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UPDATE 01/2017

1.0 EQUAL OPPORTUNITY

1.1 FAIR HOUSING

It is the policy of the Mexico Housing Authority to comply fully with all Federal, State, and local nondiscrimination laws; the Americans with Disabilities Act; and the U. S. Department of Housing and Urban Development regulations governing Fair Housing and Equal Opportunity.

No person shall, on the grounds of race, color, sex, religion, national or ethnic origin, familial status, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the Mexico Housing Authority housing programs.

The U.S. Department of Housing and Urban Development posted a new rule that will be important in the fight against discrimination by ensuring that all HUD core programs are open to eligible persons regardless of sexual orientation, gender identity or marital status. This action will also support achievement of the goals of the National HIV/AIDS Strategy in helping to combat related stigma and discrimination due to HIV or perceived HIV. These serve as barriers in the prevention of HIV, especially for persons in unstable housing situations who have greater risks of infection. Stigma and discrimination are also barriers faced by persons living with HIV as shown in the tremendous disparities in their entry and retention in care. Secretary Shaun Donovan recently spoke about this new rule and other HUD actions to address LGBT housing discrimination issues at the 2012 National Gay and Lesbian Task Force “Creating Change” Conference. The Secretary stated “HUD is working to ensure that our housing programs are open to all” and that the rule states “clearly and unequivocally that LGBT individuals and couples have a right to live where they chose.” He also noted that the agency will work to provide training and guidance on this new rule. In acting together, with fair and equal access to housing, we can help create changes needed to achieve the promise shown in HIV care and treatment that we can live in an AIDS free generation.

The rule can be found in the Federal Register of February 3, 2012, p 5662. It includes provisions that:

Require entities assisted by HUD or insured by FHA to make housing available without regard to actual or perceived sexual orientation, gender identity, or marital status;

Clarify that the definition of “family” and “household,” which identifies who is eligible for HUD’s core programs, includes persons regardless of actual or perceived sexual orientation, gender identity, or marital status;

Prohibit HUD-assisted and HUD-insured entities from inquiring about an applicant’s or occupant’s sexual orientation or gender identity for the purpose of determining eligibility or otherwise making housing available;

Prohibit FHA-approved lenders from basing eligibility determinations for FHA-insured loans on actual or perceived sexual orientation or gender identity.

To further its commitment to full compliance with applicable Civil Rights laws, the Mexico Housing Authority will provide Federal/State/local information to applicants for and participants in the Section 8 Housing Choice Voucher Program regarding discrimination and any recourse available to them if they believe they may be victims of discrimination. Such information will be made available with the application, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made available at the Mexico Housing Authority office. In addition, all appropriate written information and advertisements will contain the appropriate Equal Opportunity language and logo.

The Mexico Housing Authority will assist any family that believes they have suffered illegal discrimination by providing them copies of the housing discrimination form. The Mexico Housing Authority will also assist them in completing the form, if requested, and will provide them with the address of the nearest HUD Office of Fair Housing and Equal Opportunity.

1.2 REASONABLE ACCOMMODATION

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

1.3 COMMUNICATION

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

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

requesting action by the participant will include information about requesting a reasonable accommodation. All decisions granting or denying requests will be in writing.

1.4 QUESTIONS TO ASK IN GRANTING THE ACCOMMODATION

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

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

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

- B. Is the requested accommodation related to the disability? If it is apparent that the request is related to the apparent or documented disability, the answer to this question is yes. If it is not apparent, the Mexico Housing Authority will obtain documentation that the requested accommodation is needed due to the disability. The Mexico Housing Authority will not inquire as to the nature of the disability.

- C. Is the requested accommodation reasonable? In order to be determined reasonable, the accommodation must meet two criteria:

1. Would the accommodation constitute a fundamental alteration? The Mexico Housing Authority's business is housing. If the request would alter the fundamental business that the Mexico Housing Authority conducts, that would not be reasonable. For instance, the Mexico Housing Authority would deny a request to have the Mexico Housing Authority do grocery shopping for the person with disabilities.
2. Would the requested accommodation create an undue financial hardship or administrative burden? Frequently the requested accommodation costs little or nothing. If the cost would be an undue burden, the Mexico Housing Authority may request a meeting with the individual to investigate and consider equally effective alternatives.

Generally the individual knows best what they need; however, the Mexico Housing Authority retains the right to be shown how the requested accommodation enables the individual to access or use the Mexico Housing Authority's programs or services.

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

If the participant requests, as a reasonable accommodation, that he or she be permitted to make physical modifications to their dwelling unit, at their own expense, the request should be made to the property owner/manager. The Housing Authority does not have responsibility for the owner's unit and does not have responsibility to make the unit accessible. The Housing Authority may, however, grant a higher payment standard for units where property owners make physical modifications for persons with disabilities so long as the payment standard does not exceed 110% of FMRs.

Any request for an accommodation that would enable a participant to materially violate family obligations will not be approved.

1.5 SERVICES FOR NON-ENGLISH SPEAKING PERSONS AND PARTICIPANTS

All applicants that appear to be experiencing difficulties communicating in English will be asked if they need to communicate in a language other than English (including sign language or Braille). Their needs will be accommodated as much as possible. If another family member or a friend can translate, this option will be utilized to the maximum degree possible. The Mexico Housing Authority will endeavor to have bilingual staff or access to people who speak languages other than English.

1.6 FAMILY/OWNER OUTREACH

The Mexico Housing Authority will publicize the availability and nature of the Section 8 Program for extremely low-income and very low families in a newspaper of general circulation, minority media, and by other suitable means.

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

The Mexico Housing Authority will communicate the status of program availability to other service providers in the community and advise them of housing eligibility factors and guidelines so that they can make proper referral of their clients to the program.

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

The Mexico Housing Authority will hold briefings for owners who participate in or who are seeking information about the Section 8 Program. The briefings are intended to:

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

The Mexico Housing Authority will particularly encourage owners of suitable units located outside of low-income or minority concentration and owners of accessible units to attend. Targeted mailing lists will be developed and announcements mailed.

1.7 RIGHT TO PRIVACY

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

Any request for applicant or participant information will not be released unless there is a signed release of information request from the applicant or participant.

NOTICE PIH-2015-06

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 Public Housing Authorities, who are required to maintain such systems of records by HUD.

1.8 REQUIRED POSTINGS

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

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

- C. Address of all Mexico Housing Authority offices, office hours, telephone numbers, TDD numbers, and hours of operation
- D. Income Limits for Admission
- E. Informal Review and Informal Hearing Procedures
- F. Fair Housing Poster
- G. Equal Opportunity in Employment Poster
- H. Drug Free Workplace Policy
- I. Office Hours
- J. SEMAP Score
- K. Grievance Procedure

2.0 MEXICO HOUSING AUTHORITY/OWNER RESPONSIBILITY/ OBLIGATION OF THE FAMILY

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

2.1 MEXICO HOUSING AUTHORITY RESPONSIBILITIES

- A. The Mexico Housing Authority will comply with the consolidated ACC, the application the Mexico Housing Authority submitted to HUD to get the specific vouchers, HUD regulations and other requirements, and this Section 8 Administrative Plan.
- B. In administering the program, the Mexico Housing Authority will:
 1. Publish and disseminate information about the availability and nature of housing assistance under the program;
 2. Explain the program to owners and families;
 3. Seek expanded opportunities for assisted families to locate housing outside areas of poverty or racial concentration;
 4. Encourage owners to make units available for leasing in the program, including owners of suitable units located outside areas of poverty or racial concentration;

5. Affirmatively further fair housing goals and comply with equal opportunity requirements;
6. Make efforts to help people with disabilities find satisfactory housing;
7. Receive applications from families, determine eligibility, maintain the waiting list, select applicants, issue a housing choice voucher to each selected family, and provide housing information to families selected;
8. Determine who can live in the assisted unit at admission and during the family's participation in the program;
9. Obtain and verify evidence of citizenship and eligible immigration status in accordance with 24 CFR part 5;
10. Review the family's request for approval of the tenancy and the owner/landlord lease, including the HUD prescribed tenancy addendum;
11. Inspect the unit before the assisted occupancy begins and at least annually during the assisted tenancy;
12. Determine the amount of the housing assistance payment for a family;
13. Determine the maximum rent to the owner and whether the rent is reasonable;
14. Make timely housing assistance payments to an owner in accordance with the HAP contract;
15. Examine family income, size and composition at admission and at least annually during the family's participation in the program. The examination includes verification of income and other family information;
16. Establish and adjust the Mexico Housing Authority utility allowance;
17. Administer and enforce the housing assistance payments contract with an owner, including taking appropriate action as determined by the Mexico Housing Authority, if the owner defaults (e.g., HQS violation);
18. Determine whether to terminate assistance to a participant family for violation of family obligations;
19. Conduct informal reviews of certain Mexico Housing Authority decisions concerning applicants for participation in the program;

20. Conduct informal hearings on certain Mexico Housing Authority decisions concerning participant families;
21. Provide sound financial management of the program, including engaging an independent public accountant to conduct audits

2.2 OWNER RESPONSIBILITY

- A. The owner is responsible for performing all of the owner's obligations under the HAP contract and the lease.
- B. The owner is responsible for:
 1. Performing all management and rental functions for the assisted unit, including selecting a voucher holder to lease the unit, and deciding if the family is suitable for tenancy of the unit (screening the tenant).
 2. Maintaining the unit in accordance with HQS, including performance of ordinary and extraordinary maintenance.
 3. Complying with equal opportunity requirements.
 4. Complying with the Housing Assistance Program contract (HAP).
 5. Preparing and furnishing to the Mexico Housing Authority information required under the HAP contract.
 6. Collecting from the family:
 - a. Any security deposit required under the lease.
 - b. The tenant contribution (the part of rent to owner not covered by the housing assistance payment).
 - c. Any charges for unit damage by the family.
 7. Entering into a lease and enforcing tenant obligations under the lease.
 8. Including in the lease a clause that provides that engaging in drug-related criminal activity on or near the premises by the tenant, household member, guest, or any other person under the tenant's control is grounds for the owner to terminate tenancy. In addition, the lease must also provide that the owner may evict a family when the owner determines that a household member is illegally using a drug or when the owner determines that a

pattern of illegal use of a drug interferes with the health, safety or right to peaceful enjoyment of the premises by other residents.

9. Paying for utilities and services (unless paid by the family under the lease).
- C. For provisions on modifications to a dwelling unit occupied or to be occupied by a person with disabilities see 24 CFR 100.203.
 - D. The owner is responsible for notifying the Mexico Housing Authority **sixty (60)** calendar days prior to any rent increase.

2.3 OBLIGATIONS OF THE PARTICIPANT

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

A. Supplying required information

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

B. HQS breach caused by the Family

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

C. Allowing Mexico Housing Authority Inspection

The family must allow the Mexico Housing Authority to inspect the unit at reasonable times and after at least **2 calendar days'** notice according to state law.

D. Violation of Lease

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

E. Family Notice of Move or Lease Termination

The family must notify the Mexico Housing Authority and the owner before the family moves out of the unit or terminates the lease by a notice to the owner in writing and usually 30 days prior to vacating.

F. Owner Eviction Notice

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

G. Use and Occupancy of the Unit

1. The family must use the assisted unit for a residence by the family. The unit must be the family's only residence.
2. The Mexico Housing Authority must approve the composition of the assisted family residing in the unit. The family must inform the Mexico Housing Authority within **10 calendar days** of the birth, adoption or court-awarded custody of a child. The family must request approval from the Mexico Housing Authority to add any other family member as an occupant of the unit. No other person (i.e., no one but members of the assisted family) may reside in the unit (except for a foster child/foster adult or live-in aide as provided in paragraph (4) of this Section).
3. The family must notify the Mexico Housing Authority within **10 calendar days** if any family member no longer resides in the unit.
4. If the Mexico Housing Authority has given approval, a foster child/foster adult or a live-in aide may reside in the unit. The Mexico Housing Authority has the discretion to adopt reasonable policies concerning residence by a foster child/foster adult or a live-in aide and defining when the Mexico Housing Authority consent may be given or denied.
5. Members of the household may engage in legal profit making activities in the unit, but only if such activities are incidental to primary use of the unit for residence by members of the family. Any business uses of the unit must comply with the lease, zoning requirements, and the affected household member must obtain all appropriate licenses.
6. The family must not sublease or let the unit.
7. The family must not assign the lease or transfer the unit.

8. The family agrees to not house guests for more than two weeks every six months. The family further agrees to notify the MHA prior to housing a guest for more than seven (7) consecutive days.

H. Absence from the Unit

The family must supply any information or certification requested by the Mexico Housing Authority to verify that the family is living in the unit, or relating to family absence from the unit, including any Mexico Housing Authority requested information or certification on the purposes of family absences. The family must cooperate with the Mexico Housing Authority for this purpose. The family must promptly notify the Mexico Housing Authority of its absence from the unit.

Absence means that no member of the family is residing in the unit. The family may be absent from the unit for up to **180 calendar days within a twelve-month period**. The family must request permission from the Mexico Housing Authority for absences exceeding **30 consecutive calendar days**. The Mexico Housing Authority will make a determination within **5 business days** of the request. Any family absent for more than **31 calendar days without authorization will be terminated from the program**.

Authorized absences may include, but are not limited to:

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

I. Interest in the Unit

The family may not own or have any interest in the unit (except for owners of manufactured housing renting the manufactured home space or people using a housing choice voucher to purchase a home).

J. Fraud and Other Program Violation

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

K. Crime by Household Members

The members of the household or their guest may not engage in drug-related criminal activity or other violent criminal activity or other criminal activity that

threatens the health safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

L. Other Housing Assistance

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

M. Alcohol and/or Drug Abuse by Household Members

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

3.0 ELIGIBILITY FOR ADMISSION

3.1 INTRODUCTION

There are five eligibility requirements for admission to Section 8 -- qualifies as a family, has an income within the income limits, meets citizenship/eligible immigrant criteria, provides documentation of Social Security Numbers, and signs consent authorization documents. In addition to the eligibility criteria, families must also meet the Mexico Housing Authority screening criteria in order to be admitted to the Section 8 Program.

3.2 ELIGIBILITY CRITERIA

A. Family status is defined by HUD as elderly, disabled, and displaced families. Family includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity or marital status:

1. A **family with or without children**. Such a family is defined as a group of people related by blood, marriage, adoption or affinity that lives together in a stable family relationship.
 - a. Children temporarily absent from the home due to placement in foster care are considered family members.
 - b. Unborn children and children in the process of being adopted are considered family members for purposes of determining bedroom size, but are not considered family members for determining income limit.

2. An **elderly family** is used for purpose of preference and allowances/deduction. Nothing in the definition of elderly family excludes children:
 - a. A family whose head, spouse, or sole member is a person who is at least 62 years of age;
 - b. Two or more persons who are at least 62 years of age living together; or
 - c. One or more persons who are at least 62 years of age living with one or more live-in aides.
3. A **near-elderly family** is defined as a family whose head, spouse, co-head, or sole member is:
 - a. A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62;
 - b. Two or more persons who are at least 50 years of age but below the age of 62 living together; or
 - c. One or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.
4. A **disabled family**, which is:
 - a. A family whose head, spouse, or sole member is a person with disabilities;
 - b. Two or more persons with disabilities living together; or
 - c. One or more persons with disabilities living with one or more live-in aides.
 - d. For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence.
5. A **displaced family** is a family in which each member, or whose sole member, has been displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

6. A **remaining member of a tenant family** is a family member of an assisted family who remains in the unit when other family members have left the unit.
7. A **single person** who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

B. Income eligibility

1. To be eligible to receive assistance a family shall, at the time the family initially receives assistance under the Section 8 program shall be a family that is:
 - a. An extremely low-income or a very low-income family;
 - b. A low-income family continuously assisted under the 1937 Housing Act, including families relocated from public housing for the convenience of the agency (continuously assisted families are not counted against the income targeting requirements);
 - c. A low-income family that is a non-purchasing resident in a HOPE 1 or HOPE 2 project or a property subject to a resident homeownership program under 24 CFR 248.173;
 - d. A low-income family or moderate-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing.
2. Income limits apply only at admission and are not applicable for continued occupancy; however, as income rises, the assistance will decrease.
3. The applicable income limit for issuance of a housing choice voucher is the highest income limit for the family size for areas within the housing authority's jurisdiction. The applicable income limit for admission to the program is the income limit for the area in which the family is initially assisted in the program. The family may only use the voucher to rent a unit in an area where the family is income eligible at admission to the program.
4. Families who are moving into the Mexico Housing Authority's jurisdiction under portability and have the status of applicant rather than of participant at their initial housing authority must meet the income limit for the area where they are initially assisted under the program.
5. Families who are moving into the Mexico Housing Authority's jurisdiction

under portability and are already program participants at their initial housing authority **must** meet the income eligibility requirement for the Mexico Housing Authority program. (CFR 982.355 c (4))

6. Income limit restrictions do not apply to families transferring units within the Mexico Housing Authority Section 8 Program.

C. Citizenship/Eligible Immigrant status

To be eligible for a housing choice voucher at least one member of the family must be a citizen, national, or a noncitizen who has eligible immigration status under one of the categories set forth in Section 214 of the Housing and Community Development Act of 1980 (see 42 U.S.C. 1436a(a)) or a citizen of the Republic of Marshall Islands, the Federated States of Micronesia, or the Republic of Palau. However, people in the last category are not entitled to housing assistance in preference to any United States citizen or national resident within Guam.

Family eligibility for assistance.

1. A family shall not be eligible for assistance unless at least one member of the family residing in the unit is determined to have eligible status, with the exception noted below.
2. Despite the ineligibility of one or more family members, a mixed family may be eligible for one of three types of assistance (See Section 11.5(F) for calculating rents under the noncitizen rule).
3. A family without any eligible members and receiving assistance on June 19, 1995, may be eligible for temporary deferral of termination of assistance.

D. Social Security Number Documentation

To be eligible, all family members must provide a Social Security Number except for non-contending persons.

E. Signing Consent Forms

1. In order to be eligible each member of the family who is at least 18 years of age, and each family head and spouse regardless of age, shall sign one or more consent forms.
2. The consent form must contain, at a minimum, the following:

- a. A provision authorizing HUD and the Mexico Housing Authority to obtain from State Wage Information Collection Agencies (SWICAs) any information or materials necessary to complete or verify the application for participation or for eligibility for continued occupancy;
- b. A provision authorizing HUD or the Mexico Housing Authority to verify with previous or current employers or other sources of income information pertinent to the family's eligibility for or level of assistance;
- c. A provision authorizing HUD to request income information from the IRS and the SSA for the sole purpose of verifying income information pertinent to the family's eligibility or level of benefits;
- d. A statement allowing the Mexico Housing Authority permission to access the applicant's criminal record with any and all police and/or law enforcement agencies; and
- e. A statement that the authorization to release the information requested by the consent form expires 15 months after the date the consent form is signed.

F. Suitability for tenancy

The Mexico Housing Authority determines eligibility for participation and will also conduct criminal background checks on all adult household members, including live-in aides. The Mexico Housing Authority will deny assistance to a family because of drug-related criminal activity or violent criminal activity by family members. This check will be made through state or local law enforcement or court records in those cases where the household member has lived in the local jurisdiction for the last three years. If the individual has lived outside the local area, the Mexico Housing Authority may contact law enforcement agencies where the individual had lived or request a check through the FBI's National Crime Information Center (NCIC). This criminal background check will proceed after each adult household member has signed a consent form designed by the Mexico Housing Authority. The information received as a result of the criminal background check shall be used solely for screening purposes. The information shall be maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose(s) for which it was requested has been accomplished and the period for filing a challenge to the Mexico Housing Authority's action has expired without a challenge or final disposition of any litigation has occurred.

The Mexico Housing Authority will check with the State sex offender registration program and will ban for life any individual who is registered as a lifetime sex offender. The Mexico Housing Authority will check with our state registry and if

the applicant has resided in another State(s), with that State(s)'s list.

If an applicant is about to be denied housing based on either the criminal check or the sex offender registration program, the applicant will be informed of this fact and given an opportunity to dispute the accuracy of the information before the denial or eviction occurs.

Additional screening is the responsibility of the owner. Upon the written request of a prospective owner, the Mexico Housing Authority will provide to the owner the name, address, and phone number of the applicant's current landlord and any previous landlords that are known to the housing authority.

In addition, if an owner submits a request to the Mexico Housing Authority for criminal records concerning an adult member of an applicant or resident household, signed consent forms, and the owner's standards for prohibiting admission, the Mexico Housing Authority must request the criminal conviction records from the appropriate law enforcement agency or agencies, as determined by the Housing Authority. If the Mexico Housing Authority receives criminal conviction records requested by an owner, the Mexico Housing Authority must determine whether criminal action by a household member, as shown by such criminal conviction records, may be a basis for applicant screening, lease enforcement or eviction, as applicable in accordance with HUD regulations and the owner's criteria. The Mexico Housing Authority must notify the owner whether the Housing Authority has received criminal conviction records concerning the household member, and of its determination whether such criminal conviction records may be a basis for applicant screening, lease enforcement or eviction. However, the PHA must not disclose the household member's criminal conviction record or the content of that record to the owner, but merely the fact of whether or not they comply with HUD regulations and the owner's criteria.

The same service shall be available to owners of federally assisted housing in their attempt to determine if an applicant is on the state sex offender list upon the request of the owner. Once again, the information itself will not be disclosed to the owner; the Mexico Housing Authority will merely apply the criteria the owner establishes. The fee for this service shall be **\$20.00**

G. Determining and Verifying Eligibility of "Full-time" College Students of Non-Parental/Guardian Households

1. Listed below are eligibility and verification standards that must be met prior to admitting "full-time" college students to Section 8 assistance programs. A full-time student is defined as a person who is attending school or vocational training on a full-time bases (24 CFR 5.603) (PIH 2005-16)
 - a. Determination: The student must be of legal age or an emancipated minor under the state law.
Eligibility: Obtain proof of age such as a valid driver's license,

identification card issued by a federal, state, or local agency, identification issued by a medical insurance company, birth certificate, or other form of identification, as determined by the PHA.

- b. Determination: The student must be income eligible for admission to the Section 8 programs (24 CFR 960.201 and 982.201.)
Eligibility: Verify all sources of reported family income, in accordance with 24 CFR 960.259 and 982.516.
 - c. Determination: Each college student within a household must Provide a written/signed certification that the student does or does not anticipate receiving financial support from the student's parent(s) or guardian(s) and the amount of support.
Eligibility: Verify, via independent third-party verification all amounts anticipated to be received outside of the family during the 12-month period following admission and the effective date of the annual reexamination.
 - d. Determination: The college student must not be claimed as a Dependent by parent(s) or legal guardian(s) on their Internal Revenue Services (IRS) tax return.
Eligibility: Request necessary documents of proof a copy of the college student's Form 1040EZ, 1040A, or 1040 tax returns for the prior year. Check the box that asks whether the student's parents (or someone else) can claim him/her on their tax return (See box "5" for Form 1040EZ and box "6a" for Forms 1040A and 1040). If practicable, may also review the college student's parents' or guardians' tax return. The college student must supply any information that the PHA or HUD determines is necessary in administration of public housing, voucher, or certificate programs (24 CFR 960.259 and 982.551).
2. No Assistance shall be provided (FY 2006 Appropriations Final Rule CFR Vo. 70, No. 250) under Section 8 of the United States Housing Act of 1937 to any individual who:
- a) is enrolled as a student at an institution of higher education (as defined under section 102 of the Higher Education Act of 1965;
 - b) is under 24 years of age;
 - c) is not a veteran;
 - d) is unmarried;
 - e) does not have a dependent child; and
 - f) is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible, to receive assistance under section 8 of the United States Housing Act of 1937 (42

U.S.C. 1437f)

3. For purposes of determining the eligibility of a person to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), any financial assistance (in excess of amounts received for tuition) that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except for a person over the age of 23 with dependent children.
4. On September 21, HUD published a notice in the Federal Register titled “Eligibility of Independent Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Additional Supplementary Guidance.” This notice provides additional guidance for a rule published in 2005 that required that “if an individual is enrolled at an institution of higher education (i.e., student) is under the age of 24, is not a veteran, is unmarried and does not have a dependent child, is individually ineligible for assistance under section 8 . . . or the student’s parents are, individually or jointly, ineligible for assistance, no section 8 assistance can be provided to the student.” In 2006, HUD published supplemental guidance that provided certain exceptions to this rule. The supplemental guidance provided instances where “a student, under the age of 24 who meets the additional criteria of Section 327, may still be income eligible for assistance in circumstances where the student can demonstrate independence from parents, where the student can demonstrate the absence of parents, or where an examination of the student’s parents’ income may not be relevant.”

This notice updates the definition of “independent student” to bring it into alignment with Department of Education’s definition. HUD is updating the definition of “independent student” to bring it into alignment with Higher Education Act’s definition.

The Department of Education’s definition of independent student applies when one of the following is true: 1) The individual is 24 years of age or older by December 31 of the award year; 2) The individual is an orphan, in foster care, or a ward of the court or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older; 3) The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual’s State of legal residence; 4) The individual is a veteran of the Armed Forces of the United States or is currently serving on active duty in the Armed Forces for other than training purposes; 5) The individual is a graduate or professional student; 6) The individual is a married individual; 7) The individual has legal dependents other than a spouse; 8) The individual has been verified during the school year in which

the application is submitted as either an unaccompanied youth who is a homeless child or youth or as unaccompanied, at risk of homelessness, and self-supporting by certain entities; or 9) The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

The notice also provides additional guidance on verifying a student's independent status.

NOTE: In all instances, a household must be income eligible and meet any and all eligibility criteria required by HUD.

