and post-2003. As noted earlier, the HAPGC may use pre-2004 administrative fees *for other housing purposes permitted by State and local law*; while post-2003 fees are limited to HCV- related purposes. As a result, this separation requires reconciliation to ensure the proper accounting and use of administrative fees.

In order to track these reserves annually, beginning with the reporting period ending December 31, 2009, HAPGC must report post-2003 administrative fee reserves separately from pre-2004.

HAPGC must describe the reconciliation in the comments link showing balances from 2003 and previous years administrative fee reserves separately from amounts held as 2004 and subsequent years administrative fee reserves. This schedule must tie to the balances reflected in FDS Line 512 Unrestricted Net Assets, for the HCVP.

Use of HAP Funds

HAP funding, which includes net restricted assets (NRA), may only be used for eligible HAP needs of rent, family self-sufficient escrow payments or utility reimbursements. **HAP shall not under any circumstances be used for any other purpose, such as to cover administrative expenses or be loaned, advanced or transferred (referred to as operating transfers due to/due from) to other component units or other programs such as Low Rent Public Housing.** Use of HAP for any purpose other than eligible HAP needs is violation of law, and such illegal uses or transfers will result in sanctions and possible breach of the ACC.

In instances where HAPGC is found to have misappropriated HAP funds by using the funds for any purpose other than valid HAP expenses for units up to the baseline, HUD will require the immediate return of the funds of the HAP. HUD may take action against HAPGC or any party that has used HAP funds for non-HAP purposes.

Requirements for accounting controls and cash management dictate separate accounting of HCV from public housing funds to avoid co-mingling or improper use of program funds.

Sanctions

Improper use of HAP, NRA funds, administrative fees or administrative fee reserves is a non-compliance action that may be subject to administrative sanctions, possible breach of the ACC or other authorized corrective action.

If the HAPGC has not adequately administered any Section 8 program, HUD may prohibit use of funds in the administrative fee reserve, and may direct the HAPGC to use funds in the reserve to improve administration of the program or to reimburse ineligible expenses. HUD also may prohibit use of the funds for certain purposes.

HAPGC Policy

Expenditures from the administrative fee reserve will be made in accordance with all applicable Federal requirements. Expenditures will not exceed \$10,000 per occurrence without the prior approval of the HAPGC's Board of Commissioners.

PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

16-II.A. OVERVIEW

Although many of the program's requirements are established centrally by HUD, the HCV program's regulations recognize that some flexibility is required to allow the HAPGC to adapt the program to local conditions. This part discusses how the HAPGC establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- *Payment Standards*, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
- *Utility Allowances*, which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

HAPGC Policy

Copies of the payment standard and utility allowance schedules are available for review in the HAPGC's Administrative office during normal business hours.

Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

The HAPGC will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7, PIH 2009-44]

The payment standard sets the maximum subsidy payment a family can receive from the HAPGC each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMR are set at the 40th percentile of rents in the market area.

The HAPGC must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the HAPGC's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the HAPGC may establish a single payment standard amount for the whole FMR area, or may set different payment standards for different parts of the

FMR area. Unless HUD grants an exception, the HAPGC is required to establish a payment standard within a “basic range” established by HUD – between 90 and 110 percent of the published FMR for each unit size.

Updating Payment Standards

When HUD updates its FMR, the HAPGC must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require the HAPGC to make further adjustments if it determines that rent burdens for assisted families in the HAPGC’s jurisdiction are unacceptably high 24 CFR 982.503(g)].

HAPGC Policy

The HAPGC will review the appropriateness of the payment standards on an annual basis when the new FMR is published. In addition to ensuring the payment standards are always within the “basic range” the HAPGC will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

Funding Availability: The HAPGC will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. The HAPGC will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

Rent Burden of Participating Families: Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the HAPGC will consider increasing the payment standard. In evaluating rent burdens, the HAPGC will not include families renting a larger unit than their family unit size.

Quality of Units Selected: The HAPGC will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

Changes in Rent to Owner: The HAPGC may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

Unit Availability: The HAPGC will review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

Lease-up Time and Success Rate: The HAPGC will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Changes to payment standard amounts will be effective on January 1st of every year unless, based on the proposed FMR, it appears that one or more of the HAPGC's current payment standard amounts will be outside the basic range when the final FMR are published. In that case, the HAPGC payment standards will be effective October 1st instead of January 1st.

If the HAPGC has already processed reexaminations that will be effective on or after October 1st, and the effective date of the payment standards is October 1st, the HAPGC will make retroactive adjustments to any such reexaminations if the new payment standard amount is higher than the one used by the HAPGC at the time the reexamination was originally processed.

Exception Payment Standards [982.503(c)]

The HAPGC must request HUD approval to establish payment standards that are higher than the basic range. At HUD's sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area. Any PHA with jurisdiction in the exception area may use the HUD-approved exception payment standard amount. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

Unit-by-Unit Exceptions [24 CFR 982.503(c)(2)(ii)]

Unit-by-unit exceptions to the HAPGC's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect the HAPGC's payment standard schedule.

When needed as a reasonable accommodation, the HAPGC may make an exception to the payment standard without HUD approval if the exception amount does not exceed 110 percent of the applicable FMR for the unit size [HCV GB 7-9]. The HAPGC may request HUD approval for an exception to the payment standard for a particular family if the required amount falls between 110 and 120 percent of the FMR.

HAPGC Policy

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family

must document the need for the exception. In order to approve an exception, or request an exception from HUD, the HAPGC must determine that:

Through third party verification, the HAPGC determines that the family is eligible for the reasonable accommodation request;

There is a shortage of affordable units that would be appropriate for the family;

The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and

The rent for the unit is reasonable.

"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]

If a substantial percentage of families have difficulty finding a suitable unit, the HAPGC may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows the HAPGC to set its payment standards at 90-110 percent of a higher FMR (the 50th, rather than the 40th percentile FMR). To support the request, the HAPGC must demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants;
- The HAPGC had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- The HAPGC had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, the HAPGC may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the HAPGC's jurisdiction within the FMR area.