H. College Students Receiving Athletic Scholarship Assistance:

Mexico Housing Authority will deny housing assistance to persons receiving athletic scholarship assistance exceeding \$5,000 annually that is available for housing costs.

4.0 MANAGING THE WAITING LIST

4.1 OPENING AND CLOSING THE WAITING LIST

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

The notice will state that applicants already on waiting lists for other housing programs must apply separately for this program, and that such applicants will not lose their place on other waiting lists when they apply for Section 8. The notice will include the Fair Housing logo and slogan and otherwise be in compliance with Fair Housing requirements.

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

4.2 TAKING APPLICATIONS

Families wishing to apply for the Section 8 Program will be required to complete an application for housing assistance. Applications will be accepted during regular business hours at:

828 Garfield
Mexico, Missouri 65265

The Mexico Housing Authority reserves the right to render an application inactive if information requested has not been provided or applicant has not responded **within 10 calendar days** from the request.

For purposes of eligibility, a new application must be rendered once the old one has been ruled inactive. Notice shall be given that the inactive file is no longer in process but this will not constitute a right of review for the applicant.

Applications are taken to compile a waiting list. Due to the demand for Section 8 assistance in the Mexico Housing Authority jurisdiction, the Mexico Housing Authority may take applications on an open enrollment basis, depending on the length of the waiting list. MHA leasing jurisdiction is Audrain County and City of Mexico, MO with two exceptions, we do not lease in Vandalia and Farber, MO. (NECAC)

When the waiting list is open, completed applications will be accepted from all applicants. The Mexico Housing Authority will later verify the information in the applications relevant to the applicant's eligibility, admission, and level of benefit.

Applications may be made in person on Monday through Friday (9-12/1-4). Applications will be mailed to interested families upon request.

The completed application will be dated and time stamped upon its return to the Mexico Housing Authority.

Persons with disabilities who require a reasonable accommodation in completing an application may call the Mexico Housing Authority to make special arrangements to complete their application. A Telecommunication Device for the Deaf (TDD) is available for the deaf. The TDD telephone number is (800) 735-2966.

The application process will involve two phases. The first phase is the initial application for housing assistance. The initial phase requires the family to provide information including name, address, phone number, family composition and family unit size, racial or ethnic designation of the head of household, income category, Social Security Number information, citizenship/eligible immigrant information, and sign the Consent for Release of Information forms. This first phase results in the family's placement on the waiting list if deemed apparently eligible.

If the anticipated wait is over a six-month period of time, the Mexico Housing Authority will notify the family in writing of the date and time of placement on the waiting list. If the Mexico Housing Authority determines the family to be ineligible, the notice will state the reasons therefore and offer the family the opportunity of an informal review of this determination.

An applicant is encouraged to report changes in their applicant status including changes in family composition and income. The Mexico Housing Authority will annotate the applicant's file and will update their place on the waiting list. Confirmation of the changes will be confirmed with the family in writing.

The next phase involves inviting the eligible families to a Section 8 briefing session where a voucher for housing assistance will be issued and program requirements will be explained.

Failure to notify of non-attendance with at least 24 hour notice before the session will result in the deactivating of the application.

Failure to arrive on time at the scheduled Section 8 briefing will result in removal from the MHA's waitlist.

4.3 ORGANIZATION OF THE WAITING LIST

The waiting list will be maintained in accordance with the following guidelines:

The PHA will establish a preference for "working" families, where the head, spouse, co-head, or sole member is employed at least 20 hours per week with verification and history of 30 days of employment at the time they are pulled from the Waiting List. As required by HUD, families where the head and spouse, or sole member is a person age 62 or older, or is a person with disabilities, they will also be given the benefit of the working preference [24 CFR 960.206(b)(2)]

Preferences will be used to select families from the waiting list:

Residency Preference (living or working in Audrain County, MO)	50 points
Working Preference/Head or Spouse Elderly/Disability	50 points

Each preference will receive 50 points. (Maximum of 100 points per household)

One list is maintained which is in the order of 100 point applicants, 50 point applicants and 0 point applicants. Applications received will be added to the list by preference claimed.

- A. The application will be a permanent file;
- B. All applications will be maintained in order of points, date and time of application;
- C. Any significant contact between the Mexico Housing Authority and the applicant will be documented in the applicant file.

All files (applicant or participant) shall be retained for three years from the date the file is closed, whether this is due to the surrender of a housing choice voucher or the removal of a person from the waiting list, whichever is later.

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

4.4 *FAMILIES NEARING THE TOP OF THE WAITING LIST*

The next phase involves inviting the eligible families to a Section 8 briefing session where a voucher for housing assistance will be issued and program requirements will be explained.

4.5 *MISSED APPOINTMENTS*

All applicants who fail to keep a scheduled appointment in accordance with the paragraph below will be sent a notice of denial. The Mexico Housing Authority considers a missed appointment five minutes past the scheduled appointment to be missed.

The Mexico Housing Authority will allow the family to reschedule appointments for good cause. Generally, no more than one opportunity will be given to reschedule without good cause, and no more than two opportunities for good cause. When a good cause exists, the Mexico Housing Authority will work closely with the family to find a more suitable time. Applicants will be offered the right to an informal review before being removed from the waiting list.

4.6 *PURGING THE WAITING LIST*

The Mexico Housing Authority will update and purge its waiting list semi annually to ensure that the pool of applicants reasonably represents interested families. Purging also enables the Housing Authority to update the information regarding address, family composition, and income category.

The purge shall consist of the Mexico Housing Authority mailing via first class mail a form to be completed by the person on the waiting list and returned to the housing authority within a specified number of calendar days (usually 10 calendar days). If the envelope is returned as undeliverable or if no response is received from the applicant within the specified time frame, the applicant shall be removed from the waiting list. If the envelope is returned with a forwarding address on it, the housing authority shall mail the form to the new address, with a new deadline for response.

4.7 *REMOVAL OF APPLICANTS FROM THE WAITING LIST*

The Mexico Housing Authority will not remove an applicant's name from the waiting list unless:

- A. The applicant requests in writing that the name be removed;
- B. The applicant fails to respond to a written request for information or a request to declare their continued interest in the program or misses scheduled appointments;
- C. The applicant does not meet either the eligibility or screening criteria for the program; or
- D. The applicant has been issued a Housing Choice Voucher.

The reason for all removals from the waiting list shall be carefully documented in the applicant's file and retained for three years from the date the file is closed.

4.8 GROUNDINGS FOR DENIAL

The Mexico Housing Authority **will deny** assistance to applicants who:

- A. Do not meet any one or more of the eligibility criteria;
- B. Do not supply information or documentation required by the application process;
- C. Failure to respond to a written request for information within **10 calendar days** from the request for information or a request to declare their continued interest in the program;
- D. Failure to complete any aspect of the application or lease-up process;
- E. Have a family member who was evicted from federally assisted housing within the past five years because of drug-related criminal activity and/or criminal activity. The **five-year** limit is based on the date of such eviction, not the date the crime was committed.

However, the Mexico Housing Authority may admit the household if the PHA determines:

- 1. The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the Mexico Housing Authority; or
- 2. The circumstances leading to the eviction no longer exist (for example, the criminal household member is imprisoned or has died).
- F. Have a household member who is currently engaging in illegal use of a drug. For purposes of this section, a member is "currently engaging in" the criminal activity

if the person has engaged in this behavior recently enough to justify a reasonable belief that the behavior is current;

- G. Have a household member whose illegal drug use or a pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents as determined by the Mexico Housing Authority in having reasonable cause to believe;
- H. Have a household member who has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally assisted housing;
- I. Have a household member who is subject to a lifetime registration requirement under a State sex offender registration program. PIH Notice 2012-28: states that HUD recommends that at annual recertification or reexamination, PHAs ask whether the tenant or any member of the tenant's household is subject to a state lifetime sex offender registration program in any state. MHA will verify this information using the National Sex Offender Database and/or other official federal, state, and local resources and document this information in the same manner as at admission.;
- J. Have a household member whose abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents as determined by the Mexico Housing Authority in having reasonable cause to believe;
- K. Have a household member who is a fugitive felon, parole violator or person fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees;
- L. Have a household member who is currently engaged in, or has engaged in the following during the last **five years** before the projected date of admission:
 - 1. Drug-related criminal activity;
 - 2. Violent criminal activity;
 - 3. Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or
 - 4. Other criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the Mexico Housing

Authority (including a Mexico Housing Authority employee or a Mexico Housing Authority contractor, subcontractor or agent).

For purposes of this section, a household member is “currently engaged in” criminal activity if the person has engaged in the behavior recently enough to justify a reasonable belief that the behavior is current.

- M. Have a family member who violated any family obligations under previous participation in the program, **in the last 5 years from date of application** (See CFR 24 982.552);
- N. Have a family member who has been **evicted** from federally assisted housing in the past **five years** (if it relates to only rent owed or other charges and has been paid, it will be at the discretion of the Executive Director);
- O. Have a family member that the Mexico Housing Authority has terminated assistance under the program (that has not made amends with the Mexico Housing Authority and is not related to family obligations), **in the past 5 years from date of application**;
- P. Have a family member who has committed fraud, bribery, or any other corrupt or criminal act in connection with **any** Federal housing program, **in the past 5 year period from date of application**;
- Q. Currently owes rent or other amounts to the Mexico Housing Authority and/or any other Housing Authority in connection with Section 8 or public housing assistance under the 1937 Act;
- R. Have not reimbursed Mexico Housing Authority for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease;
- S. Have breached an agreement with Mexico Housing Authority to pay amounts owed for reasons in Part Q and R above;
- T. Have engaged in or threatened abusive or violent behavior towards any Mexico Housing Authority staff member or resident, **in the past 5 years from date of application**. (at the discretion of the Executive Director);
- U. Have a history, more than one time of not meeting financial obligations (utility payments) in the past three years from date of application.

If the Mexico Housing Authority denies admission to the Mexico Housing Authority’s Housing Choice Voucher program on the basis of a criminal record, the Mexico Housing Authority will provide the person with the criminal record (i.e., the family member) and the applicant head of household with a copy of the criminal record and an opportunity to

dispute the accuracy and relevance of that record, in the procedures for the Informal Review Process for Applicants. The applicant will have **ten (10) calendar days** to dispute the accuracy and relevance of the record in writing. If the Mexico Housing Authority does not receive the dispute within the allotted time, the applicant will be denied.

4.9 NOTIFICATION OF NEGATIVE ACTIONS

Any applicant whose name is being removed from the waiting list will be notified by the Mexico Housing Authority in writing and will have **ten (10) calendar days**, from the date of the written correspondence, to present mitigating circumstances or request an informal review in writing. The letter will also indicate that their name will be removed from the waiting list if they fail to respond within the timeframe specified. The Mexico Housing Authority's system of removing applicants' names from the waiting list will not violate the rights of persons with disabilities. If an applicant's failure to respond to a request for information or updates was caused by the applicant's disability, the Mexico Housing Authority will provide a reasonable accommodation. If the applicant indicates that they did not respond due to a disability, the Mexico Housing Authority will verify that there is in fact a disability and that the accommodation they are requesting is necessary based on the disability. An example of a reasonable accommodation would be to reinstate the applicant on the waiting list based on the date and time of the original application.

4.10 INFORMAL REVIEW

If the Mexico Housing Authority determines that an applicant does not meet the criteria for receiving Section 8 assistance, the Mexico Housing Authority will promptly provide the applicant with written notice of the determination. The notice must contain a brief statement of the reason(s) for the decision, and state that the applicant may request an informal review of the decision within **10 calendar days** of the denial. The Mexico Housing Authority will describe how to obtain the informal review. The informal review process is described in Section 16.2 of this Plan.

5.0 SELECTING FAMILIES FROM THE WAITING LIST

5.1 WAITING LIST ADMISSIONS AND SPECIAL ADMISSIONS

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

If HUD awards funding that is targeted for families with specific characteristics or families living in specific units, the Mexico Housing Authority will use the assistance for those families. If this occurs, the Mexico Housing Authority will maintain records demonstrating that these targeted housing choice vouchers were used appropriately. When one of these targeted vouchers turns over, the voucher shall be issued to applicants

with the same specific characteristic as the targeted program describes.

5.2 ***SELECTION FROM THE WAITING LIST***

Selection from the Waiting List will be preferences (100 point, 50 point, 0 point), then date and time of application will be utilized to determine the sequence on the waiting list.

Despite, the above, if necessary to meet the statutory requirement that 75% of newly admitted families in any fiscal year be families who are extremely low-income (unless a different target is agreed to by HUD), the Mexico Housing Authority retains the right to skip higher income families on the waiting to reach extremely low-income families. This measure will only be taken if it appears the goal will not otherwise be met. To ensure this goal is met, the Housing Authority will monitor incomes of newly admitted families and the income of the families on the waiting list.

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

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

The Mexico Housing Authority will issue a housing choice voucher for a particular bedroom size – the bedroom size is a factor in determining the family’s level of assistance. The following guidelines will determine each family’s unit size without overcrowding or over-housing:

Number of Bedrooms	Number of Persons	
	Minimum	Maximum
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8
5	5	10

These standards are based on the assumption that each bedroom will accommodate no more than two (2) persons. Two adults will share a bedroom unless related by blood.

In determining bedroom size, the Mexico Housing Authority will consider the presence of children to be born to a pregnant woman, children who are in the process of being adopted, children whose custody is being obtained, children currently under a 50% or more joint custody decree, children who are temporarily away at school or temporarily in foster-care.

Bedroom size will also be determined using the following guidelines:

- A. Children of the same sex **will** share a bedroom up to the age of ten.
- B. Children of the opposite sex, over the age of 6, shall be assigned separate bedrooms, except at the request of the family.
- C. Adults and Children will not be required to share a bedroom.
- D. Foster adults and/or children will not be required to share a bedroom with family members.
- E. Live-in aides will get a separate bedroom.

The Mexico Housing Authority will grant exceptions to normal occupancy standards when a family requests a larger size than the guidelines allow and documents a disability or a medical reason why the larger size is necessary.

The family unit size will be determined by the Mexico Housing Authority in accordance with the above guidelines and will determine the maximum rent subsidy for the family; however, the family may select a unit that may be smaller than the assigned family unit size. If the family selects a smaller unit, the payment standard for the smaller size will be used to calculate the subsidy. No larger unit size may be selected in order to apply the utility allowance to the appropriate bedroom size.

6.1 BRIEFING

When the Mexico Housing Authority selects a family from the waiting list, the family will be invited to attend a briefing explaining how the program works. In order to receive a housing choice voucher all of the adult members of the family are required to attend the briefing. If they cannot attend the originally scheduled briefing, they may attend a later session. Failure to notify of non-attendance to the first briefing will result in an automatic drop from the wait list (extenuating circumstances will be taken into consideration, i.e. Car accident). If the family fails to attend two briefings without good cause, they will be denied admission.

If an applicant with a disability requires auxiliary aids to gain full benefit from the briefing, the Housing Authority will furnish such aids where doing so would not result in a fundamental alteration of the nature of the program or in an undue financial or administrative burden. In determining the most suitable auxiliary aid, the Housing

Authority will give primary consideration to the requests of the applicant. Families unable to attend a briefing due to a disability may request a reasonable accommodation such as having the briefing presented at an alternate location.

The briefing will cover at least the following subjects:

- A. A description of how the program works;
- B. Family and owner responsibilities;
- C. Where the family may rent a unit, including inside and outside the Housing Authority's jurisdiction;
- D. Types of eligible housing;
- E. For families qualified to lease a unit outside the Housing Authority's jurisdiction under portability, an explanation of how portability works;
- F. An explanation of the advantages of living in an area that does not have a high concentration of poor families, including maps that show locations of housing opportunities outside areas of poverty or minority concentration, both within and outside its jurisdiction and neighboring its jurisdiction; has assembled information about job opportunities, schools, transportation, and other services in these areas;
- G. An explanation that the family share of rent may not exceed 40% of the family's monthly adjusted income if the gross rent exceeds the applicable payment standard when the family initially rents a unit and the fact that the family will have to pay a security deposit from its own funds;
- H. A description of the homeownership program if one exists; and
- I. An explanation of information contained in the Housing Choice Voucher packet.

6.2 PACKET

During the briefing, the Housing Authority will give the family a packet covering at least the following subjects:

- A. The term of the housing choice voucher and the Housing Authority's policy on extensions and suspensions of the term. The packet will include information on how to request an extension and forms for requesting extensions;
- B. How the Housing Authority determines the housing assistance payment and total tenant payment for the family;

- C. Information on the payment standard, exception payment standard rent areas, and the utility allowance schedule;
- D. How the Housing Authority determines the maximum rent for an assisted unit;
- E. Where the family may lease a unit. For families qualified to lease outside the Housing Authority's jurisdiction, the packet includes an explanation of how portability works and a list of names, addresses and phone numbers of contact persons at neighboring housing authorities;
- F. The HUD-required tenancy addendum that provides the language that must be included in any assisted lease, and a sample contract;
- G. The request for approval of the tenancy form and an explanation of how to request Housing Authority approval of a unit;
- H. A statement of the Housing Authority's policy on providing information to prospective owners. This policy requires applicants to sign disclosure statements allowing the Housing Authority to provide prospective owners with the family's current and prior addresses and the names and addresses of the landlords for those addresses;
- I. The Housing Authority's subsidy standards, including when the Housing Authority will consider granting exceptions to the standards such as a reasonable accommodation to a person with a disability;
- J. The HUD brochure on how to select a unit ("A Good Place to Live");
- K. The HUD-required lead-based paint brochure;
- L. Information on Federal, State, and local equal opportunity laws; the brochure "Fair Housing: It's Your Right;" and a copy of the housing discrimination complaint form;
- M. A list of landlords or other parties known to the Mexico Housing Authority who may be willing to lease a unit to the family or help the family find a unit, including owners with properties located outside areas of poverty or minority concentration;
- N. Notice that if the family includes a person with disabilities, the family may request a current list of accessible units known to the Mexico Housing Authority that may be available;
- O. The family's obligations under the program;

- P. The grounds upon which the Housing Authority may terminate assistance because of the family's action or inaction;
- Q. Mexico Housing Authority informal hearing procedures, including when the Housing Authority is required to provide the opportunity for an informal hearing, and information on how to request a hearing;
- R. The Mexico Housing Authority owner information brochure. This brochure can be given by the applicant to a prospective owner to help explain the program; and

6.3 *ISSUANCE OF VOUCHER; REQUEST FOR APPROVAL OF TENANCY*

Once all family information has been verified, their eligibility determined, their subsidy calculated, and they have attended the family briefing, the Mexico Housing Authority will issue the housing choice voucher. At this point the family begins their search for a unit.

When the family finds a unit that the owner is willing to lease under the program, the family and the owner will provide a copy of the proposed lease, the HUD required tenancy addendum and the request for approval of the tenancy form. The terms of the HUD tenancy addendum shall prevail over any conflicting provisions of the lease. The family will submit the proposed lease and the request form to the Housing Authority during the term of the housing choice voucher. The Housing Authority will review the request, the lease, and the HUD required tenancy addendum and make an initial determination of approval of tenancy. The Housing Authority may assist the family in negotiating changes that may be required for the tenancy to be approvable. Once it appears the tenancy may be approvable, the Housing Authority will schedule an appointment to inspect the unit within 15 calendar days after the receipt of inspection request from the family and owner. The 15-day period is suspended during any period the unit is unavailable for inspection. The Housing Authority will promptly notify the owner and the family whether the unit and tenancy are approvable.

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

Additional screening is the responsibility of the owner.

6.4 *TERM OF THE HOUSING CHOICE VOUCHER*

The initial term of the voucher will be 60 calendar days and will be stated on the Housing Choice Voucher. Extensions will be granted as needed on a case by case basis and as funding is available.

The Housing Authority may grant one or more extensions of the term, but the initial term plus any extensions will not exceed 120 calendar days from the initial date of issuance without an extraordinary reason. To obtain an extension, the family must make a request in writing prior to the expiration date. A statement of the efforts the family has made to find a unit must accompany the request. A sample extension request form and a form for recording their search efforts will be included in the family's briefing packet. If the family documents their efforts and additional time can reasonably be expected to result in success, the Housing Authority will grant the length of request sought by the family or 30 calendar days, whichever is less.

If the family includes a person with disabilities and the family requires an extension due to the disability, the Housing Authority will grant an extension allowing the family the full 120 calendar days search time. If the Housing Authority determines that additional search time would be a reasonable accommodation, it will grant the additional search time.

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

If a family's voucher expires, the family is no longer eligible for housing assistance. They are free to re-apply to the Housing Choice Voucher program and start over again. If the waiting list is closed, they must wait until the Mexico Housing Authority is once again accepting applicants for the Section 8 program. They will be treated exactly like all other new applicants for the program.

6.5 APPROVAL TO LEASE A UNIT

The Mexico Housing Authority will approve a lease if all of the following conditions are met:

- A. The unit is eligible;
- B. The unit is inspected by the Housing Authority and passes HQS;

- C. The lease is approvable and includes the following:
 - 1. The names of the owner and the resident;
 - 2. The address of the unit rented;
 - 3. The term of the lease (initial term and any provisions for renewal);
 - 4. The amount of the monthly rent to owner;
 - 5. A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family; and
 - 6. The required HUD tenancy addendum.
- D. The rent to owner is reasonable;
- E. The family's share of rent does not exceed 40% of their monthly adjusted income if the gross rent exceeds the applicable payment standard;
- F. The owner certifies that he or she is not in a conflict of interest situation with the resident.
- G. The owner has not been found to be debarred, suspended, or subject to a limited denial of participation by HUD or the Housing Authority; and
- H. The family continues to meet all eligibility and screening criteria.

If tenancy approval is denied, the Housing Authority will advise the owner and the family in writing and advise them also of any actions they could take that would enable the Housing Authority to approve the tenancy.

The lease term may begin only after all of the following conditions are met:

- A. The unit passes the Housing Authority HQS inspection;
- B. The family's share of rent does not exceed 40% of their monthly adjusted income if the gross rent exceeds the applicable payment standard;
- C. The landlord and resident sign the lease to include the HUD required addendum; and
- D. The Housing Authority approves the leasing of the unit.

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

In no case will the contract be executed later than 60 calendar days after the beginning of the lease term.

Any contract executed after the 60-day period will be void and the Housing Authority will not pay housing assistance to the owner.

6.6 MEXICO HOUSING AUTHORITY DISAPPROVAL OF OWNER

The Housing Authority will deny participation by an owner at the direction of HUD (one who has been debarred, suspended, or is subject to a limited denial of participation). The Housing Authority will also deny the owner's participation for any of the following reasons:

- A. The owner has violated any obligations under a Section 8 Housing Assistance Payments Contract;
- B. The owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program;
- C. The owner has engaged in drug-related criminal activity or any violent criminal activity;
- D. The owner has a history or practice of non-compliance with HQS for units leased under Section 8 or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other Federal housing program;
- E. The owner has a history or practice of renting units that fail to meet State or local codes;
- F. The owner has not paid State or local real estate taxes, fines, or assessments;
- G. The owner refuses (or has a history of refusing) to evict families for drug-related or violent criminal activity, or for activity that threatens the health, safety or right of peaceful enjoyment of the:
 - 1. premises by residents, Mexico Housing Authority employees or owner employees; or
 - 2. residences by neighbors;

- H. If the owner is the parent, child, grandparent, grandchild, sister, or brother or any member of the family of an applicant seeking the initial use of a housing choice voucher (currently shopping) unless the Mexico Housing Authority determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities;
- I. The Housing Authority has been informed by HUD that the federal government has instituted an administrative or judicial action against the owner for a violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending or a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements; or
- J. Other conflicts of interest under Federal, State, or local law.

6.7 INELIGIBLE/ELIGIBLE HOUSING

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

- A. A public housing or Indian housing unit;
- B. A unit receiving project-based assistance under a Section 8 Program;
- C. Nursing homes, board and care homes, or facilities providing continual psychiatric, medical or nursing services;
- D. College or other school dormitories;
- E. Units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions;
- F. A unit occupied by its owner. This restriction does not apply to cooperatives or to assistance on behalf of a manufactured home owner leasing a manufactured home space or units being purchased under a Section 8 Homeownership Program; and
- G. A unit receiving any duplicative Federal, State, or local housing subsidy. This does not prohibit renting a unit that has a reduced rent because of a tax credit.

The Mexico Housing Authority will not approve a lease for any of the following special housing types, except as a reasonable accommodation for a family with

- A. Congregate housing
- B. Group homes

- C. Shared housing
- D. Cooperative housing
- E. Single room occupancy housing

The Mexico Housing Authority will approve leases for the following housing types:

- A. Single family dwellings
- B. Apartments
- C. Manufactured housing
- D. Manufactured home space rentals
- E. Lease-purchase agreements. A family leasing a unit with assistance under the program may enter into an agreement with an owner to purchase the unit. So long as the family is receiving such rental assistance, all requirements applicable to families otherwise leasing units under the tenant-based program apply. Any homeownership premium (e.g., increment of value attributable to the value of the lease-purchase right or agreement such as an extra monthly payment to accumulate a down payment or reduce the purchase price) included in the rent to the owner that would result in a higher subsidy amount than would otherwise be paid by the Mexico Housing Authority must be absorbed by the family.

In determining whether the rent to owner for a unit subject to a lease-purchase agreement is a reasonable amount in accordance with 24 CFR 982.503, any homeownership premium paid by the family to the owner must be excluded when the Mexico Housing Authority determines rent reasonableness.

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

6.8 SECURITY DEPOSIT

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

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

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

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

7.0 MOVES WITH CONTINUED ASSISTANCE

Participating families are allowed to move to another unit after the initial lease has expired, if the landlord and the participant have mutually agreed to terminate the lease, or if the Housing Authority has terminated the HAP contract. The Mexico Housing Authority will issue the family a new housing choice voucher if the family does not owe the Mexico Housing Authority or any other Housing Authority money, has not violated a Family Obligation, has not moved or been issued a housing choice voucher within the last 12 months, and if the Mexico Housing Authority has sufficient funding for continued assistance. If the move is necessitated for a reason other than family choice, the 12-month requirement will be waived.

7.1 *WHEN A FAMILY MAY MOVE*

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

- A. The assisted lease for the old unit has terminated;
- B. The owner has given the resident a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the participant; or
- C. The participant has given notice of lease termination (if the participant has a right to terminate the lease on notice to the owner).

NOTE: A transfer will not be authorized if the participant is not in good standing or has violated the lease.

8.0 PORTABILITY

8.1 *GENERAL POLICIES OF THE MHA*

A family whose head or spouse has had a domicile (legal residence) in the jurisdiction of the Mexico Housing Authority at the time the family first submits its application for participation in the program to the MHA for at least one (1) year may lease a unit anywhere in the jurisdiction of the MHA or outside the MHA jurisdiction as long as there is another entity operating a tenant-based Housing Choice Voucher program covering the location of the proposed unit.

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

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

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

If a family has moved out of their assisted unit in violation of the lease, the MHA will not issue a voucher and will terminate assistance in compliance with Section 17.0, Termination of the Lease and Contract.

The MHA reserves the right to approve or deny the porting of a voucher to a jurisdiction outside of the MHA, dependent on the current utilization of baseline vouchers, payment standards of receiving jurisdiction, available funding levels, and willingness of receiving housing authorities to absorb.

8.2 *INCOME ELIGIBILITY*

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

8.3 PORTABILITY: ADMINISTRATION BY RECEIVING HOUSING AUTHORITY

- A. When a family utilizes portability to move to an area outside the Initial Housing Authority(IHA) jurisdiction, another Housing Authority (the Receiving Housing Authority, RHA) must administer assistance for the family if that Housing Authority has a tenant-based program covering the area where the unit is located.
- B. A Housing Authority with jurisdiction in the area where the family wants to lease a unit must issue the family a housing choice voucher. If there is more than one such housing authority, the family may select the RHA and may seek assistance from the IHA in making its selection.

8.4 PORTABILITY PROCEDURES

- A. When the MHA is the Initial Housing Authority (IHA):
 - 1. The MHA will brief the family on the process that must take place to exercise portability. The family will be required to attend an applicant or mover's briefing.
 - 2. The MHA will determine whether the family is income-eligible in the area where the family wants to lease a unit if the family is not already a program participant.
 - 3. The MHA will advise the family how to contact and request assistance from the Receiving Housing Authority by giving them the name and telephone number of the person responsible for working with incoming portability families and any procedures related to getting an appointment for the issuance of a voucher.
 - 4. The MHA will, within ten (10) calendar days, notify the Receiving Housing Authority to expect the family via telephone, fax or email.
 - 5. The MHA will immediately mail or fax the Receiving Housing Authority a completed Part I of HUD Form 52665, the most recent HUD Form 50058 (Family Report) for the family, and related verification information. If the family is an applicant and not a participant, the MHA will provide the Receiving Housing Authority with the family information and income information in a format similar to that utilized by the 50058.
- B. When the MHA is the Receiving Housing Authority (RHA):
 - 1. When the portable family requests assistance from the MHA, the MHA will within fourteen (14) calendar days of HAP contract execution (not its effective date) inform the Initial Housing Authority that it will absorb the family into its program or notify the Initial Housing Authority within the

time limit set forth in Part I of the 52665 that it will bill the Initial Housing Authority for assistance on behalf of the portable family. Completing Part II of HUD Form 52665 in a timely manner will accomplish this. If the family is absorbed, the MHA will also send the Initial Housing Authority a new HUD Form 50058.

2. The MHA will issue a voucher to the family within fourteen (14) calendar days as long as the initial voucher has not expired (if it has expired, the family shall be referred back to the Initial Housing Authority). The term of the MHA's voucher will not expire before the expiration date of any Initial Housing Authority's housing choice voucher. The MHA will determine whether to extend the housing choice voucher term. The decision to extend will take into account the MHA's existing absorption policy and the billing deadline date provided by the Initial Housing Authority in the 52665. If an extension is granted, the Initial Housing Authority will be informed of this decision. The family must submit a request for tenancy approval to the MHA during the term of the MHA's housing choice voucher. If the MHA has decided to bill the Initial Housing Authority, the request for tenancy approval must be processed in enough time for the Initial Housing Authority to process a Request for Lease Approval and execute a HAP contract before the billing deadline date.
3. The MHA will determine the family unit size for the portable family. The family unit size is determined in accordance with the MHA's subsidy standards.
4. The MHA will notify the Initial Housing Authority if the family has leased an eligible unit under the program, or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the housing choice voucher. In any event the MHA will notify the Initial Housing Authority of what is occurring before the expiration of the deadline established in the HUD Form 52665. If the family has leased a unit, the MHA will notify the Initial Housing Authority of this fact in enough time for the Initial Housing Authority to process a Request for Lease Approval and execute a HAP contract if the MHA intends to bill the Initial Housing Authority.
5. In order to provide tenant-based assistance for portable families, the MHA will perform all Housing Authority program functions, such as reexaminations of family income and composition. At any time, either the Initial Housing Authority or the MHA may make a determination to deny or terminate assistance to the family. If assistance is denied or terminated, the family shall have a right to an informal hearing.
6. The MHA may deny or terminate assistance for family action or inaction in accordance with 24 CFR 982.552 and 24 CFR 982.553.

7. Although the MHA will promptly issue a voucher to an incoming portability family, it will still subject the families to its normal screening procedures. If the family fails to pass the screening thresholds either the voucher will be revoked or the family will be terminated from the program if a unit has already been leased.

C. Absorption by the MHA

If funding is available under the consolidated ACC for the MHA's Housing Choice Voucher Program when the portable family is received, the MHA may absorb the family into its Housing Choice Voucher Program. The decision to absorb or not will be made on a case-by-case basis and will solely be the decision of the MHA. If absorbed, the family is assisted with funds available under the consolidated ACC for the MHA's Tenant-Based Program.

D. Portability Billing

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

1. As the Initial Housing Authority, the MHA will within thirty (30) calendar days of receipt of the completed Part II of the HUD Form 52665 reimburse the Receiving Housing Authority for the full amount of the housing assistance payments made by the Receiving Housing Authority for the portable family in a form and manner the Receiving Housing Authority is able and willing to accept. Payments made after the first payment shall be sent in time for the Receiving Housing Authority to receive the payment no later than the fifth working day of the month. The amount of the housing assistance payment for a portable family in the Receiving Housing Authority's program is determined in the same manner as for other families in the Receiving Housing Authority's program.

2. The Initial Housing Authority according to the final rule will provide the administrative fee for the portability is the lesser of 80% of the IHA's administrative fee (prorated if applicable) or 100% of the RHA's Administrative fee. In no event will the RHA receive more than its own administrative fee.

E. When a Portable Family Moves

When a portable family moves out of the tenant-based program of a Receiving Housing Authority that has not absorbed the family, the Housing Authority in the new jurisdiction to which the family moves becomes the Receiving Housing

Authority, and the first Receiving Housing Authority is no longer required to provide assistance for the family.

F. On-going Responsibilities as a Receiving Housing Authority

When the MHA is a receiving agency it will:

1. Send the Initial Housing Authority an updated HUD Form 50058 at each annual recertification so the Initial Housing Authority can reconcile it with its records.
2. Send the Initial Housing Authority a copy of any new HUD Forms 52665s and 50058s to report any change in the billing amount with ten (10) business days of the effective date of any change in the billing amount.
3. If the MHA decides to absorb a family it had previously been billing for, it shall notify the Initial Housing Authority within ten (10) business days following the effective date of the termination of the billing arrangement.
4. If the family decides it wants to move to yet another jurisdiction, the Initial Housing Authority shall be promptly notified and requested to send a new HUD Form 52665 and supporting documentation to the new Receiving Housing Authority.

9.0 DETERMINATION OF FAMILY INCOME

9.1 INCOME, EXCLUSIONS AND DEDUCTIONS FROM INCOME

To determine annual income, the Mexico Housing Authority counts the income of all family members, excluding the types and sources of income that are specifically excluded. Once the annual income is determined, the Mexico Housing Authority subtracts all allowable deductions (allowances) as the next step in determining the Total Tenant Payment.

9.2 INCOME

- A. Annual income means all amounts, monetary or not, that:
1. Go to (or on behalf of) the family head or spouse (even if temporarily absent) or to any other family member, or
 2. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

3. Are not specifically excluded from annual income.

If it is not feasible to anticipate a level of income over a 12-month period (e.g. seasonal or cyclic income), or the Mexico Housing Authority believes that past income is the best available indicator of expected future income, the Mexico Housing Authority may annualize the income anticipated for a shorter period, subject to a redetermination at the end of the shorter period.

- B. Annual income includes, but is not limited to the amounts specified in the federal regulations currently found in 24 CFR 5.609:

1. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.
2. The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness are not used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession is included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.
3. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness are not used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from an investment is included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income includes the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD. Income that could have been derived from assets worth more than \$1000 that were disposed of for less than fair market value within the past two years will be counted as income.
4. The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount. (However, deferred periodic amounts from supplemental security income and Social Security benefits that are

received in a lump sum amount or in prospective monthly amounts are excluded.)

5. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay. (However, lump sum additions such as insurance payments from worker's compensation are excluded.)
6. Welfare assistance.
 - a. Welfare assistance payments
 - i. Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:
 - (1). Qualify as assistance under the TANF program definition at 45 CFR 260.31; and
 - (2). Are not otherwise excluded under paragraph Section 9.3 of this Plan.
 - ii. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income consists of:
 - (1). The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
 - (2). The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this requirement is the amount resulting from one application of the percentage.
 - b. Imputed welfare income.
 - 1). A family's annual income includes the amount of imputed welfare income (because of welfare benefits reductions

resulting from either welfare fraud or the failure to comply with economic self-sufficiency requirements, as specified in notice to the Mexico Housing Authority by the welfare agency), plus the total amount of other annual income.

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

7). Relations with welfare agencies

- a). The Mexico Housing Authority will ask welfare agencies to inform it of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the Mexico Housing Authority written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.
- b). The Mexico Housing Authority is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the agency. However, the Mexico Housing Authority is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.
- c). Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The Mexico Housing Authority shall rely on the welfare agency notice to the Mexico Housing Authority of the welfare agency's determination of a specified welfare benefits reduction.

- 7. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling.
- 8. All regular pay, special pay, and allowances of a member of the Armed Forces. (Special pay to a member exposed to hostile fire is excluded.)

9. See Chapter 3.0 Section G for College Student Eligibility and Income

9.3 EXCLUSIONS FROM INCOME

Annual income does not include the following amounts specified in the federal regulations currently found in 24 CFR 5.609:

- A. Income from employment of children (including foster children) under the age of 18 years;
- B. Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the participant family, who are unable to live alone);
- C. Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses;
- D. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- E. Income of a live-in aide;
- F. The full amount of student financial assistance paid directly to the student or to the educational institution;
- G. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- H. The amounts received from the following programs:
 - 1. Amounts received under training programs funded by HUD;
 - 2. Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
 - 3. Amounts received by a participant in other publicly assisted programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and that are made solely to allow participation in a specific program;
 - 4. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the Housing Authority or owner, on a part-time basis, that enhances the quality of life in the development. Such

services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiative coordination, and serving as a member of the Mexico Housing Authority's governing board. No resident may receive more than one such stipend during the same period of time;

5. Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program;
6. Temporary, nonrecurring, or sporadic income (including gifts);
7. Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;
8. Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);
9. Adoption assistance payments in excess of \$480 per adopted child;
10. Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts;
11. Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;
12. Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or
13. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits.

These exclusions include:

- a. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017(b));

- b. Payments to Volunteers under the domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);
- c. Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
- d. Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);
- e. Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));
- f. Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931);
- g. Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04);
- h. The first \$2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);
- i. Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under Federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);
- j. Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f));
- k. Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent-product liability litigation*, M.D.L. No. 381 (E.D.N.Y.);
- l. Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);

- m. The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);
- n. Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));
- o. Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);
- p. Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));
- q. Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);
- r. Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and
- s. Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

9.4 DEDUCTIONS FROM ANNUAL INCOME

The following deductions will be made from annual income:

- A. \$480 for each dependent
- B. \$400 for any elderly family or disabled family
- C. The sum of the following, to the extent the sum exceeds three percent of annual income:
 - 1. Unreimbursed medical expenses of any elderly family or disabled family; and

2. Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed, but this allowance may not exceed the earned income received by family members who are 18 years of age or older who are able to work because of such attendant care or auxiliary apparatus.
- D. Reasonable childcare expenses for children 12 and younger necessary to enable a member of the family to be employed or to further his or her education. This deduction shall not exceed the amount of employment income that is included in annual income.
- E. For persons with disabilities already participating in the program, the incremental earnings due to employment during a cumulative 12-month period following the date of the initial hire shall be excluded. This exclusion is only available to the following families:
1. Families whose income increases as a result of employment of a disabled family member who was previously unemployed (defined as working less than 10 hours a week at the established minimum wage) for one or more years.
 2. Families whose income increases during the participation of a disabled family member in any economic self-sufficiency or other job training program.
 3. Persons with disabilities who are or were, within 6 months, assisted under a State TANF or Welfare-to-Work program for at least \$500.

During the second cumulative 12-month period after the date of initial hire, 50% of the increased income shall be excluded from income.

The disallowance of increased income of an individual family member is limited to a lifetime 48-month period. It only applies for 12 months of the 100% exclusion and 12 months of the 50% exclusion.

9.5 RECEIPT OF A LETTER OR NOTICE FROM HUD CONCERNING INCOME

- A. If a Section 8 participant receives a letter or notice from HUD concerning the amount or verification of family income, the letter shall be brought to the person responsible for income verification within thirty (30) calendar days of receipt by the participant.

- B. The Executive Director shall reconcile any difference between the amount reported by the participant and the amount listed in the HUD communication. This shall be done as promptly as possible.
- C. After the reconciliation is complete, the Mexico Housing Authority shall, if appropriate, adjust the participant's rental contribution beginning at the start of the next month. If the reconciliation is completed during the final five (5) calendar days of the month, the new rent shall take effect on the first day of the second month following the end of the current month. In addition, if the participant had not previously reported the proper income, the Mexico Housing Authority shall do one of the following:
 - 1. Immediately collect the back over paid assistance paid by the agency;
 - 2. Establish a repayment plan for the resident to pay the sum due to the agency;
 - 3. Terminate the participant from the program for failure to report income; or
 - 4. Terminate the participant from the program for failure to report income and collect the back over paid assistance paid by the agency.

9.6 COOPERATING WITH WELFARE AGENCIES

The Mexico Housing Authority will make its best efforts to enter into cooperation agreements with local welfare agencies under which the welfare agencies will agree:

- A. To target assistance, benefits and services to families receiving assistance in the public housing and Section 8 tenant-based assistance program to achieve self-sufficiency.
- B. To provide written verification to the Mexico Housing Authority concerning welfare benefits for families applying for or receiving assistance in our housing assistance programs.

10.0 VERIFICATION

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

10.1 ACCEPTABLE METHODS OF VERIFICATION

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

Other information will be verified by the following five verification methods acceptable to HUD, in the order of preference indicated:

1. Up-Front Income Verifications (UIV)

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

Current UIV resources include the following:

- a. Tenant Assessment Subsystem (TASS)- HUD's online system for Social Security and Supplemental Security Income (SSI) information.
- b. State Wage Information Collection Agencies (SWICA's)
- c. State Systems for the Temporary Assistance for Needy Families (TANF) Program
- d. Credit Bureau Information (CBA) credit reports
- e. Internal Revenue Service (IRS) Letter 1722
- f. Private sector databases (e.g. The Work Number)

2. Third Party Written Verifications

Written Third Party Verification (Level 4): An original or authentic document generated by a third party source dated either within the 60-day period preceding the reexamination or PHA request date. Such documentation may be in the possession of the tenant (or applicant), and is commonly referred to as tenant-provided documents. It is the Department's position that such tenant-provided documents are written third party verification since these documents originated from a third party source. The PHA may, at its discretion, reject any tenant-provided documents and follow up directly with the source to obtain necessary verification of information.

Examples of acceptable tenant-provided documentation (generated by a third party source) include, but are not limited to: pay stubs, payroll summary report, employer

notice/letter of hire/termination, SSA benefit verification letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Current acceptable tenant-provided documents must be used for income and rent determinations.

The PHA is required to obtain at a minimum, two current and consecutive pay stubs for determining annual income from wages. For new income sources or when two pay stubs are not available, the PHA should project income based on the information from a traditional written third party verification form or the best available information.

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

Written Third Party Verification Form (Level 3): Also, known as traditional third party verification. A standardized form to collect information from a third party source. The form is completed by the third party by hand (in writing or typeset). PHAs send the form directly to the third party source by mail, fax, or email.

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

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

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

3. Third Party Oral Verifications

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

The MHA will allow four weeks for the return of third party oral verifications prior to continuing on to the next type of verification.

4. Self Certification and Self Declaration

When third party verification cannot be obtained, the Mexico Housing Authority will accept documentation received from the applicant/tenant. Hand-carried documentation will be accepted if the Mexico Housing Authority has been unable to obtain third party verification in a 4-week period of time. Photocopies of the documents provided by the family will be maintained in the file.

When neither third party verification nor hand-carried verification can be obtained, the Mexico Housing Authority will accept a statement signed by the head, spouse or co-head. Such documents will be maintained in the file.

10.2 TYPES OF VERIFICATION

The chart below outlines the factors that may be verified and gives common examples of the verification that will be sought. To obtain written third party verification, the Mexico Housing Authority will send a request form to the source along with a release form signed by the applicant/participant via first class mail.

Verification Requirements for Individual Items		
Item to Be Verified	3 rd party verification	Hand-carried verification
General Eligibility Items		
Social Security Number	Letter from Social Security, electronic reports	Social Security card or a third party document stating the Social Security Number
Citizenship	N/A	Signed certification, voter's registration card, birth certificate, etc.
Eligible immigration status	INS SAVE confirmation #	INS card
Disability	Letter from medical professional, SSI, etc	Proof of SSI or Social Security disability payments
Full time student status (if >18)	Letter from school	For high school and/or college students, any document evidencing enrollment
Need for a live-in aide	Letter from doctor or other professional knowledgeable of condition	N/A

Verification Requirements for Individual Items		
Item to Be Verified	3 rd party verification	Hand-carried verification
Child care costs	Letter from care provider	Bills and receipts
Disability assistance expenses	Letters from suppliers, care givers, etc.	Bills and records of payment
Medical expenses	Letters from providers, prescription record from pharmacy, medical professional's letter stating assistance or a companion animal is needed	Bills, receipts, records of payment, dates of trips, mileage log, receipts for fares and tolls
Value of and Income from Assets		
Savings, checking accounts	Letter from institution	Passbook, most current statements
CDs, bonds, etc	Letter from institution	Tax return, information brochure from institution, the CD, the bond
Stocks	Letter from broker or holding company	Stock or most current statement, price in newspaper or through Internet
Real property	Letter from tax office, assessment, etc.	Property tax statement (for current value), assessment, records or income and expenses, tax return
Personal property held as an investment	Assessment, bluebook, etc	Receipt for purchase, other evidence of worth
Cash value of whole life insurance policies	Letter from insurance company	Current statement
Assets disposed of for less than fair market value	N/A	Original receipt and receipt at disposition, other evidence of worth
Income		
Earned income	Letter from employer	Multiple pay stubs
Self-employed	N/A	Tax return from prior year, books of accounts

Verification Requirements for Individual Items		
Item to Be Verified	3 rd party verification	Hand-carried verification
Regular gifts and contributions	Letter from source, letter from organization receiving gift (i.e., if grandmother pays day care provider, the day care provider could so state)	Bank deposits, other similar evidence
Alimony/child support	Court order, letter from source, letter from Human Services	Record of deposits, divorce decree
Periodic payments (i.e., social security, welfare, pensions, workers' comp, unemployment)	Letter or electronic reports from the source	Award letter, letter announcing change in amount of future payments
Training program participation	Letter from program provider indicating <ul style="list-style-type: none"> - whether enrolled - whether training is HUD-funded - whether State or local program - whether it is employment training - whether payments are for out- of-pocket expenses incurred in order to participate in a program 	N/A

10.3 VERIFICATION OF CITIZENSHIP OR ELIGIBLE NONCITIZEN STATUS

The citizenship/eligible noncitizen status of each family member regardless of age must be determined.

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

Prior to being admitted or at the first reexamination, all eligible noncitizens who are 62 years of age or older will be required to sign a declaration under penalty of perjury. They will also be required to show proof of age.

Prior to being admitted or at the first reexamination, all eligible noncitizens must sign a declaration of their status and a verification consent form and provide their original INS documentation. The Mexico Housing Authority will make a copy of the individual's INS documentation and place the copy in the file. The Mexico Housing Authority also will verify their status through the INS SAVE system. If the INS SAVE system cannot confirm eligibility, the Mexico Housing Authority will mail information to the INS so a

manual check can be made of INS records.

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

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

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

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

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

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

10.4 VERIFICATION OF SOCIAL SECURITY NUMBERS

Prior to admission, each family member must provide verification of his or her Social Security Number. New family members must provide this verification prior to being added to the lease.

The best verification of the Social Security Number is the original Social Security card. If the card is not available, the Mexico Housing Authority will accept letters from Social Security that establish and state the number. Documentation from other governmental agencies will also be accepted that establish and state the number. Driver's license, military ID, passports, or other official documents that establish and state the number are also acceptable.

If a member of an applicant family indicates they have a Social Security Number, but cannot readily verify it, the family cannot be assisted until verification is provided.

If a member of a participating family indicates they have a Social Security Number, but cannot readily verify it, they shall be asked to certify to this fact and shall have up to 60 calendar days to provide the verification. If the individual is at least 62 years of age, they will be given 120 calendar days to provide the verification. If the individual fails to

provide the verification within the time allowed, the family will be denied assistance or will have their assistance terminated.

10.5 TIMING OF VERIFICATION

Verification must be dated within sixty (60) calendar days of certification or reexamination. If the verification is older than this, the source will be contacted and asked to provide information regarding any changes.

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

10.6 FREQUENCY OF OBTAINING VERIFICATION

Household income and composition will be verified at least annually.

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

11.0 RENT AND HOUSING ASSISTANCE PAYMENT

11.1 GENERAL

The HAP contract is a written agreement between the PHA and the owner of a unit occupied by a housing choice voucher program participant. The HAP contract must be in the form prescribed by HUD. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of a specific family leasing a specific unit. The PHA uses its payment standard schedule to calculate the monthly HAP payment to the owner.

Prior to PHA approval of the assisted tenancy and the execution of a HAP contract, the PHA must ensure that the following program requirements have been met:

- Owner is eligible;
- Unit is eligible;
- Unit has been inspected by the PHA and meets HQS;
- Lease includes the tenancy addendum; and
- Rent charged by the owner is reasonable

Upon approval of the assisted tenancy, the owner and the PHA can execute the HAP contract. Housing assistance payments are due to the owner on the first day of each month. The owner's right to receive housing assistance payments depends on compliance with all the provisions of the HAP contract. The owner's endorsement of the HAP check signifies that the owner has agreed to and is in compliance with the terms of the HAP contract. No payments may be made to the owner after the family moves out of the unit or the lease term ends.

11.2 RENT REASONABLENESS

The Housing Authority will not approve an initial rent or a rent increase in any of the tenant-based programs without determining that the rent amount is reasonable. Reasonableness is determined prior to the initial lease and at the following times:

- A. Before any increase in rent to owner is approved;
- B. If 60 calendar days before the contract anniversary date there is a 5% decrease in the published FMR as compared to the previous FMR; and
- C. If the Housing Authority or HUD directs that reasonableness be re-determined.

11.3 COMPARABILITY

In making a rent reasonableness determination, the Housing Authority will compare the rent for the unit to the rent of comparable units in the same or comparable neighborhoods. The Housing Authority will consider the location, type, quality, size, number of bedrooms, age, amenities, housing services, maintenance and utilities of the unit and the comparable units. The results of this determination shall be documented in the participant's file.

The Housing Authority will maintain current survey information on rental units in the jurisdiction. The Housing Authority will also obtain from landlord associations and management firms the value of the array of amenities.

The Housing Authority will establish minimum base rent amounts for each unit type and bedroom size. To the base the Housing Authority will be able to add or subtract the dollar value for each characteristic and amenity of a proposed unit.

Owners are invited to submit information to the survey at any time. Owners may review the determination made on their unit and may submit additional information or make improvements to the unit that will enable the Housing Authority to establish a higher value.

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

11.4 MAXIMUM SUBSIDY

The payment standard adopted by the Mexico Housing Authority or one over 110% of the Fair Market Rent that has been approved by HUD determines the maximum subsidy for a family.

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

For a voucher tenancy in an insured or noninsured 236 project, a 515 project of the Rural Development Administration, or a Section 221(d)(3) below market interest rate project the maximum subsidy may not exceed the basic rent charged including the cost of tenant-paid utilities.

For manufactured home space rental, the maximum subsidy under any form of assistance is the Fair Market Rent for the space as outlined in 24 CFR 982.888.