Decreases in the Payment Standard Below the Basic Range [24 CFR 982.503(d)]

The HAPGC must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

16-II.C. UTILITY ALLOWANCES [24 CFR 982.517]

A HAPGC-established utility allowance schedule is used in determining family share and HAPGC subsidy. The HAPGC must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the HAPGC must use normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, the HAPGC must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type. Chapter 18 of the *HCV Guidebook* provides detailed guidance to the HAPGC about establishing utility allowance schedules.

Air Conditioning

An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

HAPGC Policy

The HAPGC has included an allowance for air-conditioning in its schedule. Central air-conditioning or a portable air conditioner must be present in a unit before the HAPGC will apply this allowance to a family's rent and subsidy calculations.

Reasonable Accommodation

HCV program regulations require HAPGC to approve a utility allowance amount higher than shown on the HAPGC's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the HAPGC will approve an allowance for air-conditioning, even if the HAPGC has determined that an allowance for air-conditioning

generally is not needed (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

Utility Allowance Revisions

The HAPGC must review its schedule of utility allowances each year, and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised.

The HAPGC must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

PHA Actions to Reduce HCV Program Cost

Some of the actions noted below relate to program compliance issues (e.g., ensuring rents are reasonable, incomes are verified correctly, and utility allowances are accurate). Although HAPGC must comply with such requirements, regardless of whether the HAPGC is experiencing financial difficulties, HAPGCs may take within the context of program requirements to better manage HAP expenses.

Cost-savings measures are optional and have varying degrees of impact on applicant and participant families. The impact of each action should be considered prior to implementation. If an action adversely impacts program participants, particularly a family's rent burden, then the HAPGC should take all other actions having no impact or less impact on families first, including the use of administrative fee reserves to pay for HAP expenses.

The following is a non-exclusive list of HAPGC cost savings actions.

a. Family Income Matching/Verification and Other Anti-Fraud Efforts

HAPGCs should accelerate efforts concerning income matching and income verification. HAPGCs could notify families that enforcement action could be taken where underreporting of income is discovered.

b. Ensuring Reasonable Rents

HAPGC does not have to wait until the HAP contract anniversary date to review owner rents and reduce them if warranted. The HAPGC must determine whether the rent to owner is a reasonable rent in comparison to rent for other comparable unassisted units in accordance with the regulation at 24 CFR 982.507(b) and the HAP contract. The HAPGC should ensure that owner rents do not exceed amounts charged for unassisted units in the same building or complex. The initial rent and all rent increases must comply

with any State or local rent control limits. Further, any owner leasing promotions for unassisted tenants (e.g., the initial two months of occupancy are "rent free") must be taken into consideration in determining rent reasonableness.

In accordance with the HAP contract, the HAPGC must provide written notice to owners before reducing unreasonable rents. Rents may be reduced as early as the first of the following month. If the rent to owner is not reasonable as most recently determined by the HAPGC, the owner must reduce the rent to the reasonable amount or the HAP contract must be terminated. In such cases, the family will be issued a HCV to find a new unit. (Movers, like new participants, are subject to a HAPGC's current payment and occupancy standards.)

Even if an owner's rent is reasonable, HAPGC could request owners to voluntarily agree to a temporary rent reduction or defer rent increases to help the HAPGC avoid the termination of HAP contracts due to shortfalls in HCV funding. It is the owner's option to agree to such measures.

c. Ensuring Accurate Utility Allowances

The HAPGC may always review its utility allowances more than annually to determine if they are too high. Changes in utility allowances may be implemented immediately, but not later than the next regularly scheduled reexamination of family income.

d. Portability Absorption

An initial PHA may request that a receiving PHA absorb portable families for which the initial PHA is being billed. This may include the receiving PHA retroactively absorbing families for which the initial PHA was already billed and made payments. In these cases, the receiving PHA reimburses the initial PHA for payments made back to the effective date of the absorption. Both the receiving PHA and initial PHAs must agree to this arrangement. This provision provides an exception to section 10 of Notice PIH 2008-43 on HCV Portability and Corrective Actions. (Section 10 provides that the receiving PHA may not retroactively absorb families for which the receiving PHA was previously billing for any time period that commences before 10 working days from the time the receiving PHA notifies the initial PHA of the absorption.)

e. Portability and Moves within the PHA Jurisdiction

The HCV program regulations at 24 CFR 982.314(e)(1) provide that the HAPGC may deny a family permission to move if the HAPGC does not have sufficient funding for continued assistance. Denial of requests to move under this regulation may cover both portability moves to a higher cost area as well as moves within the HAPGC jurisdiction to higher cost units.

In order to deny a move, the HAPGC must determine and demonstrate that based on the current funding available, it has insufficient funds to pay for higher subsidy amounts without having to terminate assistance of current program participants during the current CY. In projecting whether there is sufficient funding available for the remainder of the CY, the HAPGC may use reasonable estimates to factor in conditions such as pending rent increases and attrition rates for families leaving the program. If this insufficient funding condition exists, the HAPGC does not need a regulatory waiver from HUD to deny a request to move.

In determining if the HAPGC has sufficient funding available to approve a move, the HAPGC **must** take into consideration its available budget authority (including any available NRA).

HAPGC may only deny a move where the requested move is voluntary (i.e., the family elects to move but is not required to move because of unaddressed Housing Quality Standards (HQS) violations, owner re-occupancy of the unit, etc.). HAPGC may not deny a move under 24 CFR 982.314(e)(1) if the move would reduce the family's subsidy cost to the HAPGC (e.g., a family wished to move under portability to a lower cost area). HAPGC may not deny a move to a higher cost area or unit as a cost-savings measure in order to admit additional families from its waiting list into the HCV program, regardless of whether the HAPGC has unit months available to do so.