Setting the Payment Standard

The Statute requires that the payment standard be set by the Housing Authority at between 90 and 110% of the FMR without HUD's prior approval. The Mexico Housing Authority will review its determination of the payment standard annually after publication of the FMRs. At this time the new payment standards will go into effect December first. The Mexico Housing Authority will consider vacancy rates and rents in the market area, size and quality of units leased under the program, rents for units leased under the program, success rates of housing choice voucher holders in finding units, and the percentage of annual income families are paying for rent under the Voucher Program. If it is determined that success rates will suffer or that families are having to rent low quality units located only in poverty-impacted neighborhoods, or pay over 40% of income for rent, the payment standard may be raised to the level judged necessary to alleviate these hardships. The objective is to allow families a reasonable selection of modest, decent, and safe housing in a range of neighborhoods.

The Mexico Housing Authority may establish a higher payment standard (although still within 110% of the published fair market rent) as a reasonable accommodation for a family that includes people with disabilities. With approval of the HUD Field Office, the payment standard can go to 120%.

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

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

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

Selecting the Correct Payment Standard for a Family

- A. For the housing choice voucher tenancy, the payment standard for a family is the lower of:
 - 1. The payment standard for the family unit size; or
 - 2. The payment standard for the unit size rented by the family.
- B. If the unit rented by a family is located in an exception rent area, the Housing Authority will use the appropriate payment standard for the exception rent area.
- C. During the HAP contract term for a unit, the amount of the payment standard for a family is the higher of:
 - 1. The initial payment standard (at the beginning of the lease term) minus any amount by which the initial rent to owner exceeds the current rent to owner; or
 - 2. The payment standard as determined at the most recent regular reexamination of family income and composition effective after the beginning of the HAP contract term.
- D. At the next annual reexamination following a change in family size or composition during the HAP contract term and for any reexamination thereafter, paragraph C above does not apply.
- E. If there is a change in family unit size resulting from a change in family size or composition, the new family unit size will be considered when determining the payment standard at the next annual reexamination.

Area Exception Rents

In order to help families find housing outside areas of high poverty or when housing choice voucher holders are having trouble finding housing for lease under the program,

the Housing Authority may request that HUD approve an exception payment standard rent for certain areas within its jurisdiction. The areas may be of any size, though generally not smaller than a census tract. The Housing Authority may request one such exception payment standard area or many. Exception payment standard rent authority may be requested for all or some unit sizes, or for all or some unit types. The exception payment standard area(s) may not contain more than 50% of the population of the FMR area.

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

11.5 ASSISTANCE AND RENT FORMULAS

A. Total Tenant Payment

The total tenant payment is equal to the highest of:

1. 10% of the family's monthly income
2. 30% of the family's adjusted monthly income
3. The Minimum rent (\$50.00)
4. If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of those payments which is so designated. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this provision is the amount resulting from one application of the percentage.

Plus any rent above the payment standard.

B. Minimum Rent.

The Mexico Housing Authority has set the minimum rent as \$ **50.00**. However, if the family requests a hardship exemption, the Mexico Housing Authority will suspend the minimum rent for the family beginning the month following the family's hardship request. The suspension will continue until the Housing Authority can determine whether hardship exists and whether the hardship is of a temporary or long-term nature. During suspension, the family will not be required to pay a minimum rent and the Housing Assistance Payment will be increased accordingly.

1. A hardship exists in the following circumstances:
 - a. When the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State or local assistance program including a family that includes a member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Act of 1996;
 - b. When the family would be evicted because it is unable to pay the minimum rent;
 - c. When the income of the family has decreased because of changed circumstances, including loss of employment; and
 - d. When a death has occurred in the family.
2. No hardship. If the Housing Authority determines there is no qualifying hardship, the minimum rent will be reinstated, including requiring back payment of minimum rent to the Housing Authority for the time of suspension.
3. Temporary hardship. If the Housing Authority determines that there is a qualifying hardship but that it is of a temporary nature, the minimum rent will not be imposed for a period of 90 calendar days from the month following the date of the family's request. At the end of the 90-day period, the minimum rent will be imposed retroactively to the time of suspension. The Housing Authority will offer a reasonable repayment agreement for any minimum rent back payment paid by the Housing Authority on the family's behalf during the period of suspension.
4. Long-term hardship. If the Housing Authority determines there is a long-term hardship, the family will be exempt from the minimum rent requirement until the hardship no longer exists.
5. Appeals. The family may use the informal hearing procedure to appeal the Housing Authority's determination regarding the hardship. No escrow deposit will be required in order to access the informal hearing procedures.

C. Section 8 Preservation Vouchers

1. Payment Standard
 - a. The payment standard is the lower of:

- i. The payment standard amount for the appropriate family unit size; or
 - ii. The payment standard amount for the size of the dwelling unit actually rented by the family.
 - b. If the dwelling unit is located in an exception area, the Mexico Housing Authority will use the appropriate payment standard for the exception area.
 - c. During the HAP contract term, the payment standard for the family is the higher of:
 - i. The initial payment standard (at the beginning of the HAP contract term), as determined in accordance with paragraph (1)(a) or (1)(b) of this section, minus any amount by which the initial rent to the owner exceeds the current rent to the owner; or
 - ii. The payment standard as determined in accordance with paragraph (1)(a) or (1)(b) of this section, as determined at the most recent regular reexamination of family income and composition effective after the beginning of the HAP contract term.
 - d. At the next regular reexamination following a change in family composition that causes a change in family unit size during the HAP contract term, and for any examination thereafter during the term:
 - i. Paragraph (c)(i) of this section does not apply; and
 - ii. The new family unit size must be used to determine the payment standard.
- 2. The Mexico Housing Authority will pay a monthly housing assistance payment on behalf of the family that equals the lesser of:
 - a. The payment standard minus the total tenant payment; or
 - b. The gross rent minus the total tenant payment.

D. Manufactured Home Space Rental: Section 8 Vouchers

- 1. The payment standard for a participant renting a manufactured home space is the published FMR for rental of a manufactured home space.

2. The space rent is the sum of the following as determined by the Housing Authority:
 - a. Rent to the owner for the manufactured home space;
 - b. Owner maintenance and management charges for the space; and
 - c. Utility allowance for participant paid utilities.
3. The participant pays the rent to owner less the HAP.
4. HAP equals the lesser of:
 - a. The payment standard minus the total tenant payment; or
 - b. The rent paid for rental of the real property on which the manufactured home owned by the family is located.

E. Rent for Families under the Noncitizen Rule

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

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

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

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

3. The prorated resident rent equals the prorated family share minus the full utility allowance.

11.6 UTILITY ALLOWANCE

The Housing Authority maintains a utility allowance schedule for all tenant-paid utilities (except telephone and cable television), for cost of tenant-supplied refrigerators and ranges, and for other tenant-paid housing services (e.g., trash collection (disposal of waste and refuse)).

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

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

The Housing Authority uses the appropriate utility allowance for the size of dwelling unit actually leased by the family (rather than the family unit size as determined under the Housing Authority subsidy standards).

At each reexamination, the Housing Authority applies the utility allowance from the most current utility allowance schedule.

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

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

11.7 DISTRIBUTION OF HOUSING ASSISTANCE PAYMENT

The Housing Authority pays the owner the lesser of the housing assistance payment or the rent to owner. If payments are not made within 3 business days of when due after the

first two months of the HAP contract term, the owner may charge the Mexico Housing Authority a late payment, agreed to in the Contract and in accordance with generally accepted practices in the MHA jurisdiction if the following conditions apply:

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

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

A housing assistance payment is considered made upon being mailed by the Mexico Housing Authority.

Unless otherwise terminated, the housing assistance payment contract shall end 180 calendar days after the last housing assistance payment is made.

11.8 CHANGE OF OWNERSHIP

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

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

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

New owners will be required to execute IRS form W-9. The Mexico Housing Authority may withhold the rent payment until the taxpayer identification number is received.

12.0 INSPECTION POLICIES, HOUSING QUALITY STANDARDS, AND DAMAGE CLAIMS

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

The Mexico Housing Authority must be allowed to inspect the dwelling unit at reasonable times with reasonable notice. The family and owner will be notified of the inspection appointment by first class mail. If the family and/or owner cannot be present for the scheduled inspection appointment, the family must call and reschedule the inspection or make arrangements to enable the Housing Authority to enter the unit and complete the inspection.

If the family misses the scheduled inspection and fails to reschedule the inspection, the Mexico Housing Authority will only schedule one more inspection. If the family misses two inspections, the Mexico Housing Authority will consider the family to have violated a Family Obligation and their assistance will be terminated.

12.1 TYPES OF INSPECTIONS

There are seven types of inspections the Mexico Housing Authority will perform:

- A. Initial Inspection - An inspection that must take place to ensure that the unit passes HQS before assistance can begin.
- B. Annual Inspection - An inspection to determine that the unit continues to meet HQS.
- C. Complaint Inspection - An inspection caused by the Authority receiving a complaint on the unit by anyone.
- D. Special Inspection - An inspection caused by a third party, i.e., HUD, needing to view the unit.
- E. Emergency - An inspection that takes place in the event of a perceived emergency. These will take precedence over all other inspections.
- F. Move Out Inspection (if applicable) - An inspection required for units in service before October 2, 1995, and optional after that date. These inspections document the condition of the unit at the time of the move-out.
- G. Quality Control Inspection - Supervisory inspections based on at least the minimum number required by the Section 8 Management Assessment Program (SEMAP).

12.2 OWNER AND FAMILY RESPONSIBILITY

- A. Owner Responsibility for HQS
 - 1. The owner must maintain the unit in accordance with HQS.

2. If the owner fails to maintain the dwelling unit in accordance with HQS, the Mexico Housing Authority will take prompt and vigorous action to enforce the owner obligations. The Mexico Housing Authority's remedies for such breach of the HQS include termination, suspension or reduction of housing assistance payments and termination of the HAP contract.
3. The Mexico Housing Authority will not make any housing assistance payments for a dwelling unit that fails to meet the HQS, unless the owner corrects the defect within the period specified by the Mexico Housing Authority and the Mexico Housing Authority verifies the correction. If a defect is life threatening, the owner must correct the defect within no more than 24 hours. For other defects the owner must correct the defect within no more than 30 calendar days (or any Mexico Housing Authority approved extension). If the required repair is not made in a timely manner, the rent shall be abated beginning with the next rent check. If 2 consecutive checks are abated, the assistance shall be cancelled. A sanction of HAP payment divided by thirty (30) times the number of days in breach of HQS will be levied.
4. The owner is not responsible for a breach of the HQS that is not caused by the owner, and for which the family is responsible. Furthermore, the Mexico Housing Authority may terminate assistance to a family because of the HQS breach caused by the family.

B. Family Responsibility for HQS

1. The family is responsible for a breach of the HQS that is caused by any of the following:
 - a. The family fails to pay for any utilities that the owner is not required to pay for, but which are to be paid by the resident;
 - b. The family fails to provide and maintain any appliances that the owner is not required to provide, but which are to be provided by the participant; or
 - c. Any member of the household or a guest damages the dwelling unit or premises (damage beyond ordinary wear and tear).
2. If an HQS breach caused by the family is life threatening, the family must correct the defect within no more than 24 hours. For other family-caused defects, the family must correct the defect within no more than 30 calendar days (or any Mexico Housing Authority approved extension).
3. If the family has caused a breach of the HQS, the Mexico Housing Authority will take prompt and vigorous action to enforce the family

obligations. The Mexico Housing Authority may terminate assistance for the family in accordance with 24 CFR 982.552.

12.3 HOUSING QUALITY STANDARDS (HQS) 24 CFR 982.401

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

A. Sanitary Facilities

1. Performance Requirement

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

2. Acceptability Criteria

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

B. Food Preparation and Refuse Disposal

1. Performance Requirements

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

2. Acceptability Criteria

- a. The dwelling unit must have an oven, a stove or range, and a refrigerator of appropriate size for the family. All of the equipment

must be in proper operating condition. Either the owner or the family may supply the equipment. A microwave oven may be substituted for a tenant-supplied oven and stove or range. A microwave oven may be substituted for an owner-supplied oven and stove or range if the resident agrees and microwave ovens are furnished instead of an oven and stove or range to both subsidized and unsubsidized tenants in the building or premises.

- b. The dwelling unit must have a kitchen sink in proper operating condition, with a sink trap and hot and cold running water. The sink must drain into an approvable public or private system.
- c. The dwelling unit must have space for the storage, preparation, and serving of food.
- d. There must be facilities and services for the sanitary disposal of food waste and refuse, including temporary storage facilities where necessary (e.g., garbage cans).

C. Space and Security

1. Performance Requirement

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

2. Acceptability Criteria

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

D. Thermal Environment

1. Performance Requirement

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

2. Acceptability Criteria

- a. There must be a safe system for heating the dwelling unit (and a safe cooling system, where present). The system must be in proper operating condition. The system must be able to provide adequate heat (and cooling, if applicable), either directly or indirectly, to each room, in order to assure a healthy living environment appropriate to the climate.
- b. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Electric heaters are acceptable.

E. Illumination and Electricity

1. Performance Requirement

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. The electrical fixtures and wiring must ensure safety from fire.

2. Acceptability Criteria

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

F. Structure and Materials

1. Performance Requirement

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

2. Acceptability Criteria

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

G. Interior Air Quality

1. Performance Requirement

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

2. Acceptability Criteria

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

H. Water Supply

1. Performance Requirement

The water supply must be free from contamination.

2. Acceptability Criteria

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

I. Lead-based Paint

1. Performance Requirement

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

2. Acceptability Criteria

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

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

For units occupied by environmental intervention blood lead level (lead poisoned) children under six years of age, a risk assessment must be conducted (paid for by the PHA), and the owner must complete hazard reduction activities if lead hazards are identified during the risk assessment.

J. Access

1. Performance Requirement

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

K. Site and Neighborhood

1. Performance Requirement

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

2. Acceptability Criteria

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

L. Sanitary Condition

1. Performance Requirement

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

2. Acceptability Criteria

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

M. Smoke Detectors

1. Performance Requirements

a. Except as provided in paragraph b below of this Section, each dwelling unit must have at least one battery-operated or hard-wired smoke detector, in proper operating condition, on each level of the dwelling unit, including basements but excepting crawl spaces and unfinished attics. Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any hearing-impaired person, smoke

detectors must have an alarm system, designed for hearing-impaired persons as specified in NFPA 74 (or successor standards).

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

12.4 LEAD-BASED PAINT REQUIREMENTS AND RESPONSIBILITIES

A. Exempt Units

The following units are exempt from this policy as it relates to lead-based paint requirements:

1. Units built after December 31, 1977;
2. Zero (0) bedroom and Single Room Occupancy (SRO) units;
3. Housing built for the elderly or persons with disabilities, unless a child of under age six (6) resides or is expected to reside in such housing;
4. Properties for which a paint inspection was completed in accordance with the new regulations that became effective on September 15, 2000, and are certified to have no lead-based paint;
5. Properties in which all lead-based paint was identified, was removed, and that received clearance in accordance with the new regulations which became effective on September 15, 2000.

B. Non-Exempt or Covered Units

For dwellings built before January 1, 1978, and occupied or to be occupied by assisted families with one or more children under age six (6), lead-based paint requirements apply to:

1. The unit interior and exterior paint surfaces associated with the assisted unit: and
2. The common areas servicing the unit, including those areas through which residents must pass to gain access to the unit, and other areas frequented by

resident children less than six (6) such as play areas, and child care facilities. Common areas also include garages and fences on the assisted property.

C. Responsibilities of the Mexico Housing Authority and the Owner

The Mexico Housing Authority is responsible for the following activities:

1. The visual assessment for deteriorated paint (i.e., peeling, chipping, flaking) surfaces at initial and annual inspections;
2. Assuring that clearance examinations are conducted when required;
3. Carrying out special requirements for children under age six who have environmental intervention blood lead levels as verified by a medical health care provider;
4. Collecting data from the local health department on program participants under age six who have identified environmental intervention blood lead levels; and
5. Record keeping.

Owners of units to be or that are assisted have the responsibility to:

1. Disclose known lead-based paint hazards to all potential residents prior to execution of a lease;
2. Provide all prospective families with a copy of Protect Your Family From Lead in Your Home or other EPA approved document;
3. When necessary, perform paint stabilization to correct deteriorated paint;
4. Each time paint stabilization is performed, notify the resident about the conduct of lead hazard reduction activities and clearance (if required);
5. Conduct lead hazard reduction activities when required by the Mexico Housing Authority;
6. Perform all work in accordance with HUD prescribed safe work practices and conduct clearance activities when required; and
7. Perform ongoing maintenance. As part of ongoing maintenance, the owner must provide written notice to each assisted family asking the occupants to report deteriorated paint. The notice must include the name, address, and phone number of the person responsible for accepting the occupant's complaint.

Before the execution of the lease the owner is required to disclose any knowledge of lead-based paint or lead-based paint hazards in housing built prior to 1978 to all prospective residents. The Mexico Housing Authority will keep a copy of the disclosure notice executed by the owner and resident in the participant's file. The owner will keep the original disclosure notice and forward a copy of the notice to the Mexico Housing Authority.

D. Qualified Inspector

An HQS inspector may conduct the inspection or other party designated by the Mexico Housing Authority. All inspectors must have been trained in visual assessment in accordance with procedures established by HUD.

E. Visual Assessment for Deteriorated Paint

The Mexico Housing Authority during the conduct of initial, annual and any special inspections of pre-1978 units that are occupied or will be occupied by families with children under 6 years of age. The Mexico Housing Authority will conduct a visual inspection for deteriorated paint surfaces at these locations:

1. All unit interior and exterior painted surfaces associated with the assisted unit; and
2. Common areas such as common hallways, access and egress areas, playgrounds, child-care facilities, or other areas including fences and garages frequented by children under age six.

F. Stabilization of Deteriorated Paint Surfaces

When the HQS Inspector or other designated party identifies deteriorated paint surfaces (defined as interior or exterior paint or other coating that is peeling, chipping, flaking, cracking, is otherwise damaged or has separated from the substrate of the surface or fixture), the Mexico Housing Authority will notify and require the owner to perform stabilization of the surfaces within thirty (30) calendar days of the notification by the Mexico Housing Authority's inspection for occupied units and before commencement of any assisted tenancy.

Owner requirements for compliance with the Mexico Housing Authority's paint stabilization differ, depending upon the amount of deteriorated paint surface to be corrected. The use of lead-safe work practices during paint stabilization activities are differentiated characterized as above or below de minimis levels.

De minimis deteriorated paint surfaces are exceeded when one of the following occurs:

1. 20 square feet on exterior surfaces;

2. 2 square feet on an interior surface in a single room or interior space; or
3. 10 percent of individual small components (e.g., windowsills) on the interior or exterior.

Owners must perform paint stabilization on all deteriorated paint surfaces. Paint stabilization is defined as:

1. Repair of any physical defect in the substrate of the painted surface or building component. Examples of defective substrate conditions include dry-rot, rust, moisture-related defects, crumbling plaster, missing siding, or other components not securely fastened;
2. Removal of all loose paint and other loose material from the surface being treated; and
3. Application of a new protective coat of paint to the stabilized surface.

In no instance may an owner employ any paint stabilization methods that are strictly prohibited by federal, state, or local law such as:

1. Open flame burning and torching;
2. Machine-sanding or grinding without a high-efficiency particulate air (HEPA) local exhaust control;
3. Heat guns operating above 1,100 degrees Fahrenheit;
4. Abrasive blasting or sandblasting with HEPA exhaust control;
5. Dry sanding and scraping except limited conditions stated above for limited areas; and
6. Paint stripping in poorly ventilated space using a volatile stripper or a hazardous chemical as defined by Occupational Safety and Health Administration (OSHA).

Failure to comply with paint stabilization requirements, regardless of the amount of deteriorated surface, will result in the disapproval of the tenancy, abatement of payment to the owner, and/or termination of the HAP contract.

In addition, in order to be in compliance with HUD lead-based paint requirements if the deteriorated paint surface exceeds the de minimis level, the owner must:

1. Conduct all stabilization activities with trained staff;

2. Employ acceptable methods for preparing the surface to be treated, including wet scraping, wet sanding, and power sanding performed in conjunction with a HEPA filtered local exhaust attachment operated according to manufacturer's instruction;
3. Not dry sand or dry scrape within one (1) square foot of electrical outlets;
4. Protect the occupants and their belongings from contamination;
5. Notify the occupants within fifteen (15) calendar days of stabilization activity and provide the results of the clearance examination.

Clearance Activities:

The Mexico Housing Authority will be responsible for clearance activities. All clearance activities will be performed by persons who have EPA or state-approved training and are licensed or certified to perform clearance examinations.

The Mexico Housing Authority will pay for the costs of the first clearance examination. If further clearance examinations are required, the owner is responsible to cover the costs of subsequent tests.

The owner must provide the Mexico Housing Authority with an executed copy of the Lead-Based Paint Owner's Certification for the HQS violation for paint stabilization to be considered closed.

Below de minimis deteriorated paint surfaces:

If the amount of deteriorated paint is below the de minimis level, owners will not be required to perform lead-safe work practices and clearance, but owners must perform paint stabilization as follows:

1. Repair of any physical defect in the substrate of the painted surface or building component. Examples of defective substrate conditions include dry-rot, rust, moisture-related defects, crumbling plaster, missing siding, or other components not securely fastened;
2. Removal of all loose paint and other loose material from the surface being treated; and
3. Application of a new protective coat of paint to the stabilized surface.

In no instance may an owner employ any paint stabilization methods that are strictly prohibited by federal, state, or local law such as:

1. Open flame burning and torching;

2. Machine-sanding or grinding without a high-efficiency particulate air (HEPA) local exhaust control;
3. Heat guns operating above 1,100 degrees Fahrenheit;
4. Abrasive blasting or sandblasting with HEPA exhaust control;
5. Dry sanding and scraping except limited conditions stated above for limited areas; and
6. Paint stripping in poorly ventilated space using a volatile stripper or a hazardous chemical as defined by Occupational Safety and Health Administration (OSHA).

Failure to comply with paint stabilization requirements, regardless of the amount of deteriorated surface, results in disapproval of the tenancy, abatement of payment to the owner, and/or termination of the HAP contract.

Clearance Activities:

The owner must provide the Mexico Housing Authority with an executed copy of the Lead-Based Paint Owner's Certification for the HQS violation for paint stabilization to be considered closed.

G. Requirements for Children with Environmental Intervention Blood Lead Level

Should the Mexico Housing Authority receive information regarding an environmental intervention blood lead level child under age six from the family, owner, or other sources not associated with the medical health community, the Mexico Housing Authority will immediately verify the information with a public health department or other medical health care provider.

If either the public health department or private medical health agency provides verification that the child has an environmental intervention blood lead level, the Mexico Housing Authority will proceed to complete a risk assessment of the unit, common areas and exterior surfaces as outlined in Subsection H below. This requirement does not apply if the public health department has already conducted an evaluation between the date the child's blood was last sampled and the receipt of notification of the child's condition.

If the Mexico Housing Authority receives a report of an environmental intervention blood lead level child from any source other than the public health department, the Mexico Housing Authority will notify the public health department with five (5) working days.

HUD has defined environmental intervention blood lead level as a confirmed concentration of lead in whole blood equal or greater than 20 ug/dL (micrograms of lead per deciliter) for a single test or 15-19 ug/dL in two tests taken at least three (3) months apart in children under age six.

H. Risk Assessment

Within fifteen (15) calendar days of the notification to the Mexico Housing Authority by a public health department or medical health care provider, the Mexico Housing Authority will complete a risk assessment of the dwelling unit, including common areas servicing the dwelling unit, if the child lived in the unit at the time the child's blood was sampled. If the public health department has already conducted an evaluation between the date the child's blood was last sample and the receipt of notification of the child's condition, the risk assessment by the Mexico Housing Authority is not required.

The Mexico Housing Authority will only utilize persons trained and certified by an EPA or state-approved agency to perform risk assessments. The risk assessment will identify the appropriate method of correction if correction is required.

The risk assessment will involve an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards. The investigation will include dust and soil sampling, visual evaluation, and may include paint inspections (tests for lead in paint). The assessor will issue a report to the housing authority explaining the results of the investigation, as well as option and requirements for reducing lead-based paint hazards. Upon receipt of the risk assessment, the Mexico Housing Authority shall immediately notify the owner of its results.

The owner must notify the building residents of the results of the risk assessment within fifteen (15) calendar days of receipt of the risk assessment results from the Mexico Housing Authority.

I. Hazard Reduction

The owner must complete reduction of identified lead-based paint hazards as identified in the risk assessment as outlined in Subsection H of this Section within thirty (30) calendar days (or date specified by the Mexico Housing Authority if an extension is granted for exterior surfaces).

Hazard reduction activities may include paint stabilization, abatement, interim controls, or dust and soil contamination control. The appropriate method of correction will be identified in the risk assessment.

Hazard reduction will be considered complete by the Mexico Housing Authority when a clearance examination has been completed and the report indicates that all identified hazards have been treated and clearance has been achieved, or when the public health department certifies that the hazard reduction is complete.

The owner must notify all building residents of any hazard reduction activities within fifteen (15) calendar days of completion of activities.

Like paint stabilization compliance, when the Mexico Housing Authority receives the owner's certification, this will signal compliance with lead hazard reduction activities.

Failure by the owner to complete hazard reduction activities (including clearance) within thirty (30) calendar days (or later if the Mexico Housing Authority grants an extension for exterior surfaces) of notification constitutes a violation of HQS, and appropriate action against the owner will be taken if a program family occupies the unit. If the unit is vacant when the Mexico Housing Authority notifies the owner, the unit may not be reoccupied by another assisted family, regardless of the ages of children in the family, until compliance with the lead-based paint requirement is completed.

J. Mexico Housing Authority Data Collection and Record Keeping

Quarterly, the Mexico Housing Authority will attempt to obtain from the public health department having jurisdiction in the same area as the Mexico Housing Authority, the names and addresses of children under age six with an identified environmental intervention blood lead level.

The Mexico Housing Authority will match information received from the health department with information about program families. If a match occurs, the Mexico Housing Authority will follow all procedures for notifying owners and conducting risk assessments as stated above.

Quarterly, the Mexico Housing Authority will report a list of addresses of units occupied by children under age six, receiving assistance to the public health department, unless the health department indicates in writing that such a report is not necessary.

The Mexico Housing Authority will inform owners of lead-based paint regulations especially those related to prohibited and safe work practices, resident protection during lead-based paint activities, and notification requirements. This will be accomplished through written material provided by the Mexico Housing Authority.

The Mexico Housing Authority is responsible for issuing and maintaining in the file the notification to the owner of any needed corrections and appropriate methods to correct lead hazards, and of the deadline for completing the corrections.

12.5 EXCEPTIONS TO THE HQS ACCEPTABILITY CRITERIA

The Mexico Housing Authority will utilize the acceptability criteria as outlined above with applicable BOCA, State, and local codes. Additionally, the Mexico Housing Authority has received HUD approval to require the following additional criteria:

- A. In each room, there will be at least one exterior window that can be opened and that contains a screen.

- B. Adequate heat shall be considered to be 68 degrees.
- C. In units where the resident must pay for utilities, each unit must have separate metering device(s) for measuring utility consumption.
- D. A ¾" overflow pipe must be present on the hot water heater safety valves and installed down to within 6 inches of the floor.

12.6 TIME FRAMES AND CORRECTIONS OF HQS FAIL ITEMS

A. Correcting Initial HQS Fail Items

The Mexico Housing Authority will schedule a timely inspection of the unit on the date the owner indicates that the unit will be ready for inspection, or as soon as possible thereafter (within 5 working days) upon receipt of a Request for Tenancy Approval. The owner and participant will be notified in writing of the results of the inspection. If the unit fails HQS, the owner and the participant will be advised to notify the Mexico Housing Authority to reschedule a re-inspection when the repairs have been properly completed.

On an initial inspection, the owner will be given up to 30 calendar days to correct the items noted as failed, depending on the extent of the repairs that are required to be made. No unit will be placed in the program until the unit meets the HQS requirements.

B. HQS Fail Items for Units under Contract

The owner or participant will be given time to correct the failed items cited on the inspection report for a unit already under contract. If the failed items endanger the family's health or safety (using the emergency item in Section 12.7), the owner or participant will be given 24 hours to correct the violations. For less serious failures, the owner or participant will be given up to 30 calendar days to correct the failed item(s).

The regulation at 982.404(a)(3) only states that the PHA verifies HQS repairs. PHAs operate their agencies with minimum guidance from HUD. Therefore, since the regulations do not define how a PHA verifies that an owner or tenant completed required repairs, Executive Directors have the flexibility to decide how the PHA should verify. HUD has not defined "Verify" exclusively as a re-inspection. The PHA may elect to do a re-inspection to comply with 982.404(a)(3) to verify that all HQS deficiencies have been corrected. However, a re-inspection is not necessary if the PHA can obtain verification through other means. For example, a PHA might accept an owner's certification that required repairs were made and then verify that action at the next on-site inspection. Further, a PHA might tie the verification process to the severity of the corrections to be made and/or its experience with the owner and property. MHA will accept a

receipt that the repairs have been made (must be dated within the past 30 days) or MHA will accept a picture of the deficiencies that was repaired. All documentation must be in the file with the HQS inspections. All health or safety deficiencies will require a re-inspection.

If the owner fails to correct the HQS failed items after proper notification has been given, the Mexico Housing Authority will abate payment and terminate the contract in accordance with Sections 12.8 and 17.0.

If the participant fails to correct the HQS failed items that are family-caused after proper notification has been given, the Mexico Housing Authority will terminate assistance for the family in accordance with Sections 12.2(B) and 17.0.

C. Time Frames for Corrections

1. Emergency repair items must be abated within 24 hours.
2. Repair of refrigerators, range and oven, or a major plumbing fixture supplied by the owner must be abated within 72 hours.
3. Non-emergency items must be completed within 10 calendar days of the initial inspection.
4. For major repairs, the owner will have up to 30 calendar days to complete.
5. Receipts or pictures of non-emergency items may be acceptable proof that the failed deficiencies were corrected on non-emergency items.

D. Extensions

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

12.7 EMERGENCY FAIL ITEMS

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

- A. No hot or cold water

- B. No electricity
- C. Inability to maintain adequate heat
- D. Major plumbing leak
- E. Natural gas, propane, or LP gas leak
- F. Broken lock(s) on first floor doors or windows
- G. Broken windows that unduly allow weather elements into the unit
- H. Electrical outlet smoking or sparking
- I. Exposed electrical wires, which could result in shock or fire
- J. Unusable toilet when only one toilet is present in the unit
- K. Security risks such as broken doors or windows that would allow intrusion
- L. Other conditions which pose an immediate threat to health or safety

12.8 ABATEMENT

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

If the corrections of deficiencies are not made the abatement will continue until the HAP contract is terminated. When the deficiencies are corrected, the Mexico Housing Authority will end the abatement the day the unit passes inspection. Rent will resume the day the unit passes inspection and be paid the first day of the next month.

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

HAP contracts will be terminated after giving the owner thirty (30)-calendar days notice from the first day of a month. It will be sent with the Notice of Abatement. Termination will end any abatement action.

13.0 Reserved

14.0 RECERTIFICATION

14.0.1 CHANGES IN LEASE OR RENT

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

Owners must notify the Mexico Housing Authority of any changes in the amount of the rent at least sixty (60) calendar days before the changes go into effect. Any such changes are subject to the Mexico Housing Authority determining them to be reasonable.

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

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

The approval of the Mexico Housing Authority is not required for changes other than those specified in A, B, or C above.

However, owners wishing to change ownership must receive the written permission of the Housing Authority prior to assigning a HAP contract. The owner shall inform the Mexico Housing Authority of the impending change and give the Authority 30 calendar days to review the prospective owner to make sure they are appropriate. The new owner shall meet the same criteria as the existing owner. Approval shall not be unreasonably withheld.

14.1 ANNUAL REEXAMINATION

At least annually (within 365 calendar days of the anniversary date of the HAP contract) the Mexico Housing Authority will conduct a reexamination of family income and circumstances. The results of the reexamination determine (1) the rent the family will pay, and (2) whether the family subsidy is correct based on the family unit size.

The Mexico Housing Authority will send a notification letter to the family letting them know that it is time for their annual reexamination and scheduling an appointment. The letter includes forms for the family to complete in preparation for the interview. The letter includes instructions permitting the family to reschedule the interview if necessary.

The letter tells families who may need to make alternate arrangements due to a disability that they may contact staff to request an accommodation of their needs.

During the interview, the family will provide all information regarding income, assets, deductions (eligible expenses), and other information necessary to determine the family's share of rent. The family will sign the HUD consent form and other consent forms that later will be mailed to the sources that will verify the family circumstances. PIH Notice 2012-28: states that HUD recommends that at annual recertification or reexamination, PHAs ask whether the tenant or any member of the tenant's household is subject to a state lifetime sex offender registration program in any state. MHA will verify this information using the National Sex Offender Database and/or other official federal, state, and local resources and document this information in the same manner as at admission.;

Upon receipt of verification, the Mexico Housing Authority will determine the family's annual income and will calculate their family share.

14.1.1 Effective Date of Rent Changes for Annual Reexaminations

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

If the rent determination is delayed due to a reason beyond the control of the family, then any rent increase will be effective the first of the month after the month in which the family receives a 30-day notice of the amount. If the new rent is a reduction and the delay is beyond the control of the family, the reduction will be effective as scheduled on the anniversary date.

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

14.1.2 Missed Appointments

If the family fails to respond to the letter and fails to attend the interview, a second letter will be mailed. The second letter will advise of a new time and date for the interview, allowing for the same considerations for rescheduling and accommodation as above. The letter will also advise that failure by the family to attend the second scheduled interview will result in the Mexico Housing Authority taking action to terminate the family's assistance. If there is no response to the second letter, a termination notice will be issued to both the family and the owner. The termination notice will inform the family of its right to request an informal hearing.

14.2 INTERIM REEXAMINATIONS

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

Families are required to report the following changes to the Mexico Housing Authority within 10 business days. These changes may trigger an interim reexamination.

- A. Member has been added to the family through birth or adoption or court-awarded custody.
- B. A household member is leaving or has left the family unit.
- C. An Increase of five hundred dollars monthly.
- D. A reported decrease in income of two hundred dollars monthly of any adult family member(s) no later than the 25th of the month.
- E. Any change in family composition
- F. Family break-up

In circumstances of a family break-up, the Mexico Housing Authority will make a determination of which family member will retain the housing choice voucher, taking into consideration the following factors:

1. To whom the housing choice voucher was issued.
2. The interest of minor children or of ill, elderly, or disabled family members.
3. Whether the assistance should remain with the family members remaining in the unit.
4. Whether family members were forced to leave the unit as a result of actual or threatened physical violence by a spouse or other member(s) of the household.

If a court determines the disposition of property between members of the assisted family in a divorce or separation under a settlement of judicial decree, the Mexico Housing Authority will be bound by the court's determination of which family members continue to receive assistance in the program.

Because of the number of possible different circumstances in which a determination will have to be made, the Mexico Housing Authority will make determinations on a case-by-case basis.

The Mexico Housing Authority will issue a determination within 10 business days of the request for a determination. The family member requesting the determination may request an informal hearing in compliance with the informal hearings in Section 16.2.

In order to add a household member other than through birth, adoption, or court-awarded custody (including a live-in aide) the family must request that the new member be added to the lease. Before adding the new member to the lease, the individual must complete an application form stating their income, assets, and all other information required of an applicant. The individual must provide their Social Security Number if they have one, and must verify their citizenship/eligible immigrant status (Their housing will not be delayed due to delays in verifying eligible immigrant status other than delays caused by the family). The new family member will go through the screening process similar to the process for applicants. The Mexico Housing Authority will determine the eligibility of the individual before allowing them to be added to the lease. If the individual is found to be ineligible or does not pass the screening criteria, they will be advised in writing and given the opportunity for an informal review. If they are found to be eligible and do pass the screening criteria, the Mexico Housing Authority will grant approval to add their name to the lease. At the same time, the family's annual income will be recalculated taking into account the income and circumstances of the new family member. The effective date of the new rent will be in accordance with paragraph below 14.2.2.

Families are not required to, but may at any time, request an interim reexamination based on a decrease in income, an increase in allowable expenses, or other changes in family circumstances. Upon such request, the Mexico Housing Authority will take timely action to process the interim reexamination and recalculate the family share.

14.2.1 Special Reexaminations

If a family's income is too unstable to project for 12 months, including families that temporarily have no income or have a temporary decrease in income, the Mexico Housing Authority may schedule special reexaminations every 90-calendar day until the income stabilizes and an annual income can be determined.

14.2.2 Effective Date of Rent Changes Due to Interim or Special Reexaminations

Unless there is a delay in reexamination processing caused by the family, any rent increase will be effective the first of the second month after the month in which the family receives notice of the new rent amount. If the family causes a delay, then the rent increase will be effective on the date it would have been effective had the process not been delayed (even if this means a retroactive increase).

If the new rent is a reduction and any delay is beyond the control of the family, the reduction will be effective the first of the month after the interim reexamination should have been completed.

If the new rent is a reduction and the family caused the delay or did not report the change in a timely manner, the change will be effective the first of the month after the rent amount is determined.

14.3 Housing Authority Mistakes in Calculating Rent

If the MHA makes a mistake in calculating a resident's rent contribution and overcharges the resident, the resident shall receive a refund for the amount of the mistake going back a maximum of 24 months. The refund shall be given to the resident as soon as practical or credited to the resident's account, whichever the resident desires unless the resident owes the Housing Authority money in which case the debt shall be offset to the degree possible before the resident chooses between the two refund methods.

15.0 TERMINATION OF ASSISTANCE TO THE FAMILY BY THE MEXICO HOUSING AUTHORITY

24 CFR 982.552 AND 982.553 (THE FOLLOWING HAS BEEN ARRANGED SO THAT PARAGRAPHS A THROUGH K REPRESENT THE "MUST TERMINATE" AND PARAGRAPHS L THROUGH U REPRESENT THE "MAY TERMINATE".)

The Mexico Housing Authority may at any time terminate program assistance for a participant because of any of the following actions or inactions by the household:

- A. If the family violates any family obligations under the program;
- B. If the family was evicted from housing assisted under the Section 8 program for serious violations of the lease;
- C. If a family member fails to sign and submit consent forms;
- D. If a family fails to establish citizenship or eligible immigrant status and is not eligible for or does not elect continuation of assistance, pro-ration of assistance, or temporary deferral of assistance. If the Mexico Housing Authority determines that a family member has knowingly permitted an ineligible noncitizen (other than any ineligible noncitizens listed on the lease) to permanently reside in their Section 8 unit, the family's assistance will be terminated. Such family will not be eligible to be readmitted to Section 8 for a period of 24 months from the date of termination;
- E. Have a household member who is currently engaging in illegal use of a drug;
- F. Have a household member whose pattern of illegal drug use interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents;
- G. Have a household member who has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally assisted housing;
- H. Have a household member who is subject to a lifetime registration requirement under a State sex offender registration program;

- I. If any member of the family commits drug-related or violent criminal activity in violation of Section 2.3 of this Administrative Plan and 24 CFR 982.551;
- J. Have a household member whose abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents;
- K. Have a household member who is a fugitive felon, parole violator or person fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees;
- L. Have a family member who violates any family obligations under the program;
- M. Have a family member who has been evicted from federally assisted housing in the last five years;
- N. Have a family member that Mexico Housing Authority has ever terminated assistance for under the program;
- O. Have a family member that has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program;
- P. Currently owes rent or other amounts to the Mexico Housing Authority or to another Housing Authority in connection with Section 8 or public housing assistance under the 1937 Act;
- Q. Have not reimbursed any Housing Authority for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease;
- R. Have breached an agreement with Mexico Housing Authority to pay amounts owed to a Housing Authority, or amounts paid to an owner by a Housing Authority;
- S. Have engaged in or threatened abusive or violent behavior towards any Mexico Housing Authority staff member or resident;

[FOR PARAGRAPHS L THROUGH S ABOVE, 24 CFR 982.552(c)(2)(i) THROUGH (iv) PROVIDES “CONSIDERATION OF CIRCUMSTANCES” IN DETERMINING WHETHER TO DENY ASSISTANCE.

For purposes of this section, the Mexico Housing Authority may terminate assistance for criminal activity by a household member as authorized in this section if the Mexico Housing Authority determines, based on a preponderance of the evidence, that the

household member has engaged in the activity, regardless of whether the household member has been arrested or convicted of such activity.

If the Mexico Housing Authority proposes to terminate assistance for criminal activity as shown by a criminal record, the Mexico Housing Authority will notify the household of the proposed action to be based on the information and must provide the person with the criminal record (i.e., the family member) and the head of household with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record, in accordance with the procedures established for the Informal Hearing for Participants. The household will have **10** calendar days to dispute the accuracy and relevance of the record in writing.

Any family absent from the assisted unit for more than 180 consecutive calendar days (180 is the maximum) must be terminated from the program.

In circumstances of a family break-up, the Mexico Housing Authority will make a determination of which family member will retain the housing choice voucher, taking into consideration the following factors:

- A. To whom the housing choice voucher was issued.
- B. The interest of minor children or of ill, elderly, or disabled family members.
- C. Whether the assistance should remain with the family members remaining in the unit.
- D. Whether family members were forced to leave the unit as a result of actual or threatened physical violence by a spouse or other member(s) of the household.

If a court determines the disposition of property between members of the assisted family in a divorce or separation under a settlement of judicial decree, the Mexico Housing Authority will be bound by the court's determination of which family members continue to receive assistance in the program.

16.0 COMPLAINTS, INFORMAL REVIEWS FOR APPLICANTS, INFORMAL HEARINGS FOR PARTICIPANTS

16.1 COMPLAINTS

The Mexico Housing Authority will investigate and respond to complaints by participant families, owners, and the general public. The Mexico Housing Authority may require that complaints other than HQS violations be put in writing. Anonymous complaints are investigated whenever possible.

16.2 INFORMAL REVIEW FOR THE APPLICANT

A. Informal Review for the Applicant

The Mexico Housing Authority will give an applicant for participation in the Section 8 Existing Program prompt notice of a decision denying assistance to the applicant. The notice will contain a brief statement of the reasons for the Mexico Housing Authority decision. The notice will state that the applicant may request an informal review within **10 business days** of the denial and will describe how to obtain the informal review.

B. When an Informal Review is not required

The Mexico Housing Authority will not provide the applicant an opportunity for an informal review for any of the following reasons:

1. A determination of the family unit size under the Mexico Housing Authority subsidy standards.
2. A Mexico Housing Authority determination not to approve an extension or suspension of a housing choice voucher term.
3. A Mexico Housing Authority determination not to grant approval to lease a unit under the program or to approve a proposed lease.
4. A Mexico Housing Authority determination that a unit selected by the applicant is not in compliance with HQS.
5. A Mexico Housing Authority determination that the unit is not in accordance with HQS because of family size or composition.
6. General policy issues or class grievances.
7. Discretionary administrative determinations by the Mexico Housing Authority.

C. Informal Review Process

The Mexico Housing Authority will give an applicant an opportunity for an informal review of the Mexico Housing Authority decision denying assistance to the applicant. The procedure is as follows:

1. The review will be conducted by any person or persons designated by the Mexico Housing Authority other than the person who made or approved the decision under review or a subordinate of this person.

2. The applicant will be given an opportunity to present written or oral objections to the Mexico Housing Authority decision.
3. The Mexico Housing Authority will notify the applicant of the Mexico Housing Authority decision after the informal review within 14 calendar days. The notification will include a brief statement of the reasons for the final decision.

D. Considering Circumstances

In deciding whether to deny assistance to an applicant because of action or inaction by members of the family, the Housing Authority may consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial of assistance on other family members who were not involved in the action or failure.

The Housing Authority may impose, as a condition of assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. The Housing Authority may permit the other members of a participant family to receive assistance.

If the Housing Authority seeks to deny assistance because of illegal use, or possession for personal use, of a controlled substance, or pattern of abuse of alcohol, such use or possession or pattern of abuse must have occurred within one year before the date that the Housing Authority provides notice to the family of the Housing Authority determination to deny assistance. In determining whether to deny assistance for these reasons the Mexico Housing Authority will consider evidence of whether the household member:

1. Has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol;
2. Has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol; or
3. Is participating in a supervised drug or alcohol rehabilitation program and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol.

E. Informal Review Procedures for Denial of Assistance on the Basis of Ineligible Immigration Status

The applicant family may request that the Mexico Housing Authority provide for an informal review after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. The applicant family must make this request within 30 calendar days of receipt of the *Notice of Denial or Termination of Assistance*, or within 30 calendar days of receipt of the INS appeal decision.

For applicant families, the Informal Review Process above will be utilized with the exception that the applicant family will have up to 30 calendar days of receipt of the *Notice of Denial or Termination of Assistance*, or of the INS appeal decision to request the review.

16.3 INFORMAL HEARINGS FOR PARTICIPANTS

A. When a Hearing is required

1. The Mexico Housing Authority will give a participant family an opportunity for an informal hearing to consider whether the following Mexico Housing Authority decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations, and Mexico Housing Authority policies:
 - a. A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment.
 - b. A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the Mexico Housing Authority utility allowance schedule.
 - c. A determination of the family unit size under the Mexico Housing Authority subsidy standards.
 - d. A determination to terminate assistance for a participant family because of the family's action or failure to act.
 - e. A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under the Mexico Housing Authority policy and HUD rules.
 - f. Denial of a hardship exemption to the minimum rent requirement.
2. In cases described in paragraphs 16.3(A)(1)(d), (e), and (f) of this Section, the Mexico Housing Authority will give the opportunity for an informal hearing before the Mexico Housing Authority terminates housing assistance payments for the family under an outstanding HAP contract.

B. When a Hearing is not required

The Mexico Housing Authority will not provide a participant family an opportunity for an informal hearing for any of the following reasons:

1. Discretionary administrative determinations by the Mexico Housing Authority.
2. General policy issues or class grievances.
3. Establishment of the Mexico Housing Authority schedule of utility allowances for families in the program.
4. A Mexico Housing Authority determination not to approve an extension or suspension of a housing choice voucher term.
5. A Mexico Housing Authority determination not to approve a unit or lease.
6. A Mexico Housing Authority determination that an assisted unit is not in compliance with HQS. (However, the Mexico Housing Authority will provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family.)
7. A Mexico Housing Authority determination that the unit is not in accordance with HQS because of the family size.
8. A determination by the Mexico Housing Authority to exercise or not exercise any right or remedy against the owner under a HAP contract.

C. Notice to the Family

1. In the cases described in paragraphs 16.3(A)(1)(a), (b), and (c) of this Section, the Mexico Housing Authority will notify the family that the family may ask for an explanation of the basis of the Mexico Housing Authority's determination, and that if the family does not agree with the determination, the family may request an informal hearing on the decision.
2. In the cases described in paragraphs 16.3(A)(1)(d), (e), and (f) of this Section, the Mexico Housing Authority will give the family prompt written notice that the family may request a hearing within 10 business days of the notification. The notice will:
 - a. Contain a brief statement of the reasons for the decision; and

- b. State if the family does not agree with the decision, the family may request an informal hearing on the decision within 10 business days of the notification.

D. Hearing Procedures

The Mexico Housing Authority and participants will adhere to the following procedures:

1. Discovery

- a. The family will be given the opportunity to examine before the hearing any Mexico Housing Authority documents that are directly relevant to the hearing. The family will be allowed to copy any such document at the family's expense. If the Mexico Housing Authority does not make the document(s) available for examination on request of the family, the Mexico Housing Authority may not rely on the document at the hearing.
- b. The Mexico Housing Authority will be given the opportunity to examine, at the Mexico Housing Authority's offices before the hearing, any family documents that are directly relevant to the hearing. The Mexico Housing Authority will be allowed to copy any such document at the Mexico Housing Authority's expense. If the family does not make the document(s) available for examination on request of the Mexico Housing Authority, the family may not rely on the document(s) at the hearing.

Note: The term **document** includes records and regulations.

2. Representation of the Family

At its own expense, a lawyer or other representative may represent the family.

3. Hearing Officer

- a. The hearing will be conducted by any person or persons designated by the Mexico Housing Authority, other than a person who made or approved the decision under review or a subordinate of this person.
- b. The person who conducts the hearing will regulate the conduct of the hearing in accordance with the Mexico Housing Authority hearing procedures.

4. Evidence

The Mexico Housing Authority and the family must have the opportunity to present evidence and may question any witnesses. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

5. Issuance of Decision

The person who conducts the hearing must issue a written decision within 14 calendar days from the date of the hearing, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family shall be based on a preponderance of the evidence presented at the hearing.

6. Effect of the Decision

The Mexico Housing Authority is not bound by a hearing decision:

- a. Concerning a matter for which the Mexico Housing Authority is not required to provide an opportunity for an informal hearing under this Section, or that otherwise exceeds the authority of the person conducting the hearing under the Mexico Housing Authority hearing procedures.
- b. Contrary to HUD regulations or requirements, or otherwise contrary to Federal, State, or local law.
- c. If the Mexico Housing Authority determines that it is not bound by a hearing decision, the Mexico Housing Authority will notify the family within 14 calendar days of the determination, and of the reasons for the determination.

E. Considering Circumstances

In deciding whether to terminate assistance because of action or inaction by members of the family, the Housing Authority may consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.

The Housing Authority may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. The Housing

Authority may permit the other members of a participant family to continue receiving assistance.

If the Housing Authority seeks to terminate assistance because of illegal use, or possession for personal use, of a controlled substance, or pattern of abuse of alcohol, such use or possession or pattern of abuse must have occurred within one year before the date that the Housing Authority provides notice to the family of the Housing Authority determination to deny or terminate assistance. In determining whether to terminate assistance for these reasons the Mexico Housing Authority will consider evidence of whether the household member:

1. Has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol;
2. Has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol; or
3. Is participating in a supervised drug or alcohol rehabilitation program and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol.

F. Informal Hearing Procedures for Denial of Assistance on the Basis of Ineligible Immigration Status

The participant family may request that the Mexico Housing Authority provide for an informal hearing after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. This request must be made by the participant family within 30 calendar days of receipt of the *Notice of Denial or Termination of Assistance*, or within 30 calendar days of receipt of the INS appeal decision.

For the participant families, the Informal Hearing Process above will be utilized with the exception that the participant family will have up to 30 calendar days of receipt of the *Notice of Denial or Termination of Assistance*, or of the INS appeal decision.

17.0 TERMINATION OF THE LEASE AND CONTRACT

The term of the lease and the term of the HAP contract are the same. They begin on the same date and they end on the same date. The lease may be terminated by the owner, by the participant, or by the mutual agreement of both. The owner may only terminate the contract by terminating the lease. The HAP contract may be terminated by the Mexico Housing Authority. Under some circumstances the contract automatically terminates.

A. Termination of the Lease

1. By the family

The family may terminate the lease without cause upon proper notice to the owner and to the Mexico Housing Authority after the initial lease term. The length of the notice that is required is stated in the lease (generally 30 calendar days).

2. By the owner

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person in accordance with this section if the owner determines that the covered person has engaged in a criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction.

If the law and regulation permit the owner to take an action but do not require action to be taken, the owner may take or not take the action in accordance with the owner's standards for eviction. The owner may consider all of the circumstances relevant to a particular eviction case, such as:

- a. The seriousness of the offending action;
- b. The effect on the community of denial or termination or the failure of the owner to take such action;
- c. The extent of participation by the leaseholder in the offending action;
- d. The effect of denial of admission or termination of tenancy on household members not involved in the offending activity;
- e. The demand for assisted housing by families who will adhere to lease responsibilities;
- f. The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- g. The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has

participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully. For this purpose, the owner may require the participant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of assistance actions must be consistent with the fair housing and equal opportunity provision of 24 CFR 5.105.