A higher cost area is defined as an area where a higher subsidy amount will be paid for a family because of higher payment standard amounts or more generous subsidy standards (e.g., the receiving PHA issues a 3-bedroom voucher to a family that received a 2-bedroom voucher from the initial PHA). In the case of portability moves, the HAPGC needs to contact the receiving PHA before denying the move to confirm that the receiving PHA (a) will not absorb the family and (b) that the HAP costs would be higher. If the receiving PHA is willing to absorb the family, there are no grounds to deny the portability move under 24 CFR 982.314(e) (1).

f. Interim Reexaminations

HAPGC could require families to report all increases in income between reexaminations and conduct more frequent interim income reviews for families reporting no income. The effective date of an annual or interim reexamination of family income is dependent upon HAPGC policies.

g. Minimum Rent

The HAPGC may increase the minimum rent to \$50. The effective date for the increased minimum rent is dependent upon HAPGC policy. HAPGC could institute a policy for increases in family contribution to be effective immediately, rather than at the next

annual reexamination.

h. Voucher Issuance

The HAPGC may stop issuing turnover vouchers and consider pulling back outstanding vouchers for applicants searching for housing that have not yet resulted in an executed HAP contract.

i. Subsidy Standards

The HAPGC may revise subsidy standards that exceed minimum HUD requirements to reduce bedroom size eligibility in accordance with 24 CFR 982.402. Subsidy standards must be consistent with the HQS space requirements in 24 CFR 982.401(d). PHAs are reminded that under 24 CFR 982.401(d)(2)(ii), a dwelling unit must have at least one bedroom or living sleeping area for each two persons. Children of the opposite sex, other than the very young, may not be required to occupy the same bedroom or living/sleeping room.

If a family leases a unit larger than the unit size on the voucher, the HAPGC must ensure that the payment standard used to calculate the tenant share is based on the lower of the voucher unit size for which the family is eligible or the actual unit size leased. If the family size is reduced after admission, the HAPGC must ensure that the correct payment standard is used in calculating the family rent portion. An “empty nester” single individual (or any household with similarly reduced member size) living in a 3-bedroom unit should have a 0- or 1-bedroom payment standard, not a 3-bedroom payment standard. If the unit size for which the family is eligible changes during the term of the HAP contract, the new unit size is applicable at the first regular reexamination following the change in accordance with 24 CFR 982.505(c)(5).

j. Payment Standards

HAPGC may opt to lower payment standards for all or some unit sizes. In the tenant-based HCV program, a lower payment standard applies immediately to all new admissions, all movers, and families remaining in their units with a new HAP contract (e.g., when the owner offers or requires a new lease). For all other HCV participants, decreased payment standard amounts are not applied until the second regular reexamination after the payment standard is lowered (see 24 CFR 982.505(c)(3)). The delayed applicability of a lower payment standard is a regulatory, not statutory, requirement. PHAs experiencing financial difficulties may request a regulatory waiver for good cause so that reduced payment standards may be applied sooner than provided by regulation.

HAPGC waiver requests should, at a minimum, include the calculation used to arrive at the projected shortfall in funding and cost-savings measures the HAPGC has already taken or will take in the future.

HAPGC requests for approval of payment standards below 90 percent of the fair market rent (FMR) for any unit size may be approved by HUD field offices. However, 24 CFR 982.503(d) states that HUD will not approve such payment standard amounts if the family share for more than 40 percent of voucher participants exceeds 30 percent of monthly adjusted income. This is a regulatory, not statutory, requirement. PHAs experiencing financial difficulties may request that HUD Headquarters waive this requirement for good cause, such as the inability of a PHA to avoid terminating the HAP contracts of current participants or withdrawing vouchers from families searching for housing without the proposed reduction in payment standards. Waiver requests should include an analysis by the HAPGC on the impact the reduction in payment standards below the basic range will have on a family's opportunity to lease units throughout the HAPGC's jurisdiction.

In determining whether to approve HAPGC requests for payment standard waivers of 24 CFR 982.503(d) or 982.505(c)(3), HUD will review and take into consideration the HAPGC's current rent burden and the impact of the proposed change on the HAPGC's participants. In addition, as a condition of the waiver approval, HUD may require the HAPGC to raise payment standards and apply the new payment standard amounts immediately at such time that the HAPGC receives additional funding.

Termination of Assistance Due to Insufficient Funding

The regulation at 24 CFR 982.454 provides that HAPGC may terminate HAP contracts, in accordance with HUD requirements, if the HAPGC determines that funding under the CACC is insufficient to support continued assistance for families in the program.

In determining if funding under the CACC is insufficient to support continued assistance for families in the program, the HAPGC **must** take into consideration its available budget authority (which includes unspent prior year HAP funds in the HAPGC's NRA account).

Before terminating HAP contracts on the basis of insufficient funding, the HAPGC must ensure that it has carefully considered all cost-savings measures and the impact such terminations will likely have on program applicants and participants. In addition, the PHA is encouraged to utilize alternative sources of unrestricted non-Federal funding that may be available to prevent the termination of rental assistance. **The HAPGC must notify the HUD field office and its financial analyst at the Financial Management Center (FMC) prior to termination actions due to insufficient funding.**

HAPGC termination policies due to insufficient funding must be included in the administrative plan. Such policies should describe how the HAPGC will determine which HAP contracts will be terminated. Any HAPGC policies with respect to the resumption of assistance for the impacted families must also be included in the administrative plan. In setting such policies, a HAPGC should be mindful of its obligation to affirmatively further fair housing pursuant to 24 CFR 982.53(c) and 24 CFR 903.7 (o).

Reasonable Accommodations

Notwithstanding HAPGC's adoption of policies noted above to deny portability or moves within HAPGC's jurisdiction or revision of payment or subsidy standards, reasonable accommodation requests for a person's disability must still be evaluated in accordance with HUD's Section 504 implementing regulations at 24 CFR part 8. Such requests must be granted when an accommodation may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling, unless it would impose an undue financial and administrative burden on the HAPGC or fundamentally alter the nature of the HAPGC's operations.

PART III: INFORMAL REVIEWS AND HEARINGS

16-III.A. OVERVIEW

Both applicants and participants have the right to disagree with and appeal certain decisions of the PHA that may adversely affect them. PHA decisions that may be appealed by applicants and participants are discussed in this section.

The process for applicant appeals of PHA decisions is called an “informal review.” The process for participants, or for applicants denied admission because of citizenship issues, the appeal process is called “an informal hearing”.

HAPGC are required to include in their administrative plans, informal review procedures for applicants, and informal hearing procedures for participants [24 CFR 982.54(d)(12) and (13)].

16-III.B. INFORMAL REVIEWS

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a “minimum hearing requirement” [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements. (Federal Register Volume 60, No. 127, p 36490).

Decisions Subject to Informal Review

The HAPGC must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on the HAPGC waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures
- For victims of domestic violence covered by VAWA

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the HAPGC
- General policy issues or class grievances
- A determination of the family unit size under the HAPGC subsidy standards

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- A HAPGC determination not to grant approval of the tenancy
 - A HAPGC determination that the unit is not in compliance with the HQS
 - A HAPGC determination that the unit is not in accordance with the HQS due to family size or composition

HAPGC Policy

The HAPGC will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the HAPGC waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

Any applicant family dispute regarding a Reasonable Accommodation and/or Effective Communication Policy due to the HAPGC's adverse response, or lack of response, to the family's reasonable accommodation request is eligible for administrative review under the HAPGC's informal review procedures.

Notice to the Applicant [24 CFR 982.554(a)]

The HAPGC must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the HAPGC decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

Scheduling an Informal Review

HAPGC Policy

A request for an informal review must be made in writing and delivered to the HAPGC either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the HAPGC's denial of assistance.

The HAPGC will schedule and send written notice of the informal review within 15 business days of the family's request.

Informal Review Procedures [24 CFR 982.554(b)]

The informal review will be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant will be provided an opportunity to present written or oral objections to the decision of the HAPGC.

The person conducting the review will make a recommendation to the HAPGC, but the HAPGC is responsible for making the final decision as to whether assistance should be granted or denied.

Informal Review Decision [24 CFR 982.554(b)]

In rendering a decision, the HAPGC will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the Notice.
- The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.
- The validity of the evidence. The PHA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the PHA will uphold the decision to deny assistance.
- If the facts prove the grounds for denial, and the denial is discretionary, the PHA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The PHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and his or her representative, if any.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]

HAPGC will offer an informal hearing for certain HAPGC determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the HAPGC's HCV program and is currently assisted in the program. The

purpose of the informal hearing is to consider whether the HAPGC's decisions related to the family's circumstances are in accordance with the law, HUD regulations and HAPGC policies.

The HAPGC is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

Decisions Subject to Informal Hearing

Circumstances for which the HAPGC must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the HAPGC utility allowance schedule
- A determination of the family unit size under the HAPGC's subsidy standards
- A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the HAPGC's subsidy standards, or the HAPGC determination to deny the family's request for exception from the standards
- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under HAPGC policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]
- A determination that the family is an ineligible student under the student rule provisions
- A determination that the family is not protected under the VAWA requirements.

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by the HAPGC
- General policy issues or class grievances

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- Establishment of the HAPGC schedule of utility allowances for families in the program
 - A HAPGC determination not to approve an extension or suspension of a voucher term
 - A HAPGC determination not to approve a unit or tenancy
 - A HAPGC determination that a unit selected by the applicant is not in compliance with the HQS
 - A HAPGC determination that the unit is not in accordance with HQS because of family size
 - A determination by the HAPGC to exercise or not to exercise any right or remedy against an owner under a HAP contract

HAPGC Policy

The HAPGC will only offer participants the opportunity for an informal hearing when required by the regulations.

Informal Hearing Procedures

***Notice to the Family* [24 CFR 982.555(c)]**

In cases where the HAPGC makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

The proposed action or decision of the HAPGC.

A brief statement of the reasons for the decision including the regulatory reference.

The date the proposed action will take place.

A statement of the family's right to an explanation of the basis for the HAPGC's decision.

A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.

A deadline for the family to request the informal hearing.

To whom the hearing request should be addressed.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the PHA will notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to the PHA's subsidy standards, the notice will contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

A copy of the HAPGC's hearing procedures

Those persons with disabilities have the right to request a reasonable accommodation.

Scheduling an Informal Hearing [24 CFR 982.555(d)]

When an informal hearing is required, the HAPGC will proceed with the hearing in a reasonably expeditious manner upon the request of the family.

HAPGC Policy

A request for an informal hearing will be made in writing and delivered to the HAPGC either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the HAPGC's decision or notice to terminate assistance.

The HAPGC will schedule and send written notice of the informal hearing to the family within 15 business days of the family's request.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the HAPGC may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the HAPGC within 24 hours of the scheduled hearing date, excluding weekends and holidays. The HAPGC will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Pre-Hearing Right to Discovery [24 CFR 982.555(e)]

Participants and the HAPGC are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any HAPGC documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the HAPGC does not make the document available for examination on request of the family, the HAPGC may not rely on the document at the hearing.

The HAPGC hearing procedures provide that the HAPGC must be given the opportunity to examine at the HAPGC offices before the hearing, any family documents that are directly relevant to the hearing. The HAPGC must be allowed to copy any such document at the HAPGC's expense. If the family does not make the document available for examination on request of the HAPGC, the family may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

HAPGC Policy

The family will be allowed to copy any documents related to the hearing at a cost of \$.30 per page. The family must request discovery of HAPGC documents no later than 2 business days prior to the scheduled hearing date.

The HAPGC must be given an opportunity to examine at the HAPGC offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, the HAPGC will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date.

Participant's Right to Bring Counsel [24 CFR 982.555(e)(3)]

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

Informal Hearing Officer [24 CFR 982.555(e)(4)]

Informal hearings will be conducted by a person or persons approved by the HAPGC, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

HAPGC Policy

The HAPGC has designated the following to serve as hearing officers:

Designated HAPGC staff that are not subordinate to the person making the initial decision, but are knowledgeable of the program requirements.

Attendance at the Informal Hearing

HAPGC Policy

Hearings may be attended by a hearing officer and the following applicable persons:

A HAPGC representative(s) and any witnesses for the HAPGC

The participant and any witnesses for the participant

The participant's counsel or other representative

Any other person approved by the HAPGC as a reasonable accommodation for a person with a disability

Conduct at Hearings

HAPGC Policy

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

Evidence [24 CFR 982.555(e)(5)]

The HAPGC and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

HAPGC Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

Oral evidence: the testimony of witnesses

Documentary evidence: a writing which is relevant to the case, for example, a letter written to the HAPGC. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real evidence: A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Evidence, including hearsay, is generally admissible.