- a. The owner may terminate the lease during its term on the following grounds:
 - i. Serious or repeated violations of the terms or conditions of the lease;
 - ii. Violation of Federal, State, or local law that imposes obligations on the participant in connection with the occupancy or use of the unit and its premises;
 - iii. Criminal activity by the household, a guest, or another person under the control of the household that threatens the health, safety, or right to peaceful enjoyment of the premises by other persons (including property management staff) residing on the premises or in the immediate vicinity of the premises;
 - iv. Any drug-related or violent criminal activity engaged in on or near the premises by any resident, household member, or guest, or such activity engaged in on the premises by any other person under the tenant's control, is grounds for the owner to terminate tenancy;
 - v. When the owner determines that a household member is illegally using a drug or when the owner determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

- vi. If a participant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or violating a condition of probation or parole imposed under Federal or State law.
- vii. If the tenant is violating a condition of probation or parole imposed under Federal or State law.
- viii. Other good cause. Other good cause may include, but is not limited to:
 - (1) Failure by the family to accept the offer of a new lease;
 - (2) Family history of disturbances of neighbors or destruction of property, or living or housekeeping habits resulting in damage to the property or unit;
 - (3) The owner's desire to utilize the unit for personal or family use or for a purpose other than use as a residential rental unit;
 - (4) A business or economic reason such as sale of the property, renovation of the unit, desire to rent at a higher rental amount.

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person in accordance with this section if the owner determines that the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction.

- b. During the first year the owner may not terminate tenancy for other good cause unless the reason is because of something the household did or failed to do.
- c. The owner may only evict the participant by instituting court action after or simultaneously providing written notice to the participant specifying the grounds for termination. The owner must give the Mexico Housing Authority a copy of any owner eviction notice to the participant at the same time that the owner gives the notice to the participant.

- d. The owner may terminate the contract at the end of the initial lease term or any extension of the lease term without cause by providing notice to the family that the lease term will not be renewed.

3. By mutual agreement

The family and the owner may at any time mutually agree to terminate the lease.

B. Termination of the Contract

1. Automatic termination of the contract

- a. If the Mexico Housing Authority terminates assistance to the family, the contract terminates automatically.
- b. If the family moves out of the unit, the contract terminates automatically.
- c. 180 calendar days after the last housing assistance payment to the owner.

2. Termination of the contract by the owner

The owner may only terminate tenancy in accordance with the lease and State and local law.

3. Termination of the HAP contract by the Mexico Housing Authority

The Housing Authority may terminate the HAP contract because:

- a. The Housing Authority has terminated assistance to the family.
- b. The unit does not meet HQS space standards because of an increase in family size or change in family composition.
- c. When the family breaks up and the Mexico Housing Authority determines that the family members who move from the unit will continue to receive the assistance.
- d. The Mexico Housing Authority determines that there is insufficient funding in their contract with HUD to support continued assistance for families in the program.
- e. The owner has breached the contract in any of the following ways:

- i. If the owner has violated any obligation under the HAP contract for the dwelling unit, including the owner's obligation to maintain the unit in accordance with the HQS.
- ii. If the owner has violated any obligation under any other housing assistance payments contract under Section 8 of the 1937 Act.
- iii. If the owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program.
- iv. For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable mortgage insurance or loan program, with the mortgage or mortgage note, or with the regulatory agreement.
- v. If the owner has engaged in drug-related criminal activity or any violent criminal activity.
- f. If a welfare-to-work family fails to fulfill its obligations under the welfare-to-work voucher program.

4. Final HAP payment to owner

The HAP payment stops when the lease terminates. The owner may keep the payment for the month in which the family moves out. If the owner has begun eviction proceedings and the family continues to occupy the unit, the Housing Authority will continue to make payments until the owner obtains a judgment or the family moves out.

18.0 CHARGES AGAINST THE SECTION 8 ADMINISTRATIVE FEE RESERVE

Occasionally, it is necessary for the Mexico Housing Authority to spend money from its Section 8 Administrative Fee Reserve to meet unseen or extraordinary expenditures or for its other housing related purposes consistent with federal and State law.

Any item(s) exceeding **\$0.00** that is non-routine in nature will require prior Board of Commissioner approval before any charge is made against the Section 8 Administrative Fee Reserve.

19.0 INTELLECTUAL PROPERTY RIGHTS

No program receipts may be used to indemnify contractors or subcontractors of the Mexico Housing Authority against costs associated with any judgment of infringement of intellectual property rights.

20.0 QUALITY CONTROL OF SECTION 8 PROGRAM

In order to maintain the appropriate quality standards for the Section 8 program, the Mexico Housing Authority will regularly (at least annually) review files and records to determine if the work documented in the files or records conforms to program requirements. This shall be accomplished by a supervisor or another qualified person other than the one originally responsible for the work or someone subordinate to that person. The number of files and/or records checked shall be at least equal to the number specified in the Section 8 Management Assessment Program (SEMAP) for our size housing authority. The minimum sample size is based on size of universe with 50 or less = 5 files; 51 – 600 = 5 files + 1 for each 50 (or part of 50) over 50. Every 10 or less sample will be selected from universe size.

Among the areas that shall have quality control reviews are the following:

- A. The proper people were selected from the waiting list and their selection criteria were actually met by the applicants.
- B. The determination of rent reasonableness.
- C. Participants are paying the appropriate rent and their income and expenses were properly verified both upon admission and re-certification.
- D. HQS inspections were properly made.
- E. HQS deficiencies were properly followed up on and appropriate repairs were made in a timely manner.

If significant errors are found during a quality control review, then appropriate training shall be immediately conducted for the person or persons who made the errors and that person shall correct all of his or her errors.

21.0 CONDUCTING BUSINESS IN ACCORDANCE WITH CORE VALUES AND ETHICAL STANDARDS

21.1 PURPOSE

This Code of Conduct establishes standards for employee and Commissioner conduct that will assure the highest level of public service. Recognizing that compliance with any ethical standards rests primarily on personal integrity and specifically in this situation with the integrity of the employees and Commissioners of the Mexico Housing Authority, this Section sets forth those acts or omissions of acts that could be deemed injurious to the general mission of the Authority.

This Code of Conduct is not intended, nor should it be construed, as an attempt to unreasonably intrude upon the individual employee or Commissioner's right to privacy and the right to participate freely in a democratic society and economy.

21.2 CONFLICT OF INTEREST

In accordance with 24 CFR 982.161, neither the Mexico Housing Authority nor any of its contractors or subcontractors may enter into any contract or arrangement in connection with the tenant-based programs in which any of the following classes of persons has any interest, direct or indirect, during his or her tenure with the Mexico Housing Authority or for one year thereafter:

- A. Any present or former member or officer of the Housing Authority (except a participant commissioner);
- B. Any employee of the Housing Authority or any contractor, subcontractor or agent of the Housing Authority who formulates policy or who influences decisions with respect to the programs;
- C. Any public official, member of a governing body, or State or local legislator who exercises functions or responsibilities with respect to the Mexico Housing Authority's programs; or
- D. Any member of the Congress of the United States.

Any member of the classes described in A, B, C, or D, must disclose their interest or prospective interest to the Housing Authority and HUD.

The Conflict of Interest prohibition under this section (24.2) may be waived by the HUD Field Office upon the request of the Mexico Housing Authority for good cause.

21.3 PROHIBITION OF SOLICITATION OR ACCEPTANCE OF GIFTS

No Commissioner or Authority employee shall solicit any gift or consideration of any kind, nor shall any Authority employee accept or receive a gift having value in excess of \$0.00 regardless of the form of the gift, from any person who has an interest in any matter proposed or pending before the Authority.

21.4 HOUSING AUTHORITY ADMINISTRATIVE AND DISCIPLINARY REMEDIES FOR VIOLATION OF THE HOUSING AUTHORITY CODE OF CONDUCT

Violations of this Code of Conduct Policy will result in disciplinary action as outlined in the Mexico Housing Authority's Personnel Policy or as determined by action of the Board of Commissioners.

22.0 SUPPORT FOR OUR ARMED FORCES

A major and important component of our armed forces are the part-time military personnel that serve in various Reserve and National Guard units. The Mexico Housing Authority is very supportive of these men and women. An unfortunate fact of service in both the Reserves and National Guard is that from time to time their personnel are activated to full-time status and asked to serve our country in a variety of ways and circumstances. Whenever the Federal Government activates Reserve and/or National Guard personnel, the Mexico Housing Authority wants to support these brave warriors in the following manners:

- A. If a family finds it necessary for another adult to temporarily move into a unit solely to serve as a temporary guardian for children residing in the unit, the income received by the temporary guardian will not be counted in determining family income. The presence of the temporary guardian will need to be approved by the landlord.
- B. Although typically a criminal background check is required before anyone can participate in the housing choice voucher program, this requirement will be waived for a temporary guardian. Instead, the background check will occur after the person moves into the assisted unit. If the results of the check dictate that the person is ineligible for the program, the family shall be given a reasonable time to find a replacement temporary guardian.
- C. Recognizing that activation in the Reserves or National Guard can be very disruptive to a family's income, the Mexico Housing Authority will expeditiously re-evaluate a resident's portion of the rent if requested to do so.
- D. A unit cannot be held by a family that is not residing in it as their primary residence for more than 180 consecutive calendar days because of a specific federal regulation. If all members of a military family are temporarily absent from the unit because a member of the family has been called to active duty, the family can retain control of the unit by paying the required rent and returning to the unit within 30 calendar days of the conclusion of the active duty service. If the service extends beyond 180 calendar days, the Mexico Housing Authority will seek a waiver of the 180 calendar day limit from HUD.

23.0 ANTI-FRAUD POLICY

The Mexico Housing Authority is fully committed to combating fraud in its Section 8 housing program. It defines fraud as a single act or pattern of actions that include false statements, the omission of information, or the concealment of a substantive fact made with the intention of deceiving or misleading the Mexico Housing Authority. It results in the inappropriate expenditure of public funds and/or a violation of Section 8 requirements.

Although there are numerous different types of fraud that may be committed, the two most common are the failure to fully report all sources of income and the failure to accurately report who is residing in the residence. The Mexico Housing Authority shall aggressively attempt to prevent all cases of fraud.

When a fraudulent action is discovered, the Mexico Housing Authority shall take action. It shall do one or more of the following things depending on circumstances and what it determines appropriate:

- A. Require the resident to immediately repay the amount in question;
- B. Require the resident to enter into a satisfactory repayment agreement;
- C. Terminate the resident's rental assistance;
- D. Refer the case for criminal prosecution; or
- E. Take such other action as the Mexico Housing Authority deems appropriate.

GLOSSARY

1937 Housing Act: The United States Housing Act of 1937 [42 U.S.C. 1437 et seq.]

Absorption: In portability, the point at which a receiving housing authority stops billing the initial housing authority for assistance on behalf of a portable family. [24 CFR 982.4]

Adjusted Annual Income: The amount of household income, after deductions for specified allowances, on which a participant's rent is based.

Administrative fee: Fee paid by HUD to the housing authority for the administration of the program.

Administrative Plan: The plan that describes housing authority policies for the administration of the tenant-based programs.

Admission: The point when the family becomes a participant in the program. In a tenant-based program, the date used for this purpose is the effective date of the first HAP Contract for a family (first day of initial lease term).

Adult: A household member who is 18 years or older or who is the head of the household, or spouse, or co-head. An emancipated minor is also considered an adult. An adult must have the legal capacity to enter a lease under State and local law. In the anti-drug portions of this policy, it also refers to a minor who has been convicted of a crime as an adult under any Federal, State or tribal law.

Allowances: Amounts deducted from the household's annual income in determining adjusted annual income (the income amount used in the rent calculation). Allowances are given for elderly families, dependents, medical expenses for elderly and disabled families, disability expenses, and child care expenses for children under 13 years of age. Other allowances can be given at the discretion of the housing authority.

Amortization Payment: In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home. If furniture was included in the purchase price, the debt service must be reduced by 15% to exclude the cost of the furniture. The amortization cost is the initial financing, not refinancing. Set-up charges may be included in the monthly amortization payment.

Annual Contributions Contract (ACC): The written contract between HUD and a housing authority under which HUD agrees to provide funding for a program under the 1937 Act, and the housing authority agrees to comply with HUD requirements for the program.

Annual Income: All amounts, monetary or not, that:

- a. Go to (or on behalf of) the family head or spouse (even if temporarily absent) or to any other family member, or
- b. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- c. Are not specifically excluded from Annual Income.
- d. Annual Income also includes amounts derived (during the 12-month period) from assets to which any member of the family has access.

Applicant (applicant family): A family that has applied for admission to a program but is not yet a participant in the program.

Assets: see net family assets.

Asset Income: Income received from assets held by household members. If assets total more than \$5,000, income from the assets is "imputed" and the greater of actual asset income and imputed asset income is counted in annual income.

Assisted lease (lease): A written agreement between an owner and a family for the leasing of a dwelling unit to the family. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the housing authority.

Business Days: Days the housing authority is open for business.

Certificate: A document formerly issued by a housing authority to a family selected for admission to the Certificate Program. The certificate describes the program and the procedures for housing authority approval of a unit selected by the family. The certificate also states the obligations of the family under the program.

Certification: The examination of a household's income, expenses, and family composition to determine the household's eligibility for program participation and to calculate the household's rent for the following 12 months.

Child: For purposes of citizenship regulations, a member of the family other than the family head or spouse who is under 18 years of age.

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

Citizen: A citizen or national of the United States.

Common space: In shared housing: Space available for use by the assisted family and other occupants of the unit.

Congregate housing: Housing for elderly or persons with disabilities that meets the HQS for congregate housing.

Consent form: Any consent form approved by HUD to be signed by assistance applicants and participants for the purpose of obtaining income information from employers and SWICAs, return information from the Social Security Administration, and return information for unearned income from the Internal Revenue Service. The consent forms may authorize the collection of other information from assistance applicants or participants to determine eligibility or level of benefits.

Contiguous MSA: In portability, an MSA that shares a common boundary with the MSA in which the jurisdiction of the initial housing authority is located.

Continuously assisted: An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the Housing Choice Voucher Program or is temporarily residing in a shelter for a legitimate reason.

Cooperative: Housing owned by a corporation or association, and where a member of the corporation or association has the right to reside in a particular unit, and to participate in management of the housing.

Cooperative member: A family of which one or more members owns membership shares in a cooperative.

Covered Families: Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Covered Person: For purposes of the anti-drug provisions of this policy, a covered person is a resident, any member of the resident's household, a guest or another person under the resident's control.

Currently engaging in: With respect to behavior such as illegal use of a drug, other drug-related criminal activity, or other criminal activity, currently engaging in means that the individual has engaged in the behavior recently enough to justify a reasonable belief that the individual's behavior is current.

Domicile: The legal residence of the household head or spouse as determined in accordance with State and local law.

Decent, safe, and sanitary: Housing is decent, safe, and sanitary if it satisfies the applicable housing quality standards.

Department: The Department of Housing and Urban Development.

Dependent: A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

Disability assistance expenses: Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Disabled family: A family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Disabled person: See "person with disabilities."

Displaced family: A family in which each member, or whose sole member, is a person displaced by governmental action (such as urban renewal), or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

Displaced person: A person displaced by governmental action (such as urban renewal), or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

Drug: means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Drug-related criminal activity: The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

Drug trafficking: The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance.

Economic self-sufficiency program: Any program designed to encourage, assist, train or facilitate the economic independence of HUD-assisted families or to provide work for such families. These programs include programs for job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, and any program necessary to ready a participant for work (including a substance abuse or mental health treatment program), or other work activities.

Elderly family: A family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

Elderly person: A person who is at least 62 years of age.

Evidence of citizenship or eligible status: The documents that must be submitted to evidence citizenship or eligible immigration status.

Exception rent: An amount that exceeds the published fair market rent.

Extremely low-income families: Those families whose incomes do not exceed 30% of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30% of the median

income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Fair Housing Act: Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.).

Fair market rent (FMR): The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately-owned existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. FMRs are published periodically in the Federal Register.

Family includes but is not limited to:

- a. A family with or without children (the temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size);
- b. An elderly family;
- c. A near-elderly family;
- d. A disabled family;
- e. A displaced family;
- f. The remaining member of a resident family; and
- g. A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a resident family.

Family members: include all household members except live-in aides, foster children and foster adults. All family members permanently reside in the unit, though they may be temporarily absent. All family members are listed on the HUD-50058 form.

Family Rent to Owner: In the housing choice voucher program, the portion of rent to owner paid by the family.

Family self-sufficiency program (FSS program): The program established by a housing authority to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

Family share: The portion of rent and utilities paid by the family or the gross rent minus the amount of the housing assistance payment.

Family unit size: The appropriate number of bedrooms for a family as determined by the housing authority under the housing authority's subsidy standards.

First-time homeowner: In the homeownership option, a family of which no member owned any present ownership interest in a residence of any family member during the three years before commencement of homeownership assistance for the family. The term "first-time homeowner" includes a single parent or displaced homemaker (as those terms are defined in 12 U.S.C. 12713)

who, while married, owned a home with his or her spouse, or resided in a home owned by his or her spouse.

50058 Form: The HUD form that housing authorities are required to complete for each assisted household in public housing to record information used in the certification and re-certification process, and, at the option of the housing authority, for interim reexaminations.

FMR/exception rent limit: The Section 8 existing housing fair market rent published by HUD headquarters, or any exception rent. For a tenancy in the Housing Choice Voucher Program, the housing authority may adopt a payment standard up to the FMR/exception rent limit.

Full-time employment: Employment that averages at least 30 hours per week. This can include self-employment as long as the employee earns at least the average of the federal minimum wage over a 30 hour period.

Full-time student: A person who is attending school or vocational training on a full-time basis as defined by the institution.

Gender identity means actual or perceived gender-related characteristics.

Gross rent: The sum of the rent to the owner plus any utilities.

Group Home: A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide).

Guest: Means a person temporarily staying in the unit with the consent of a resident or other member of the household who has express or implied authority to so consent on behalf of the resident.

Head of household: The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Home: In the homeownership option: A dwelling unit for which the Mexico Housing Authority pays homeownership assistance.

Homeowner: In the homeownership option, a family of which one or more members owns title to the home.

Homeownership assistance: In the homeownership option, monthly homeownership assistance payments by the Mexico Housing Authority. Homeownership assistance payment may be paid to the family, or to a mortgage lender on behalf of the family.

Homeownership expenses: In the homeownership option, a family's allowable monthly expenses for the home, as determined by the Mexico Housing Authority in accordance with HUD requirements.

Homeownership option: Assistance for a homeowner or cooperative member under Sec. 982.625 to Sec. 982.641. A special housing type.

Household members: include all individuals who reside or will reside in the unit and who are listed on the lease, including live-in aides, foster children and foster adults.

Housing Assistance Payment (HAP): The monthly assistance by a housing authority, which includes (1) a payment to the owner for rent to the owner under the family's lease, and (2) an additional payment to the family if the total assistance payment exceeds the rent to owner.

Housing quality standards (HQS): The HUD minimum quality standards for housing assisted under the Section 8 program.

Housing voucher: A document issued by a housing authority to a family selected for admission to the Housing Choice Voucher Program. This document describes the program and the procedures for housing authority approval of a unit selected by the family. The housing choice voucher also states the obligations of the family under the program.

Housing choice voucher holder: A family that has an unexpired housing choice voucher.

Imputed income: For households with net family assets of more than \$5,000, the amount calculated by multiplying net family assets by a HUD-specified percentage. If imputed income is more than actual income from assets, the imputed amount is used in determining annual income.

Imputed welfare income: The amount of annual income not actually received by a family, as a result of a welfare benefit reduction for welfare fraud or the failure to comply with economic self-sufficiency requirements that is nonetheless included in the family's annual income for purposes of determining rent.

Income category: Designates a family's income range. There are three categories: low income, very low income and extremely low-income.

Incremental income: The increased portion of income between the total amount of welfare and earnings of a family member prior to enrollment in a training program and welfare and earnings of the family member after enrollment in the training program. All other amounts, increases and decreases, are treated in the usual manner in determining annual income.

Initial Housing Authority: In portability, both: (1) a housing authority that originally selected a family that later decides to move out of the jurisdiction of the selecting housing authority; and (2) a housing authority that absorbed a family that later decides to move out of the jurisdiction of the absorbing housing authority.

Initial payment standard: The payment standard at the beginning of the HAP contract term.

Initial rent to owner: The rent to owner at the beginning of the initial lease term.

Interest in the home: In the homeownership option:

- a. In the case of assistance for a homeowner, “interest in the home” includes title to the home, any lease or other right to occupy the home, or any other present interest in the home.
- b. In the case of assistance for a cooperative member, “interest in the home” includes ownership of membership shares in the cooperative, any lease or other right to occupy the home, or any other present interest in the home.

Interim (examination): A reexamination of a household's income, expenses, and household status conducted between the annual recertifications when a change in a household's circumstances warrant such a reexamination.

Jurisdiction: The area in which the housing authority has authority under State and local law to administer the program.

Law enforcement agency: The National Crime Information Center (NCIC), police departments and other law enforcement agencies that hold criminal conviction records.

Lease: A written agreement between an owner and participant for the leasing of a dwelling unit to the resident. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP Contract between the owner and the housing authority.

Legal capacity: The participant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

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

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

A live-in aide is not a party to the lease.

Low-income families: Those families whose incomes do not exceed 80% of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80% of the median for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low family incomes.

Manufactured home: A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS.

Manufacture home space: In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space.

Medical expenses: Medical expenses, including medical insurance premiums that are anticipated during the period for which annual income is computed, and that are not covered by insurance.

Membership shares: In the homeownership option, shares in a cooperative. By owning such cooperative shares, the share-owner has the right to reside in a particular unit in the cooperative, and the right to participate in management of the housing.

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

Moderate rehabilitation: Rehabilitation involving a minimum expenditure of \$1000 for a unit, including its prorated share of work to be accomplished on common areas or systems, to:

- a. upgrade to decent, safe and sanitary condition to comply with the Housing Quality Standards or other standards approved by HUD, from a condition below these standards (improvements being of a modest nature and other than routine maintenance); or
- b. repair or replace major building systems or components in danger of failure.

Monthly adjusted income: One twelfth of adjusted income.

Monthly income: One twelfth of annual income.

Mutual housing is included in the definition of "cooperative".

National: A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Near-elderly family: A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons who are at least 50 years of age but below the age of 62 living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

Net family assets:

- a. Net cash value after deducting reasonable costs that would be incurred in disposal of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.
- b. In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income.

- c. In determining net family assets, housing authorities or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or resident for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.
- d. For purposes of determining annual income under Section 8 Homeownership, the term “net family assets” does not include the value of a home currently being purchased with assistance under the Section 8 Homeownership Program. This exclusion is limited to the first 10 years after the purchase date of the home.

Noncitizen: A person who is neither a citizen nor national of the United States.

Notice Of Funding Availability (NOFA): For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

Occupancy standards: The standards that the housing authority establishes for determining the appropriate number of bedrooms needed to house families of different sizes or composition.

Other person under the tenant’s control: For the purposes of the definition of covered person it means the person, although not staying as a guest (as defined in this section) in the unit, is, or was at the time of the activity in question, on the premises (as premises is defined in this section) because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the tenant’s control.

Owner: Any person or entity, including a cooperative, having the legal right to lease or sublease existing housing. In the anti-drug related Areas of this policy, it means the owner of federally assisted housing.

Participant (participant family): A family that has been admitted to the housing authority's program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the housing authority for the family (first day of initial lease).

Payment standard: In a housing choice voucher tenancy, the maximum monthly assistance payment for a family (before deducting the total tenant payment by family contribution). For a housing choice voucher tenancy, the housing authority sets a payment standard in the range from 90% to 110% of the current FMR.

Permanently absent: A person or persons not actually residing in the unit who once lived there and does not intend to return. One becomes permanently absent when one vacates the unit.

Person with disabilities: A person who:

- A. Has a disability as defined in 42 U.S.C. 423
- B. Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
 - 1. Is expected to be of long-continued and indefinite duration;
 - 2. Substantially impedes his or her ability to live independently; and
 - 3. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
- C. Has a developmental disability as defined in 42 U.S.C. 6001

This definition does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

For purposes of qualifying for low-income housing, it does not include a person whose disability is based solely on any drug or alcohol dependence.

Portability: Renting a dwelling unit with Section 8 tenant-based assistance outside the jurisdiction of the initial housing authority.

Premises: The building or complex in which the dwelling unit is located, including common areas and grounds. For purposes of the anti-drug provisions of this policy it means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

Present ownership interest: In the homeownership option, “Present ownership option” in a residence includes title, in whole or in part, to a residence, or ownership, in whole or in part, of membership shares in a cooperative. “Present ownership interest” in a residence does not include the right to purchase title to the residence under a lease-purchase agreement.

Preservation: This program encourages owners of eligible multifamily housing projects to preserve low-income housing affordability and availability while reducing the long-term cost of providing rental assistance. The program offers several approaches to restructuring the debt of properties developed with project-based Section 8 assistance whose HAP contracts are about to expire.

Private space: In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

Processing Entity: The person or entity who is responsible for making eligibility and related determinations and an income reexamination. In the Section 8 and public housing programs the processing entity is the responsibility entity.

Project-Based Assistance Program: A Section 8 program administered by an Housing Authority pursuant to 24 CFR part 983, as amended by HUD in the Federal Register, Vol. 66, No. 10 on January 16, 2001 *Revisions to PHA Project-Based Assistance Program; Initial Guidance*.