If either the HAPGC or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

***Hearing Officer's Decision* [24 CFR 982.555(e)(6)]**

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing decision must be furnished promptly to the family.

HAPGC Policy

In rendering a decision, the hearing officer will consider the following matters:

HAPGC Notice to the Family: The hearing officer will determine if the reasons for the HAPGC's decision are factually stated in the Notice.

Discovery: The hearing officer will determine if the HAPGC and the family were given the opportunity to examine any relevant documents in accordance with HAPGC policy.

HAPGC Evidence to Support the HAPGC Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing

officer will evaluate the facts to determine if they support the HAPGC's conclusion.

Validity of Grounds for Termination of Assistance (when applicable): The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and HAPGC policies. If the grounds for termination are not specified in the regulations or in compliance with HAPGC policies, then the decision of the HAPGC will be overturned.

The hearing officer will issue a written decision to the family and the HAPGC no later than 30 business days after the hearing. The report will contain the following information:

Hearing information:

- Name of the participant;
- Date, time and place of the hearing;
- Name of the hearing officer;
- Name of the HAPGC representative; and
- Name of family representative (if any).

Background: A brief, impartial statement of the reason for the hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the HAPGC's decision.

Order: The hearing report will include a statement of whether the HAPGC's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the HAPGC to change the decision in accordance with the hearing

officer's determination. In the case of termination of assistance, the hearing officer will instruct the HAPGC to restore the participant's program status.

Procedures for Hearing Extension

HAPGC Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the HAPGC will take effect and another hearing will not be granted.

Within 10 business days after the date of the hearing officer's report is mailed to the HAPGC and tenant, the HCV participant may request a rehearing or further hearings. Requests must be post marked or hand delivered within the 10 business day period. The request must demonstrate a cause for a rehearing, including specific reasons why the rehearing should be granted including references to the hearing officer's report.

It is the sole discretion of the HAPGC whether to grant or deny a rehearing.

HAPGC Notice of Final Decision [24 CFR 982.555(f)]

The HAPGC is not bound by the decision of the hearing officer for matters in which the HAPGC is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State or local laws.

If the HAPGC determines it is not bound by the hearing officer's decision in accordance with HUD regulations, the HAPGC must promptly notify the family of the determination and the reason for the determination.

HAPGC Policy

The HAPGC will mail a "Notice of Final Decision" including the hearing officer's report, to the participant and their representative. This Notice will be sent by first-class mail. A copy of the "Notice of Final Decision" will be maintained in the HAPGC's file.

The HAPGC is not bound by hearing decisions:

- Concerning matters in which the HAPGC is not required to provide an opportunity for a hearing;

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- Contrary to HUD regulations or requirements;
 - Contrary to Federal, State or local laws;
 - That exceeds the authority of the person conducting the hearing.

The HAPGC shall send a letter to the participant if it determines the HAPGC is NOT bound by the Hearing Officer's determination within 10 business days. The letter shall include the HAPGC's reasons for the decision.

16-III.D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the HAPGC hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the HAPGC informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

As discussed in Chapters 3 and 11, the notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the HAPGC either upon completion of the USCIS appeal or in lieu of the USCIS appeal.

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- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

USCIS Appeal Process [24 CFR 5.514(e)]

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

HAPGC Policy

The HAPGC will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide the HAPGC with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the HAPGC, of its decision. When the USCIS notifies the HAPGC of the decision, the HAPGC must notify the family of its right to request an informal hearing.

HAPGC Policy

The HAPGC will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the HAPGC provide a hearing. The request for a hearing must be made either within 30 days of receipt of the HAPGC notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

The HAPGC must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. See Section 16-III.C. for a listing of positions that serve as informal hearing officers.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the HAPGC pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

HAPGC Policy

The family will be allowed to copy any documents related to the hearing at a cost of \$.30 per page. The family must request discovery of HAPGC documents no later than two business days prior to the scheduled hearing date.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the HAPGC, and to confront and cross-examine all witnesses on whose testimony or information the HAPGC relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the HAPGC, as may be agreed upon by the two parties.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. The PHA will not provide a transcript of an audio taped hearing.

Hearing Decision

The HAPGC must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the HAPGC provide a hearing. The request for a hearing must be made either within 30 days of receipt of the HAPGC notice of termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

Retention of Documents [24 CFR 5.514(h)]

The HAPGC must retain for a minimum of 5 years the following documents that may have been submitted to the HAPGC by the family, or provided to the HAPGC as part of the USCIS appeal or the HAPGC informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

PART IV: OWNER OR FAMILY DEBTS TO THE HAPGC

16-IV.A. OVERVIEW

HAPGC is required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the HAPGC [24 CFR 982.54]. This part describes the HAPGC's policies for recovery of monies that have been overpaid on behalf of families, or to owners.

HAPGC Policy

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the HAPGC holds the owner or participant liable to return any overpayments to the HAPGC.

The HAPGC may enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments. A repayment agreement may be executed depending on the type of fraud and the amount of monies owed to HAPGC.

When an owner or participant refuses to repay monies owed to the HAPGC, the HAPGC will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil law suit
- State income tax set-off program
- Office of the Inspector General

16-IV.B. REPAYMENT POLICY

Owner Debts to the HAPGC

HAPGC Policy

Any amount due to the HAPGC by an owner must be repaid by the owner within 10 business days of the HAPGC determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the HAPGC will withhold the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments the HAPGC may offer to enter into a repayment agreement in accordance with the policies below.

If the owner refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the HAPGC will sanction the owner from future participation in the program and pursue other modes of collection.

Family Debts to the HAPGC

HAPGC Policy

Any amount due to the HAPGC by an HCV or prior HAPGC Public Housing participants must be repaid by the family. If the family is unable to repay the debt within 30 days, the HAPGC may offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the HAPGC will terminate the assistance upon notification to the family and pursue other modes of collection.

Repayment Agreement [24 CFR 792.103]

The term *repayment agreement* refers to a formal document signed by a tenant or owner and provided to the HAPGC in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

Repayment Agreement Guidelines

Down Payment Requirement

HAPGC Policy

Prior to the execution of a repayment agreement, the owner or family must pay 10 percent of the balance owed to the HAPGC.