Proration of assistance: The reduction in a family's housing assistance payment to reflect the proportion of family members in a mixed family who are eligible for assistance.

Public Housing: Housing assisted under the 1937 Act, other than under Section 8. Public housing includes dwelling units in a mixed finance project that are assisted by a PHA with capital or operating funds.

Public Housing Agency: A State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing.

Reasonable rent: A rent to owner that is not more than charged: (a) for comparable units in the private unassisted market; and (b) for a comparable unassisted unit in the premises.

Receiving Housing Authority: In portability, a housing authority that receives a family selected for participation in the tenant-based program of another housing authority. The receiving housing authority issues a housing choice voucher, and provides program assistance to the family.

Re-certification: A reexamination of a household's income, expenses, and family composition to determine the household's rent for the following 12 months.

Remaining member of a tenant family: A member of the family listed on the lease who continues to live in an assisted household after all other family members have left.

Rent to owner: The monthly rent payable to the owner under the lease. Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

Responsible Entity:

- A. For the public housing program, the Section 8 tenant-based assistance program (24 CFR 982), and the Section 8 project-based voucher program (24 CFR 983), and the Section 8 moderate rehabilitation program (24 CFR 882), responsible entity means the PHA administering the program under an ACC with HUD;
- B. For all other Section 8 programs, responsible entity means the Section 8 project owner.

Risk assessment: In the context of lead-based paint it means an on-site investigation to determine and report the existence, nature, severity, and location of lead-based paint hazards in residential dwellings, including:

- A. Information gathering regarding the age and history of the housing and occupancy by children under age 6;
- B. Visual inspection;
- C. Limited wipe sampling or other environmental sampling techniques;
- D. Other activity as may be appropriate; and
- E. Provision of a report explaining the results of the investigation.

Set-up charges: In a manufactured home space rental, charges payable by the family for assembly, skirting and anchoring the manufactured home.

Sexual orientation means homosexuality, heterosexuality, or bisexuality.

Shared housing: A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family.

Shelter allowance: That portion of a welfare benefit (e.g., TANF) that the welfare agency designates to be used for rent and utilities.

Single person: Someone living alone or intending to live alone who does not qualify as an elderly person, a person with disabilities, a displaced person, or the remaining member of a tenant family.

Single room occupancy housing (SRO): A unit for occupancy by a single eligible individual capable of independent living that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities.

Special admission: Admission of an applicant that is not on the housing authority waiting list, or admission without considering the applicant's waiting list position.

Special housing types: Special housing types include: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

Specified welfare benefit reduction:

- A. A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.
- B. "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:
 - 1. at the expiration of a lifetime or other time limit on the payment of welfare benefits;
 - 2. because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or
 - 3. because a family member has not complied with other welfare agency requirements.

State Wage Information Collection Agency (SWICA): The State agency receiving quarterly wage reports from employers in the State, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Statement of family responsibility: An agreement in the form prescribed by HUD, between the housing authority and a family to be assisted under the Moderate Rehabilitation Program, stating the obligations and responsibilities of the family.

Statement of homeowner obligations: In the homeownership option, the family's agreement to comply with program obligations.

Subsidy standards: Standards established by a housing authority to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

Suspension: Stopping the clock on the term of a family's housing choice voucher, for such period as determined by the housing authority, from the time when the family submits a request for housing authority approval to lease a unit, until the time when the housing authority approves or denies the request. Also referred to as tolling.

Temporarily absent: A person or persons not actually residing in a unit for a period of time while still maintaining control of the unit. If the absence exceeds 90 calendar days, the Housing Authority must agree to the absence.

Tenant: The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Third-party (verification): Oral or written confirmation of a household's income, expenses, or household composition provided by a source outside the household, such as an employer, doctor, school official, etc.

Tolling: see suspension.

Total tenant payment (TTP):

- (1) Total tenant payment is the amount calculated under Section 3(a)(1) of the 1937 Act which is the higher of :
 - a. 30% of the family's monthly adjusted income;
 - b. 10% of the family's monthly income;
 - c. Minimum rent; or
 - d. if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.
- (2) If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under Section 3(a)(1) shall be the amount resulting from one application of the percentage.

Utility allowance: If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a housing authority or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility hook-up charge: In a manufactured home space rental, costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

Utility reimbursement: The portion of the housing assistance payment that exceeds the amount of the rent to owner. It is only paid when the housing assistance payment exceeds the rent to owner. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Verification:

- a. The process of obtaining statements from individuals who can attest to the accuracy of the amounts of income, expenses, or household member status (e.g., employers, public assistance agency staff, doctors).
- b. The three types of verification are:
 - (1) Third-party verification, either written or oral, obtained from employers, public assistance agencies, schools, etc.
 - (2) Documentation such as a copy of a birth certificate or bank statement
 - (3) Family certification or declaration (only used when third-party or documentation verification is not available)

Very low-income families: Families whose incomes do not exceed 50% of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50% of the median for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Violent criminal activity: Means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

Voucher (rental voucher): A document issued by a housing authority to a family selected for admission to the Housing Choice Voucher Program. This document describes the program and the procedures for housing authority approval of a unit selected by the family and states the obligations of the family under the program.

Voucher holder: A family holding a housing choice voucher with unexpired search time.

Waiting list admission: An admission from the housing authority waiting list. [24 CFR 982.4]

Welfare Assistance: Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, State or local governments (including assistance provided under the Temporary Assistance for Needy Families (TANF) program, as that term is defined under the implementing regulations issued by the Department of Health and Human Services at 45 CFR 260.31).

45 CFR 260.31 defines the term “assistance” to include cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

It includes such benefits even when they are:

- A. Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and
- B. Conditioned on participation in work experience or community service (or any other work activity under 45 CFR 261.30).

Except where excluded later in this definition, it also includes supportive services such as transportation and childcare provided to families who are not employed.

The term “assistance” excludes:

- A. Nonrecurrent, short-term benefits that:
 - 1. Are designed to deal with a specific crisis situation or episode of need;
 - 2. Are not intended to meet recurrent or ongoing needs; and
 - 3. Will not extend beyond four months.
- B. Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);
- C. Supportive services such as child care and transportation provided to families who are employed;
- D. Refundable earned income tax credits;
- E. Contributions to, and distributions from, Individual Development Accounts;
- F. Services such as counseling, case management, peer support, childcare information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and
- G. Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of the Act, to an individual who is not otherwise receiving assistance.

Welfare rent: In "as-paid" welfare programs, the amount of the welfare benefit designated for shelter and utilities.

Welfare -to-Work (WTW) families: Families assisted with housing choice voucher funding awarded under the HUD welfare-to-work voucher program.

Written notification: All written notifications required in this policy shall be hand delivered with a signed receipt or mailed via first class mail unless specified otherwise.

ACRONYMS

ACC	Annual Contributions Contract
CACC	Consolidated Annual Contributions Contract
CFR	Code of Federal Regulations
FMR	Fair Market Rent
FSS	Family Self Sufficiency (program)
HA	Housing Authority
HAP	Housing Assistance Payment
HCDA	Housing and Community Development Act
HQS	Housing Quality Standards
HUD	Department of Housing and Urban Development
INS	(U.S.) Immigration and Naturalization Service
NAHA	(Cranston-Gonzalez) National Affordable Housing Act
NOFA	Notice of Funding Availability
OMB	(U.S.) Office of Management and Budget
PBC	Project-Based Certificate (program)
QHWRA	Quality Housing and Work Responsibility Act of 1998
PHA	Public Housing Agency
TTP	Total Tenant Payment

ATTACHMENT 1

GREVIANCE PROCEDURE SECTION 8 PROGRAM

COMPLAINTS, INFORMAL REVIEWS FOR APPLICANTS, INFORMAL HEARINGS FOR PARTICIPANTS

COMPLAINTS

The Mexico Housing Authority will investigate and respond to complaints by participant families, owners, and the general public. The Mexico Housing Authority may require that complaints other than HQS violations be put in writing. Anonymous complaints are investigated whenever possible.

INFORMAL REVIEW FOR THE APPLICANT

Informal Review for the Applicant

The Mexico Housing Authority will give an applicant for participation in the Section 8 Existing Program prompt notice of a decision denying assistance to the applicant. The notice will contain a brief statement of the reasons for the Mexico Housing Authority decision. The notice will state that the applicant may request an informal review within 10 business days of the denial and will describe how to obtain the informal review.

When an Informal Review is not Required

The Mexico Housing Authority will not provide the applicant an opportunity for an informal review for any of the following reasons:

1. A determination of the family unit size under the Mexico Housing Authority subsidy standards.
2. A Mexico Housing Authority determination not to approve an extension or suspension of a housing choice voucher term.
3. A Mexico Housing Authority determination not to grant approval to lease a unit under the program or to approve a proposed lease.
4. A Mexico Housing Authority determination that a unit selected by the applicant is not in compliance with HQS.
5. A Mexico Housing Authority determination that the unit is not in accordance with HQS because of family size or composition.
6. General policy issues or class grievances.

7. Discretionary administrative determinations by the Mexico Housing Authority.

Informal Review Process

The Mexico Housing Authority will give an applicant an opportunity for an informal review of the Mexico Housing Authority decision denying assistance to the applicant. The procedure is as follows:

1. The review will be conducted by any person or persons designated by the Mexico Housing Authority other than the person who made or approved the decision under review or a subordinate of this person.
2. The applicant will be given an opportunity to present written or oral objections to the Mexico Housing Authority decision.
3. The Mexico Housing Authority will notify the applicant of the Mexico Housing Authority decision after the informal review within 14 calendar days. The notification will include a brief statement of the reasons for the final decision.

Considering Circumstances

In deciding whether to deny assistance to an applicant because of action or inaction by members of the family, the Housing Authority may consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial of assistance on other family members who were not involved in the action or failure.

The Housing Authority may impose, as a condition of assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. The Housing Authority may permit the other members of a participant family to receive assistance.

If the Housing Authority seeks to deny assistance because of illegal use, or possession for personal use, of a controlled substance, or pattern of abuse of alcohol, such use or possession or pattern of abuse must have occurred within one year before the date that the Housing Authority provides notice to the family of the Housing Authority determination to deny assistance. In determining whether to deny assistance for these reasons the Mexico Housing Authority will consider evidence of whether the household member:

1. Has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol;
2. Has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol; or

3. Is participating in a supervised drug or alcohol rehabilitation program and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol.

Informal Review Procedures for Denial of Assistance on the Basis of Ineligible Immigration Status

The applicant family may request that the Mexico Housing Authority provide for an informal review after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. The applicant family must make this request within 30 calendar days of receipt of the Notice of Denial or Termination of Assistance, or within 30 calendar days of receipt of the INS appeal decision.

For applicant families, the Informal Review Process above will be utilized with the exception that the applicant family will have up to 30 calendar days of receipt of the Notice of Denial or Termination of Assistance, or of the INS appeal decision to request the review.

INFORMAL HEARINGS FOR PARTICIPANTS

When a Hearing is Required

1. The Mexico Housing Authority will give a participant family an opportunity for an informal hearing to consider whether the following Mexico Housing Authority decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations, and Mexico Housing Authority policies:
 - a. A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment.
 - b. A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the Mexico Housing Authority utility allowance schedule.
 - c. A determination of the family unit size under the Mexico Housing Authority subsidy standards.
 - d. A determination to terminate assistance for a participant family because of the family's action or failure to act.
 - e. A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under the Mexico Housing Authority policy and HUD rules.
 - f. Denial of a hardship exemption to the minimum rent requirement.
2. In cases described in paragraphs 16.3(A)(1)(d), (e), and (f) of this Section, the Mexico Housing Authority will give the opportunity for an informal hearing before the

Mexico Housing Authority terminates housing assistance payments for the family under an outstanding HAP contract.

When a Hearing is not Required

The Mexico Housing Authority will not provide a participant family an opportunity for an informal hearing for any of the following reasons:

1. Discretionary administrative determinations by the Mexico Housing Authority.
2. General policy issues or class grievances.
3. Establishment of the Mexico Housing Authority schedule of utility allowances for families in the program.
4. A Mexico Housing Authority determination not to approve an extension or suspension of a housing choice voucher term.
5. A Mexico Housing Authority determination not to approve a unit or lease.
6. A Mexico Housing Authority determination that an assisted unit is not in compliance with HQS. (However, the Mexico Housing Authority will provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family.)
7. A Mexico Housing Authority determination that the unit is not in accordance with HQS because of the family size.
8. A determination by the Mexico Housing Authority to exercise or not exercise any right or remedy against the owner under a HAP contract.

Notice to the Family

1. In the cases described in paragraphs 16.3(A)(1)(a), (b), and (c) of this Section, the Mexico Housing Authority will notify the family that the family may ask for an explanation of the basis of the Mexico Housing Authority's determination, and that if the family does not agree with the determination, the family may request an informal hearing on the decision.
2. In the cases described in paragraphs 16.3(A)(1)(d), (e), and (f) of this Section, the Mexico Housing Authority will give the family prompt written notice that the family may request a hearing within 10 business days of the notification. The notice will:
 - a. Contain a brief statement of the reasons for the decision; and

- b. State if the family does not agree with the decision, the family may request an informal hearing on the decision within 10 business days of the notification.

Hearing Procedures

The Mexico Housing Authority and participants will adhere to the following procedures:

1. Discovery

- a. The family will be given the opportunity to examine before the hearing any Mexico Housing Authority documents that are directly relevant to the hearing. The family will be allowed to copy any such document at the family's expense. If the Mexico Housing Authority does not make the document(s) available for examination on request of the family, the Mexico Housing Authority may not rely on the document at the hearing.

- b. The Mexico Housing Authority will be given the opportunity to examine, at the Mexico Housing Authority's offices before the hearing, any family documents that are directly relevant to the hearing. The Mexico Housing Authority will be allowed to copy any such document at the Mexico Housing Authority's expense. If the family does not make the document(s) available for examination on request of the Mexico Housing Authority, the family may not rely on the document(s) at the hearing.

Note: The term document includes records and regulations.

2. Representation of the Family

At its own expense, a lawyer or other representative may represent the family.

3. Hearing Officer

- a. The hearing will be conducted by any person or persons designated by the Mexico Housing Authority, other than a person who made or approved the decision under review or a subordinate of this person.

- b. The person who conducts the hearing will regulate the conduct of the hearing in accordance with the Mexico Housing Authority hearing procedures.

4. Evidence

The Mexico Housing Authority and the family must have the opportunity to present evidence and may question any witnesses. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

5. Issuance of Decision

The person who conducts the hearing must issue a written decision within 14 calendar days from the date of the hearing, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family shall be based on a preponderance of the evidence presented at the hearing.

6. Effect of the Decision

The Mexico Housing Authority is not bound by a hearing decision:

- a. Concerning a matter for which the Mexico Housing Authority is not required to provide an opportunity for an informal hearing under this Section, or that otherwise exceeds the authority of the person conducting the hearing under the Mexico Housing Authority hearing procedures.
- b. Contrary to HUD regulations or requirements, or otherwise contrary to Federal, State, or local law.
- c. If the Mexico Housing Authority determines that it is not bound by a hearing decision, the Mexico Housing Authority will notify the family within 14 calendar days of the determination, and of the reasons for the determination.

Considering Circumstances

In deciding whether to terminate assistance because of action or inaction by members of the family, the Housing Authority may consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.

The Housing Authority may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. The Housing Authority may permit the other members of a participant family to continue receiving assistance.

If the Housing Authority seeks to terminate assistance because of illegal use, or possession for personal use, of a controlled substance, or pattern of abuse of alcohol, such use or possession or pattern of abuse must have occurred within one year before the date that the Housing Authority provides notice to the family of the Housing Authority determination to deny or terminate assistance. In determining whether to terminate assistance for these reasons the Mexico Housing Authority will consider evidence of whether the household member:

1. Has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol;

2. Has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol; or
3. Is participating in a supervised drug or alcohol rehabilitation program and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol.

Informal Hearing Procedures for Denial of Assistance on the Basis of Ineligible Immigration Status

The participant family may request that the Mexico Housing Authority provide for an informal hearing after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. This request must be made by the participant family within 30 calendar days of receipt of the Notice of Denial or Termination of Assistance, or within 30 calendar days of receipt of the INS appeal decision.

For the participant families, the Informal Hearing Process above will be utilized with the exception that the participant family will have up to 30 calendar days of receipt of the Notice of Denial or Termination of Assistance, or of the INS appeal decision.

Attachment two

Housing Choice Voucher (HCV) Family Moves with Continued Assistance, Family Briefing, and Voucher Term's Suspension. Notice PIH 2016 – 09 (HA)

1. Purpose. This notice updates previous guidance relating to family moves with continued assistance and incorporates other related changes resulting from publication of the rule “Housing Choice Voucher Program: Streamlining the Portability Process” (hereafter portability rule) (80 FR 50564, published in the Federal Register on August 20, 2015). On September 2, 2015, a technical correction to the portability rule was published in the Federal Register. The technical correction (80 FR 52619) incorporates two provisions that were addressed in the preamble but were inadvertently omitted from the regulatory text. The two provisions include the requirement to provide as part of both the oral briefing and the information packet: (1) an explanation of the advantages of areas with low concentrations of low income families and (2) any information on selecting a unit that HUD makes available. You may find a side-by-side comparison of previous and new regulatory requirements here:

<http://portal.hud.gov/hudportal/documents/huddoc?id=Comparportrulechanges.pdf>.

Specifically, this notice provides guidance on PHA administrative responsibilities related to family moves with continued assistance both inside and outside the PHA's jurisdiction. Additionally, this notice provides guidance on family briefings (24 CFR § 982.301) and suspension of the voucher term (24 CFR § 982.303).

PHAs are reminded that documentation demonstrating compliance with the requirements of this notice and regulation must be kept on file. HUD may request this documentation at any time.

2. Background. One of the key features of the HCV program is the mobility of the assistance. Regulations at 24 CFR § 982.353 provide that HCV participants may choose a unit that meets program requirements anywhere in the United States, provided that a PHA administering the tenant-based program has jurisdiction over the area in which the unit is located. Moves with continued assistance can occur both inside and outside of the PHA's jurisdiction. The term “portability” refers to the process of leasing a dwelling unit¹ with tenant-based HCV assistance outside of the jurisdiction of the PHA that initially issues the family its voucher (the initial PHA). The PHA that receives the family that has ported from the initial PHA's jurisdiction is called the receiving PHA. When a family moves under portability, the receiving PHA may choose to absorb the family into its own program or bill the initial PHA.

Program regulations covering moves with continued tenant-based assistance, where a family may move, and the responsibilities of the initial PHA and the receiving PHA are found at 24 CFR §§ 982.353 through 982.355. The following sections provide detailed guidance on the portability process and present changes made in regulation as a result of publication of the final portability rule. Regulatory changes on suspension of the term of the voucher and family briefings are also presented below.

3. Fair Housing and Equal Opportunity Requirements. PHAs must administer their HCV program in compliance with all applicable fair housing and other civil rights requirements, including the authorities cited at 24 CFR § 5.105(a). This includes, but is not limited to, the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, titles II or III of the Americans with Disabilities Act, and HUD's Equal Access Rule. The PHA must also affirmatively further fair housing in accordance with its certification pursuant to 24 CFR § 903.7(o). If the PHA has completed an Assessment of Fair Housing conducted in accordance with the requirements of the Affirmatively Furthering Fair Housing rule at 24 CFR §§ 5.150-5.180, the PHA must certify that it will affirmatively further fair housing in accordance with 2015 revisions to 24 CFR 903.7(o) made by the AFFH final rule at 80 FR 42272-42371 (July 16, 2015). Under the July 16, 2015 revision, the PHA's certification that it will affirmatively further fair housing requires that it will (1) take meaningful actions to further the goals identified in its AFH, (2) that it will take no action that is materially inconsistent with its obligation to affirmatively further fair housing, and (3) that it will address fair housing issues and contributing factors in its programs, in accordance with 24 CFR 903.7(o)(3). If the PHA has not yet completed an Assessment of Fair Housing, the PHA must affirmatively further fair housing in accordance with its certification pursuant to 24 CFR 903.7(o) as implemented prior to July 16, 2015. See 24 CFR 5.151, 5.160(a)(3). Under this version of 24 CFR 903.7(o) that existed before July 16, 2015, a PHA must certify that it will affirmatively further fair housing by (1) examining its programs or proposed programs, (2) identifying any impediments to fair housing choice within those programs, (3) addresses those impediments in a reasonable fashion in view of the resources available, (4) works with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement, and (5) maintains records reflecting these analyses and actions, with some limited exceptions found in 24 CFR 903.2(b)(2). Affirmatively furthering fair housing under either scenario includes helping families use their vouchers to move from segregated to integrated areas, from racially or ethnically concentrated areas of poverty (R/ECAPs), and from areas with disparities in access to opportunity within its jurisdiction and through portability moves outside of the jurisdiction. See 24 CFR 982.53 for the equal opportunity requirements for the HCV program.

Questions relating to fair housing and equal opportunity requirements should be addressed to your local HUD fair housing office. You may find HUD's Office of Fair Housing and Equal Opportunity directory at the following address:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/theodir.

a. Reasonable Accommodations. Notwithstanding any other provision of this notice, PHAs must consider requests for reasonable accommodations that are necessary for a qualified individual with a disability to benefit from the program (in accordance with the Fair Housing Act, Section 504 of the Rehabilitation Act, title II of the Americans with Disabilities Act and HUD's implementing regulations at 24 CFR 100.204, 24 CFR 8.33, and 28 CFR 35.130). An individual with a disability can request a reasonable accommodation to any rules, policies, practices or services at any time. This may arise, for example, when a request to move is due to a disability of a family member. This provision applies even if a family might otherwise be restricted from moving (e.g., under a "one move per year" policy or because of insufficient funding). The reasonable accommodation determination is made on a case-by-case basis.

In cases where the limitation on portability is a discretionary policy of the PHA, the PHA must grant the accommodation unless doing so would impose an undue financial and administrative burden to the PHA. In cases where the limitation on portability is compelled by regulation, the PHA must first assess whether the requested accommodation would impose an undue financial and administrative burden. If this assessment confirms no undue burden, the PHA must request a waiver of the regulatory provision from HUD.

In cases where a PHA determines it has insufficient funding to allow a move (provided that all of the requirements of section 7 of this notice are met) the PHA must consider a request for a reasonable accommodation, but may, where the individual facts warrant, determine that allowing the move would pose an undue financial and administrative burden to the PHA. Such determination is subject to review by the local HUD office, as well as by the HUD Office of Fair Housing and Equal Opportunity in the event a complaint is filed alleging a failure to grant a reasonable accommodation.

With respect to voucher extensions of time, both receiving and initial PHAs should consider that individuals with disabilities and families that include a member with a disability may require additional time to locate a suitable unit. Such households may also request an extension of time as a reasonable accommodation. Reasonable accommodation requests could also be made in the following areas: requesting that specific receiving PHA policies are provided to the family under the explanation of how portability works, requesting additional details about a receiving PHA when selecting the receiving PHA, and requesting a larger unit size.

b. Limited English Proficiency (LEP) and Effective Communication with Individuals with Disabilities. In communications and making written information available to families (including Appendix B below), PHAs must ensure that such information is available in appropriate languages to ensure access for persons with LEP. See HUD's LEP guidance at:

http://www.lep.gov/guidance/HUD_guidance_Jan07.pdf. For further information regarding LEP requirements, see www.lep.gov.

PHAs must also ensure that communications and materials are provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and their implementing regulations. PHAs must provide appropriate auxiliary aids and services necessary to ensure effective communication, which includes ensuring that information is provided in appropriate accessible formats as needed, e.g., Braille, audio, large type, assistive listening devices, and sign language interpreters. See Section 504 requirements regarding effective communication requirements for persons with disabilities in 24 CFR 8.6 and ADA Title II requirements at 28 CFR Part 35, Subpart D. In addition, for more information regarding effective communication requirements under the ADA, which are similar to the requirements under Section 504, see the U.S. Department of Justice's Effective Communication guidance at:

<http://www.ada.gov/effective-comm.htm>.

4. Family Briefing. When a family is first selected to participate in the HCV program, regulations require that the PHA give the family an oral briefing and an information packet, which include information on a specific set of subjects listed in regulation. The following paragraphs focus only on changes to the required contents of family briefings resulting from publication of the final portability rule. The full list of required oral briefing subjects can be found at 24 CFR § 982.301(a), and the full list of required briefing packet subjects at 24 CFR § 982.301(b). PHAs must make any necessary revisions to their current materials and to the delivery of the oral briefing to comply with the changes described below.

a. How Portability Works. Regulations require that an explanation of how portability works is provided as part of both the oral briefing and the briefing packet to all families, not just to those families who are eligible to move under portability. Also, PHAs must explain to families who elect to move under portability how differences in the receiving PHA policies may affect the family's assistance through screening criteria, subsidy standards, payment standards and any other elements of the portability process which may affect the family's assistance. For example, the receiving PHA might have more stringent policies related to screening for criminal backgrounds which may impact the family's assistance.

PHAs are generally not required to research and provide families with specific receiving PHA policies. Instead, the requirement is for initial PHAs to make the family aware that the receiving PHA's policies may be different and how that may impact the family's assistance.

b. Advantages of Moving to Areas with Low Concentrations of Low Income Families. HCV regulations now require that an explanation of the advantages of moving to an area that does not have a high concentration of low income families be provided to all families, not just to families currently living in high-poverty census tracts. This explanation is to be provided as part of the oral briefing and the information packet. PHAs no longer need to identify whether a family lives in a high-poverty census. For purposes of this section, PHAs may follow HUD's definition of Concentrated Areas of Poverty under the AFFH Tables and Mapping Tool (see section 4.e below for the definition).