Payment Thresholds

Notice PIH 2010-19 recommends that the total amount that a family must pay each month—the family's monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family's monthly adjusted income. However, a family may already be paying 40 per cent or more of its monthly adjusted income in rent. Moreover, Notice PIH 2010-19 acknowledges that PHAs have the discretion to establish "thresholds and policies" for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

Execution of the Agreement

HAPGC Policy

The head of household and spouse/co head (if applicable) and HAPGC must sign the repayment agreement.

Due Dates

HAPGC Policy

All payments are due by the close of business on the 1st day of the month. If the 1st does not fall on a business day, the due date is the close of business on the first business day after the 1st.

Non-Payment

HAPGC Policy

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the HA, the HAPGC will send the family a delinquency notice giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the HAPGC will terminate assistance upon written notification to the family.

If a family receives 3 delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and the HAPGC will terminate assistance upon written notification to the family.

No Offer of Repayment Agreement

HAPGC Policy

The HAPGC will not enter into a repayment agreement if there is already a repayment agreement in place with the family or owner, or the amounts owed by the family or owner exceed the Federal or State threshold for criminal prosecution.

ACTION PROCEDURES FOR VIOLATIONS WHICH HAVE BEEN DOCUMENTED

Once a program violation has been documented, the HAPGC will propose the most appropriate remedy based upon the type and severity of the violation.

1. **Procedural Non-compliance.** This category applies when the family "fails to" observe a procedure or requirement of the HAPGC, but does not misrepresent a material fact, and there is no retroactive assistance payments owed by the family.

Examples of non-compliance violations are:

Failure to appear at a pre-scheduled appointment; or

Failure to return verification in time period specified by the HAPGC.

2. **Procedural Non-compliance - Overpaid Assistance.** When the family owes money to the HAPGC for failure to report changes in income or assets, the HAPGC will issue a Notification of Overpayment of Assistance. This Notice will contain the following:
 - A description of the violation and the date(s).
 - Any amounts owed to the HAPGC.
 - The number of days within which a response must be received.
 - Acknowledgement of the family's right to disagree and to request an informal hearing with instructions for the request of such hearing.
 - (a) **Participant Fails to Comply with HAPGC's Notice.** If the Participant fails to comply with the HAPGC's notice, and a family obligation has been violated, the HAPGC will initiate termination of assistance.
 - (b) **Participant Complies with HA's Notice.** When a family complies with the HAPGC's notice, the staff person responsible will meet with him/her to discuss and explain the Family Obligation or program rule which was violated. The staff person will complete a Participant Counseling Report, give one copy to the family and retain a copy in the family's file.
3. **Intentional Misrepresentations.** When a participant falsifies, misstates, omits or otherwise misrepresents a material fact which results (or would have resulted) in an overpayment of housing assistance by the HAPGC, the HAPGC will evaluate whether or not:

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- The participant had knowledge that his/her actions were wrong, and
 - The participant willfully violated the family obligations or the law.

Knowledge that the action or inaction was wrong. This will be evaluated by determining if the participant was made aware of program requirements and prohibitions. The participant's signature on various certifications, briefing certificate, Personal Declaration and Things You Should Know are adequate to establish knowledge of wrong-doing.

The participant willfully violated the law. Any of the following circumstances will be considered adequate to demonstrate willful intent:

- (a) An admission by the participant of the misrepresentation.
- (b) Repetition of the misrepresentation.
- (c) Use of a false name or Social Security Number.
- (d) Omission of material facts known to the participant (e.g. failure to report employment).
- (e) Admissions of the illegal action or omission by the participant to others.
- (f) Falsification, forgery or altering of documents.
- (g) Uttering and certifying to statements at an interim (re)determination that are later independently verified to be false.

4. Dispositions of Cases Involving Misrepresentations. In all cases of misrepresentations involving efforts to recover monies owed, the HAPGC may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

- (a) **Criminal Prosecution:** If the HAPGC has established criminal intent, and the case meets the criteria for prosecution, the HAPGC will:

Refer the case to the local State or District Attorney, notify HUD's RIGI, and terminate rental assistance.

- (b) **Administrative Remedies:** The HAPGC will:

Terminate assistance and demand payment of restitution in full, or if full restitution would place undue hardship on the family, the HAPGC may;

Terminate assistance and execute an administrative repayment agreement in accordance with the HAPGC's Repayment Policy.

Continue assistance and execute an administrative repayment agreement if the amount of overpayment does not exceed HAPGC's threshold.

5. If the violation is determined to be intentional and involves an amount above the threshold or more being owed to the Agency by the tenant, the tenant's program assistance and participation will be terminated by a 30 day notice to the tenant.

To prevent the matter from being turned over to the proper legal authorities, full restitution of the entire amount owed the Agency must be paid to the agency by the family's termination date. If the amount owed the Agency exceeds HAPGC's threshold the matter may be referred to the local State or District Attorney/or HUD's RIGI.

If the matter is determined to be intentional but the amount owed the Agency is less than HAPGC's threshold, the Agency may allow a Repayment Agreement.

A case conference for serious violations and misrepresentations will be held. The tenant will be given an opportunity to present any documents, information or mitigating circumstances they wish. The conference will also be a time for the HAPGC to consider any special circumstances related to the case that might affect its outcome.

The HAPGC's threshold is \$3,000.

6. **Notification to Participant of Proposed Action.** The HAPGC will notify the family of the proposed action no later than 10 days after the case conference by first class mail.

PART V: MANAGEMENT ASSESSMENT (SEMAP)

16-V.A. OVERVIEW

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure HAPGC's performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each PHA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the HAPGC in several ways.

- High-performing PHA can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- PHA with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].
- PHAs with an overall rating of "troubled" are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, PHAs that are designated "troubled" may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
- HUD may determine that a PHA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

16-V.B. SEMAP CERTIFICATION [24 CFR 985.101]

HAPGC must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by HAPGC board resolution and signed by the HAPGC executive director. If the HAPGC is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Section 8 program director.

PHAs with less than 250 voucher units are only required to be assessed every other PHA fiscal year. HUD will assess such PHA annually if the PHA elects to have its performance assessed on an annual basis; or is designated as “troubled” [24 CFR 985.105].

Failure of HAPGC to submit its SEMAP certification within the required time frame will result in an overall performance rating of “troubled.”

HAPGC’s SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the HAPGC’s SEMAP certification, HUD will rate the HAPGC’s performance under each SEMAP indicator in accordance with program requirements.

HUD Verification Method

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The HAPGC or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify the HAPGC's certification on the indicator due to the HAPGC's failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].

16-V.C. SEMAP INDICATORS [24 CFR 985.3 and form HUD-52648]

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

A PHA that expends less than \$300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor, is not be rated under SEMAP indicators 1-7.

SEMAP Indicators
<p>Indicator 1: Selection from the waiting list</p> <p>Maximum Score: 15</p> <ul style="list-style-type: none">• This indicator shows whether the PHA has written policies in its administrative plan for selecting applicants from the waiting list and whether the PHA follows these policies when selecting applicants for admission from the waiting list.• Points are based on the percent of families that are selected from the waiting list in accordance with the PHA's written policies, according to the PHA's quality control sample.
<p>Indicator 2: Rent reasonableness</p> <p>Maximum Score: 20</p> <ul style="list-style-type: none">• This indicator shows whether the PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units• Points are based on the percent of units for which the PHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the PHA's quality control sample.
<p>Indicator 3: Determination of adjusted income</p> <p>Maximum Score: 20</p> <ul style="list-style-type: none">• This indicator measures whether the PHA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent.• Points are based on the percent of files that are calculated and verified correctly, according to the PHA's quality control sample.
<p>Indicator 4: Utility allowance schedule</p> <p>Maximum Score: 5</p> <ul style="list-style-type: none">• This indicator shows whether the PHA maintains an up-to-date utility allowance schedule.• Points are based on whether the PHA has reviewed the utility allowance schedule and adjusted it when required, according to the PHA's certification.
<p>Indicator 5: HQS quality control inspections</p> <p>Maximum Score: 5</p> <ul style="list-style-type: none">• This indicator shows whether a PHA supervisor re-inspects a sample of units under contract during the PHA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.• Points are based on whether the required quality control re-inspections were completed, according to the PHA's certification.

Indicator 6: HQS enforcement

Maximum Score: 10

- This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any PHA-approved extension.
- Points are based on whether the PHA corrects all HQS deficiencies in accordance with required time frames, according to the PHA's certification.

Indicator 7: Expanding housing opportunities

Maximum Points: 5

- Only applies to PHA with jurisdiction in metropolitan FMR areas.
- This indicator shows whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the PHA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration.
- Points are based on whether the PHA has adopted and implemented written policies in accordance with SEMAP requirements, according to the PHA's certification.

Indicator 8: FMR limit and payment standards

Maximum Points: 5 points

- This indicator shows whether the PHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the PHA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.
- Points are based on whether the PHA has appropriately adopted a payment standard schedule(s), according to the PHA's certification.

Indicator 9: Annual reexaminations

Maximum Points: 10

- This indicator shows whether the PHA completes a reexamination for each participating family at least every 12 months.
- Points are based on the percent of reexaminations that are more than 2 months overdue, according to data from PIC.

Indicator 10: Correct tenant rent calculations

Maximum Points: 5

- This indicator shows whether the PHA correctly calculates the family's share of the rent to owner.
- Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.

Indicator 11: Pre-contract HQS inspections

Maximum Points: 5

- This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.
- Points are based on the percent of newly leased units that passed HQS inspection prior to the effective date of the lease and HAP contract, according to data from PIC.

Indicator 12: Biennial HQS inspections

Maximum Points: 10

- This indicator shows whether the PHA inspects each unit under contract at least biennially.
- Points are based on the percent of annual HQS inspections of units under contract that are more than 2 months overdue, according to data from PIC.

Indicator 13: Lease-up

Maximum Points: 20 points

- This indicator shows whether the PHA enters HAP contracts for the number of units or funding reserved under ACC for at least one year.
- Points are based on the percent of units leased during the last completed PHA fiscal year, or the percent of allocated budget authority that has been expended by the PHA, according to data from the PHA's last year-end operating statement that is recorded in HUD's accounting system.

Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances

Maximum Points: 10

- Only applies to PHA with mandatory FSS programs.
- This indicator shows whether the PHA has enrolled families in the FSS program as required, and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.
- Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.

PART VI: RECORD KEEPING

16-VI.A. OVERVIEW

The HAPGC must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the HAPGC must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

16-VI.B. RECORD RETENTION [24 CFR 982.158]

During the term of each assisted lease, and for at least three years thereafter, the HAPGC must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, the HAPGC must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting HAPGC budget and financial statements for the program;
- Records to document the basis for HAPGC determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D., Retention of Documents.

16-VI.C. RECORDS MANAGEMENT

All applicant and participant information will be kept in a secure location and access will be limited to authorized HAPGC staff.

HAPGC staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the HAPGC may release the information collected.

Upfront Income Verification (UIV) Records

HAPGC that access UIV data through HUD's Enterprise Income Verification (EIV) System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in *Enterprise Income Verification (EIV) System PHA Security Procedures*.

HAPGC Policy

The HAPGC has adopted and implemented EIV security procedures as required by HUD.

Criminal Records

The HAPGC may only disclose the criminal conviction records which the HAPGC receives from a law enforcement agency to officers or employees of the HAPGC, or to authorized representatives of the HAPGC who have a job-related need to have access to the information [24 CFR 5.903(e)].

The HAPGC must establish and implement a system of records management that ensures that any criminal record received by the HAPGC from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the HAPGC action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The HAPGC must establish and implement a system of records management that ensures that any sex offender registration information received by the HAPGC from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the HAPGC action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a HAPGC other than under 24 CFR 5.905.

Medical/Disability Records

HAPGC is not permitted to inquire about the nature or extent of a person's disability. The HAPGC may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the HAPGC receives a verification document that provides such information, the HAPGC should not place this information in the tenant file. The HAPGC should destroy the document.

Specific Guidance on Protecting Sensitive Privacy Information

The Privacy Act requires that federal agencies maintain only such information about individuals that is relevant and necessary to accomplish its purpose. The Privacy Act also requires that the information be maintained in systems or records – electronic and paper – that have the appropriate administrative, technical, and physical safeguards to protect the information, however current. This responsibility extends to contractors and third party business partners, such as HAPGC, who is required to maintain such systems of records by HUD.

- a) HAPGC should take the following steps to help ensure compliance with these requirements:
 - i) Limit Collection of PII
 - (1) Do not collect or maintain sensitive PII without proper authorization. Collect only the PII that is needed for the purposes for which it is collected.
 - ii) Manage Access to Sensitive PII
 - (1) Only share or discuss sensitive PII with those personnel who have a need to know for purposes of their work. Challenge anyone who asks for access to sensitive PII for which you are responsible.
 - (2) Do not distribute or release sensitive PII to other employees, contractors, or other third parties unless you are first convinced that the release is authorized, proper and necessary.

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- (3) When discussing sensitive PII on the telephone, confirm that you are speaking to the right person before discussing the information and inform him/her that the discussion will include sensitive PII.
 - (4) Never leave messages containing sensitive PII on voicemail.
 - (5) Avoid discussing sensitive PII if there are unauthorized personnel, contractors, or guests in the adjacent cubicles, rooms, or hallways who may overhear your conversations.
 - (6) Hold meetings in a secure space (i.e., no unauthorized access or eavesdropping possible) if sensitive PII will be discussed and ensure that the room is secured after the meeting.
 - (7) Treat notes and minutes from such meetings as confidential unless you can verify that they do not contain sensitive PII.
 - (8) Record the date, time, place, subject, chairperson, and attendees at any meeting involving sensitive PII.
- iii) Protect Hard Copy and Electronic Files Containing Sensitive PII
- (1) Clearly label all files containing sensitive PII by placing appropriate physical labels on all documents, removable media such as thumb drives, information systems, and application. Examples of appropriate labels might include —For Official Use Only|| or —For (Name of Individual/Program Office) Use Only.||
 - (2) Lock up all hard copy files containing sensitive PII in secured file cabinets and do not leave unattended.
 - (3) Protect all media (e.g., thumb drives, CDs, etc.) that contain sensitive PII and do not leave unattended. This information should be maintained either in secured file cabinets or in computers that have been secured.
 - (4) Keep accurate records of where PII is stored, used, and maintained.
 - (5) Periodically audit all sensitive PII holdings to make sure that all such information can be readily located.
 - (6) Secure digital copies of files containing sensitive PII. Protections include encryption, implementing enhanced authentication mechanisms such as two-factor authentication and limiting the number of people allowed access to the files.
 - (7) Store sensitive PII only on workstations that can be secured, such as workstations located in areas that have restricted physical access.
- iv) Protecting Electronic Transmissions of Sensitive PII via fax, email, etc.

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- (1) When faxing sensitive PII, use the date stamp function, confirm the fax number, verify that the intended recipient is available, and confirm that he/she has received the fax. Ensure that none of the transmission is stored in memory on the fax machine, that the fax is in a controlled area, and that all paper waste is disposed of properly (e.g., shredded). When possible, use a fax machine that uses a secure transmission line.
 - (2) Before faxing PII, coordinate with the recipient so that the PII will not be left unattended on the receiving end.
 - (3) When faxing sensitive PII, use only individually-controlled fax machines, not central receiving centers.
 - (4) Do not transmit sensitive PII via an unsecured information system (e.g., electronic mail, Internet, or electronic bulletin board) without first encrypting the information.
 - (5) When sending sensitive PII via email, make sure both the message and any attachments are encrypted.
 - (6) Do not place PII on shared drives, multi-access calendars, the Intranet, or the Internet.
- v) Protecting Hard Copy Transmissions of Files Containing Sensitive PII
- (1) Do not remove records about individuals with sensitive PII from facilities where HUD information is authorized to be stored and used unless approval is first obtained from a supervisor. Sufficient justification, as well as evidence of information security, must be presented.
 - (2) Do not use interoffice or translucent envelopes to mail sensitive PII. Use sealable opaque solid envelopes. Mark the envelope to the person's attention.
 - (3) When using the U.S. postal service to deliver information with sensitive PII, double-wrap the documents (e.g., use two envelopes – one inside the other) and mark only the inside envelope as confidential with the statement —To Be Opened By Addressee Only.||
- vi) Records Management, Retention and Disposition
- (1) Follow records management laws, regulations, and policies applicable within your jurisdiction.
 - (2) Ensure all HAPGC locations and all entities acting on behalf of the HAPGC are managing records in accordance with applicable laws, regulations, and policies.

- (3) Include records management practices as part of any scheduled oversight protocols.
- (4) Do not maintain records longer than required.
- (5) Destroy records after retention requirements are met.
- (6) Dispose of sensitive PII appropriately – use cross-cut shredders or burn bags for hard copy records and permanently erase (not just delete) electronic records.

vii) Incident Response

- (1) Supervisors should ensure that all personnel are familiar with reporting procedures.

HAPGC will promptly report all suspected compromises of sensitive PII related to HUD programs and projects to HUD's National Help Desk at 1-888-297-8689.

PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-VII.A. OVERVIEW

The HAPGC has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the HAPGC is subject to.

16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]

The PHA will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level within 5 business days of being so notified by any other medical health care professional.

16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]

At least quarterly, the HAPGC must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified environmental intervention blood lead level.

If the HAPGC obtains names and addresses of environmental intervention blood lead level children from the public health department(s), the HAPGC must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the HAPGC must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the HAPGC must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

HAPGC Policy

The public health department(s) has stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, the HAPGC is not providing such a report.

PART VIII: DETERMINATION OF INSUFFICIENT FUNDING

16-VIII.A. OVERVIEW

The HCV regulations allow HAPGC to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.314(e)(1) and 982.454]. Insufficient funding may also impact the HAPGC's ability to issue vouchers to families on the waiting list. This part discusses the methodology the HAPGC will use to determine whether or not the HAPGC has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

16-VIII.B. METHODOLOGY

HAPGC Policy

The HAPGC will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the HAPGC's annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, the HAPGC will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority, or if the HAPGC cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, the HAPGC will be considered to have insufficient funding.