PHAs may use research that shows positive outcomes on voucher families who move to low-poverty areas, to prepare materials and in delivering information on the advantages of moving to areas with low concentration of low income families. For example, research has shown that moving to areas of low-poverty concentration has strong positive physical and mental health effects. Research has also shown that those families who lived in low-poverty neighborhoods for a longer period had an increased likelihood of finding employment and having higher incomes, and their children also had higher scores in school and were more likely to enroll in college. The following research papers/reports include some of the resources available to PHAs:

(1) "The Impacts of Neighborhoods on Intergenerational Mobility: Childhood Exposure Effects and County-Level Estimates" (Raj Chetty and Nathaniel Hendren, 2015) and "The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment" (Raj Chetty, Nathaniel Hendren, and Lawrence Katz, 2015): these studies show how neighborhoods affect upward mobility of low-income children and find that every year of

exposure to a better environment improves a child's chances of success. <http://www.equality-of-opportunity.org/index.php/executive-summaries>.

(2) "Benefits of Living in High-Opportunity Neighborhoods" (Urban Institute, 2012): this brief analyzes and discusses findings from HUD's Moving to Opportunity (MTO) demonstration.

<http://www.urban.org/research/publication/benefits-living-high-opportunity-neighborhoods>.

(3) HUD's MTO demonstration: tested the long-term benefits of helping poor families move from severely distressed housing projects to low-poverty neighborhoods.

http://www.huduser.org/publications/pdf/MTOFHD_fullreport_v2.pdf.

c. Information on Selecting a Unit. Regulations require that any information that HUD makes available on how to select a unit is provided as part of the oral briefing and the briefing packet. Besides the HUD brochure "A Good Place to Live" there is currently no other HUD provided information on this topic. HUD will notify PHAs if such information is made available in the future.

d. Voucher Term. In previous regulation, the PHA was required to explain (as part of the briefing packet) the term of the voucher, and the PHA's policies on extension or suspension of the voucher term. The PHA is still required to include information in the briefing packet about the term of the voucher, extensions, and voucher suspension. However, the information on voucher suspension must no longer be presented as a PHA policy because current regulation mandates voucher suspension. Instead, the briefing packet must be revised to explain how voucher suspension works under current regulation.

e. List of Landlords or Other Resources. Regulations require that a list of landlords known to the PHA who may be willing to lease a unit to the family, or other resources known to the PHA that may assist a family in locating a unit, is provided to families as part of the briefing packet. Generally, this list may include only resources, or only landlords, or both. PHAs whose jurisdiction includes areas of poverty or minority concentration must ensure that the list covers areas outside of poverty or minority concentration. To meet this requirement, PHAs must do the following:

(1) Conduct outreach to landlords within the PHA's jurisdiction with properties outside areas of minority or poverty concentration, so as to develop relationships with such landlords, market the advantages of participating in the HCV program (e.g., the PHA guarantees a portion of the rent), and increase their interest in participating in the program.

(2) Include resources that will assist voucher holders in finding units outside areas of minority or poverty concentration, as part of the list. A list of resources is below.

Consistent with their obligations to affirmatively further fair housing, PHAs are expected to ensure that the list also covers areas outside of R/ECAPs, integrated areas, and areas providing

access to opportunity. PHAs may conduct the activities described above in taking steps to ensure that the list covers these areas.

Data/Mapping Tools: PHAs have two options for determining whether an area is a poverty or minority concentrated area:

(1) HUD's Data and Mapping Tool provides maps and tables at the jurisdictional (CDBG, HOME, and ESG jurisdictions) and regional level. PHAs can select the CDBG jurisdiction(s) that best approximates the PHA's jurisdiction for the HCV program and produce maps that show where HCV participants are living and how that relates to poverty or minority concentration in the community, R/ECAPs, the location of other assisted housing, segregated and integrated areas, and access to proficient schools, jobs, and transportation. The maps show the census tracts boundaries within a given jurisdiction and highlights those census tracts within a jurisdiction or region that are R/ECAPs. PHAs may overlay neighborhood maps of their jurisdictions to see how the tract boundaries overlap with neighborhoods in the community. HUD's AFFH Data and Mapping Tool and User Guide can be found on HUD's website at the following address:

<https://www.hudexchange.info/resource/4867/affh-data-and-mapping-tool/>.

(2) The Federal Financial Institutions Examination Council's (FFIEC) Geocoding/Mapping System (<https://geomap.ffiec.gov/FFIECGeocMap/GeocodeMap1.aspx>) provides information for specific addresses on MSA median family income, census tract median family income, tract percentage below the poverty line, tract minority population, tract minority percentage, and related topics.

Definition of R/ECAPs: HUD's AFFH Data and Mapping Tool defines R/ECAPs as2:

- (1) Tracts with a non-white population of 50% or more (20% or more for non-metro areas), and
- (2) Tracts with a poverty rate of more than 40% or at least 3 times the average tract poverty rate for the metropolitan/micropolitan area, whichever is lower.

Resources: Resources that may assist voucher holders in finding units outside areas of minority or poverty concentration include, but are not limited to:

(1) Information on how to use Zillow, Craigslist, and other search tools used by mainstream renters.

(2) Mobility counseling resources, either managed by the PHA or by another organization such as a HUD-assisted housing counseling agency. A list of HUD approved housing counseling agencies, searchable by whether they provide mobility and relocation counseling, can be found at

<http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?weblistaction=summary>.

These same resources may also be used to assist voucher holders in finding units outside R/ECAPs, segregated areas, and areas with disparities in access to opportunity.

Questions about which areas the list must cover to meet fair housing requirements should be addressed to your local HUD fair housing office. You may find HUD's Office of Fair Housing and Equal Opportunity directory at the following address:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/theodir.

More information can be found at the following address:

https://www.huduser.gov/portal/sites/default/files/docs/AFFH_Data_Documentation_12_31_2015.docx.

5. Suspension of the Term of the Voucher. During the initial or extended term of the voucher, the family is required to submit a Request for Tenancy Approval (Form HUD-52517). The term of the voucher is suspended starting when the Request for Tenancy Approval is submitted to the PHA until the PHA notifies the family in writing whether the assisted tenancy has been approved or denied. This provision applies to all families who are leasing a unit (not just to families under portability). Suspension applies even if a family that submits a Request for Tenancy Approval decides to cancel such request. In such cases, the suspension ends when the PHA learns of the cancellation. Under portability procedures, the requirement to suspend the term of the voucher applies to the receiving PHA only. See section 14.b below for more information on the impact of suspension on the initial billing deadline.

6. Denying Family Requests to Move. This section outlines the process for denying a family's request to move, including when the PHA may deny a family's request to move, when the PHA must deny the family's request to move, and Violence Against Women Act (VAWA) requirements. See section 7 below for additional details on denying families' request to move due to insufficient funding.

a. Mandatory Denial of a Family Request to Move. PHAs must deny the move for applicants who are not income eligible in the receiving PHA's jurisdiction. Moves must also be denied for families that have moved out of their assisted unit in violation of the lease. See Section 6.c below for exceptions under VAWA.

b. Discretionary Denial of a Family Request to Move. PHAs may deny a family's request to move under the following program regulations:

(1) The family's action or failure to act as described in 24 CFR § 982.552 or 982.553.

(2) The request to move does not comply with the PHA's policies on the timing and frequency of moves in accordance with 24 CFR § 982.354(c)(2). These policies include prohibiting any move by the family within the initial lease term and prohibiting more than one move by the family during any one-year period. A PHA must not establish a policy that restricts families from moving only at the time of their annual reexamination. These policies must be consistent with applicable civil rights laws and regulations. See section 3 above.

(3) The PHA has insufficient funding for continued assistance in accordance with 24 CFR § 982.354(e)(1). See section 7 below for more information.

(4) The family is a non-resident applicant and is requesting to port. Nonresident applicants have no right to move under portability for 12 months from the time the family is admitted to the HCV program. See 24 CFR § 982.353(c) for the definition of non-resident applicant and other provisions. Initial PHAs may allow the move before the end of this 12 month period.

c. Violence Against Women Act (VAWA). As previously noted in HUD Notice PIH 2007-5, the Violence Against Women and Justice Department Reauthorization Act 2005 (VAWA 2005) amended section 8(r) of the U.S. Housing Act to provide an exception to the prohibition against a family moving in violation of the lease. VAWA 2005 provides that the family may receive a voucher and move in violation of the lease if the family has complied with all other obligations of the voucher program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is, or has been, the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit. The final rule, HUD Programs, VAWA Conforming Amendments, was published in the Federal Register on October 27, 2010. The Violence Against Women Reauthorization Act of 2013 (VAWA 2013) expanded protections to victims of sexual assault. More information on these expanded protections can be found in the “VAWA 2013: Overview of Applicability to HUD Programs” Federal Register Notice, 78 FR 47717, August 6, 2013.

If the circumstances described above exist, the PHA may allow a family to move if the only basis for the denial is that the family is violating the lease agreement. The PHA may request that the family (victim) document or provide written evidence to demonstrate that the violence occurred.

The family has the option of either submitting the HUD-approved certification form (Form HUD-500663) OR third-party documentation, such as:

(1) A record of a Federal, State, tribal, territorial, or local law enforcement agency (e.g. police), court, or administrative agency; or

(2) Documentation signed by the victim and signed by an employee, agent or volunteer of a victim service provider, an attorney, a medical professional, or a mental health professional from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) that he or she believes that the incident of domestic violence, dating violence, sexual assault, or stalking is grounds for protection under 24 CFR part 5, subpart L.

7. Denying Family Requests to Move - Insufficient Funding. This section outlines when PHAs may deny moves due to insufficient funding, and describes the steps PHAs must take to deny moves for this reason, including notifying the local PIH field office, establishing policies that address denial of family moves due to insufficient funding, and consequences for improper denial of requests to move due to insufficient funding. This section also provides guidance for how PHAs determine and document the determination of insufficient funding.

If a PHA approves a family's request to move and then subsequently experiences a funding shortfall, the PHA may only rescind the voucher if the family would be allowed to remain in its current unit. If the family cannot remain in the unit (e.g. family has already vacated the unit or family has already notified the owner of their intent to vacate and the owner has re-let the unit to another family) the PHA must not rescind the voucher. The family must be allowed to lease a new unit. This requirement applies to moves within the PHA's jurisdiction and to portability moves.

³ Note that Form HUD-50066 is subject to change as a result of publication of the VAWA 2013 Final Rule.

An initial PHA may not terminate a portability voucher under a billing arrangement with a receiving PHA for insufficient funding because the initial PHA is not a party to the HAP contract. Initial PHAs may not impose a cap on the amount of HAP they will pay for a family that has moved under portability.

a. When a PHA May Deny a Move Due to Insufficient Funding. A PHA may only deny a request to move due to insufficient funding if all of the following applies:

(1) The move is to a higher cost unit (for moves within the PHA's jurisdiction) or to a higher cost area (for portability moves). See definitions below.

(2) The receiving PHA is not absorbing the voucher (applicable only to portability moves).

(3) The PHA would be unable to avoid termination of current participants during the calendar year in order to remain within its budgetary allocation (including any available HAP reserves) for housing assistance payments.

Higher cost unit: is defined as a unit which requires a higher subsidy amount due to an increase in the gross rent for the new unit. A PHA may not deny requests to move due to insufficient funding if the subsidy for the new unit is equal to or less than the current subsidy being paid for the family.

Higher cost area: is defined as an area where the PHA would have to pay a higher subsidy amount due to higher payment standards or more generous subsidy standards of the receiving PHA (e.g. the receiving PHA issues a 3-bedroom voucher to a family that received a 2-bedroom voucher from the initial PHA). A PHA may not deny requests to move due to insufficient funding if the area the family has selected is not a higher cost area.

A PHA may not deny a family request to move under portability if the receiving PHA has confirmed that they will absorb the family into their program. In such cases, the initial PHA has no grounds to deny the portability move under 24 CFR § 982.354(e)(1).

The PHA must not deny the move for families moving within the PHA's jurisdiction (even if the new unit is a higher cost unit) if the family must move from their current unit (e.g. the unit failed

HQS, the owner failed to renew the lease, etc.). If the family is moving under portability, the PHA may deny the move under these circumstances if the family is moving to a higher cost area under portability and the receiving PHA is not absorbing the family into their program.

A PHA may not deny a family's request to move due to insufficient funding because it wishes to admit additional families from its waiting list into its voucher program, regardless of whether it has unit months available to do so. If the PHA denies a family's request to move, it may not subsequently admit families from its waiting list to its HCV program until families with open requests to move (based on PHA policy) are processed. See section 7.d below for more information on PHA policies addressing denial of family moves for insufficient funding.

b. Notifying the Local PIH Field Office. The PHA is required by regulation to provide written notification to the local PIH field office within 10 business days of the date on which the PHA determines it is necessary to deny family moves due to insufficient funding. Only one notification per calendar year is required and it must include the following:

- (1) A financial analysis that demonstrates insufficient funds are projected to meet the current calendar year projection of expenses. See section 7.c below for more information.
- (2) A statement certifying the PHA has ceased issuing vouchers and will not admit families from their waiting list while the limitation on moves is in place.
- (3) A copy of the PHA's policy stating how the PHA will address families who have been denied moves. The requirements of the policy are described in section 7.d below.

PHAs do not need prior HUD approval to deny a family move for insufficient funding, subject to section 7.e below.

c. Determining Whether There Is Sufficient Funding. In projecting whether there is sufficient funding available for the remainder of the calendar year, PHAs may make reasonable estimates to factor in conditions such as pending rent increases that would affect the subsidy and the attrition rate for families leaving the program. PHAs may not include projected costs for vouchers issued to families from the waiting list but not yet leased as part of this analysis. Vouchers issued to those on the waiting list cannot be considered an expense for purposes of determining whether to deny a move due to insufficient funding until such time that HAP contracts are executed and the PHA is legally obligated to make HAP payments. The initial PHA may consider any reported changes in the family's income or composition that may result in a decreased subsidy amount.

A two-year forecasting tool is available on HUD's website at the following address: <http://www.hud.gov/offices/pih/programs/hcv>. This tool is designed to assist PHAs in determining if sufficient funding is available to support a move and is helpful in demonstrating the PHA's determination that sufficient funding is not available. PHAs are not required to use this tool and may choose to use other tools of their own.

d. PHA Policies Addressing Denial of Family Moves For Insufficient Funding. The PHA must establish policies in its Administrative Plan that state how the PHA will address families whose request to move are denied due to insufficient funding once the PHA determines funds are available for those moves. At a minimum, the PHA policy must address:

- (1) How the PHA will inform families of the PHA's local policy regarding moves denied due to insufficient funding (e.g. information contained in briefing packets or in a letter to the tenant at the time the move is denied).
- (2) How long the family's request to move will be open for consideration.
- (3) How the PHA will notify families with open requests when funds become available (which should be no later than January 1st of the following calendar year).

e. **Improper Denial of Requests to Move.** If HUD determines that the PHA lacks grounds to deny moves due to insufficient funding, the PHA must immediately inform any affected family and immediately process the family's request to move, regardless of PHA policies as described in section 7.d above. HUD may impose sanctions on PHAs that improperly deny a family's request to move due to insufficient funding. Such sanctions may include a reduction of the PHA's administrative fee of up to 10 percent for the two quarters following the quarter that HUD identified the improper denial. The reduction would be applied to the PHA's prorated administrative fee (assuming that a pro-ration factor applies to the PHA administrative fees during this period). HUD will consider the circumstances of the particular case in making this determination. Should HUD determine to apply such sanction, the PIH field office with jurisdiction over the PHA will inform the PHA by letter and will send a copy to HUD's HCV FMC and HCV FMD to implement the administrative fee reduction. The general policy described in the preceding paragraph in no way restricts HUD from exercising additional remedial actions or imposing sanctions for PHAs that have improperly denied families' request to move due to insufficient funding.

8. **Portability – Use of Email or Other Delivery Confirmation Method.** Regulations require the use of email or other delivery confirmation methods for communications between the initial and receiving PHA. HUD supports email as the preferred method of communication. This requirement applies to all communications between receiving and initial PHAs referenced in this notice. PHAs are encouraged to establish a generic portability email, and controls for the management of such mailbox, to avoid misplacement of portability emails due to staffing changes at the PHA.

An initial PHA must have a signed and valid HUD-9886 "Authorization for the Release of Information Privacy Act" on file before transmission of income verification information obtained through the Enterprise Income Verification (EIV) system. See PIH Notice 2012-4 "Effective Use of the EIV System" for more information. Also see PIH Notice 2015-6 "Privacy Protection Guidance for Third Parties" for information on requirements for transmittal of Personally Identifiable Information (PII) via email.

9. **Portability - Initial PHA Processing Responsibilities.** This section outlines the responsibilities of initial PHAs in processing a portability move. More information about the billing process, including initial and receiving PHA's responsibilities, is found in sections 11-14 of this notice.

a. **Determining HCV Program Eligibility of Applicant Families that are Requesting to Port.** The initial PHA determines if the family is eligible for participation in the HCV program, including whether the family is income eligible in the area to which the family wishes to move. The initial PHA determines HCV program eligibility only if the family is an applicant family (the family is not currently an HCV program participant).⁴ If the family meets all HCV eligibility criteria but

is not income eligible in the area to which the family wishes to move, the PHA must inform the applicant family they may not move to that area with continued HCV assistance. But the family may lease a unit in the initial PHA's jurisdiction if the family is HCV eligible (including income eligible) in the initial PHA's jurisdiction.

The receiving PHA's income limits are used in determining income eligibility. Initial PHA policies applicable to determination of family eligibility are used for all other eligibility criteria. See 24 CFR § 982.201 for more information on eligibility criteria for the HCV program.

b. **Determining Eligibility to Move.** Once a family informs the initial PHA of their desire to move under portability and where they want to move to, the initial PHA determines the family's eligibility to move. A family's eligibility to move is determined in accordance with 24 CFR § 982.353 and 24 CFR § 982.354. See sections 15 and 16 below for more information on denying family moves.

c. **Selecting the Receiving PHA.** If more than one PHA administers a voucher program in the area to which the family is moving, the family selects the receiving PHA. The initial PHA must provide the family with the contact information for all of the receiving PHAs that serve the area. The initial PHA may, but is not required to, provide more details about the receiving PHAs (such as whether the receiving PHA administers an FSS or a homeownership program).

4 The family becomes an HCV participant on the effective date of the first HAP contract executed by the PHA for the family. 24 CFR 982.4. If the family requests it, the initial PHA must select the receiving PHA. If the initial PHA is selecting the receiving PHA per the family's request, the initial PHA is not required to provide the contact information for all receiving PHAs in the area.

Initial PHAs may determine whether there is more than one receiving PHA in the area to which the family wishes to move by searching in the PHA contact list on HUD's website at the following address:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/pha/contacts.

If the initial PHA is unable to ascertain whether there is more than one receiving PHA from this list, the initial PHA may contact a receiving PHA or the local PIH field office in the area to which the family wishes to move to gather more information.

d. **Contacting the Receiving PHA.** Once the receiving PHA is selected, regulations require that the initial PHA contact the receiving PHA to determine whether the receiving PHA will bill or absorb the family's voucher. It is the responsibility of the initial PHA, not the family, to contact the receiving PHA to determine whether the receiving PHA will bill or absorb. This information may be critical in determining whether the initial PHA approves or denies the portability request. See sections 15 and 16 below for more information on denying family moves.

e. **Voucher Issuance.** Once the portability request is approved, the initial PHA issues the family a voucher, if it has not already done so.

f. Advising the Family How to Contact the Receiving PHA. Once the receiving PHA has been selected and the portability request approved, the initial PHA also advises the family how to contact and request assistance from the receiving PHA. The initial PHA may do so by providing the family with the name, telephone number, and email of the receiving PHA's staff responsible for working with incoming portability families and any procedures related to appointments for voucher issuance the receiving PHA has shared with the initial PHA. Simply referring the family to HUD or to a website for information on the receiving PHA does not fulfill the responsibilities of the initial PHA under the program regulations. Initial PHAs may fulfill this requirement by providing this information to families during the process of selecting the receiving PHA as described in Section 9.c above.

g. Notifying the Receiving PHA. Per regulation, the initial PHA promptly notifies the receiving PHA to expect the family by contacting the receiving PHA on the family's behalf. Initial PHAs may fulfill this requirement during their initial contact with the receiving PHA to determine whether the voucher will be billed or absorbed, or as part of a separate communication with the receiving PHA.

h. Providing the Portability Information. The initial PHA must send the receiving PHA the documents listed below. Initial PHAs are encouraged to provide this information when contacting the receiving PHA to notify them that the family is approved to port to the receiving PHA jurisdiction. See Section 8 above for more information on requirements for transmittal of PII.

(1) Form HUD-52665. The initial PHA completes and sends Part I of this form to the receiving PHA.

(2) The most recent HUD Form-50058 (Family Report) for the family. Note that in the case of an applicant family, the initial PHA has not yet completed the HUD-50058 in its entirety because the family is not yet a new admission. See section 18 below for more information on PIC data entry and page 70 of the Form HUD-50058 Instructions Booklet for sections to be completed at the time of voucher issuance. The initial PHA must provide the partially completed HUD-50058 for the applicant family to the receiving PHA. And, income information in a format similar to the Form HUD-50058 so that the information is easily available for use by the receiving PHA.

(3) All related verification information.

(4) A copy of the voucher signed by the participant and the PHA.

i. Special Purpose Vouchers. The initial PHA must submit any special purpose voucher codes (i.e., HUD-VASH, NED, FUPF/FUPY, NHT) on line 2n of the Form 50058. Initial PHAs are required to administer special purpose vouchers in accordance with any HUD-established alternative program requirement, including any portability alternative requirement.

Currently, only the HUD-VASH program has alternative portability requirements, which may be found in Section G of the Federal Register (FR) Notice "Section 8 Housing Choice Vouchers: Revised Implementation of the HUD-VA Supportive Housing Program." This FR notice can be found at the following address: <http://www.gpo.gov/fdsys/pkg/FR-2012-03-23/pdf/2012-7081.pdf>. While no other special purpose voucher program has alternative portability requirements, portability information for the Family Unification Program (FUP) program can be found in the FUP FAQs at the following address:

And, there are specific portability provisions that apply to the Family Self-Sufficiency (FSS) program and the HCV Homeownership program, which can be found in regulations at 24 CFR 984.306 and 24 CFR 982.636, respectively. Additional guidance on FSS portability provisions is found in PIH Notice 2016-08.

10. Portability - Receiving PHA Processing Responsibilities. This section outlines the responsibilities of receiving PHAs in processing a portability move. More information about the billing process, including initial and receiving PHA's responsibilities, is found in sections 11-14 of this notice. Also, see section 11 for more information about the receiving PHA's responsibilities after a portability family has leased a unit in its jurisdiction.

a. Requirement to Administer Assistance. The receiving PHA cannot refuse to assist an incoming family or direct them to a neighboring PHA for assistance. This includes having a policy of denying an incoming portability family if there is not a set number of days left on the initial PHA's voucher. Receiving PHAs may not have such a policy.

Under certain circumstances, HUD may exempt a receiving PHA from the requirement to assist an incoming portability family. The receiving PHA can only refuse to assist a portability family after receiving written approval from HUD. The receiving PHA initiates requests to deny administration of portability vouchers by sending a written request to the Director of the local PIH field office. The request must, at a minimum, address the circumstances that prevent the receiving PHA from processing incoming portability families, including any documentation supporting the request. The local HUD office, at its discretion, may request additional information deemed necessary to process the request. The local PIH field office Director will render a decision in writing to the PHA within 30 days from receipt of the PHA's request. Such requests are meant only for extreme circumstances, such as when the receiving PHA is in a presidentially declared-disaster area. Also, see the exception discussed in section 10.b below.

b. Denial or Termination of Assistance. Receiving PHAs may rescreen families who have moved into their jurisdiction under portability by applying their own policies for denial or termination of assistance under HCV regulations at 24 CFR § 982.552 or 24 CFR § 982.553. For example, the receiving PHA may have a policy to terminate or deny HCV assistance if any member of the family has been evicted from federally-assisted housing in the last 5 years. The receiving PHA may refuse to assist a portability family by referring the family back to the initial PHA, or terminate the family's HCV participation, on any of the grounds in 24 CFR § 982.552 or 24 CFR § 982.553. The receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit until the rescreening processes are completed. However, receiving PHAs may take subsequent action against the family (as explained in the preceding sentence) based on the results of the rescreening.

Receiving PHAs do not need prior HUD approval to refuse portability assistance in these cases because they are authorized under regulation to deny the move in accordance with their screening policies. This is because the regulatory meaning of both denial of assistance (applicants) and termination of assistance (participants) specifically includes refusing to process or provide assistance under the portability procedures. If the receiving PHA refuses the

portability move, the initial PHA is not precluded from assisting the family either in the initial PHA jurisdiction or by allowing the family to port to another receiving PHA's jurisdiction in accordance with the portability procedures.

PHAs must ensure that any admissions or occupancy requirements they impose comply with applicable civil rights requirements contained in the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act of 1990, and the other equal opportunity provisions listed in 24 CFR § 5.105. In using admissions or occupancy requirements that relate to the use of criminal background, PHAs must also ensure that such requirements are consistent with Notice PIH 2015-19 (Nov. 2, 2015), Guidance for Public Housing Agencies (PHAs) and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions, at

<http://portal.hud.gov/hudportal/documents/huddoc?id=PIH2015-19.pdf>.

If the receiving PHA takes action against the family as described in the preceding paragraphs, the receiving PHA is required to provide the ported family with the opportunity to request an informal hearing (if the family is a participant) or an informal review (if the family is an applicant) in accordance with 24 CFR § 982.554 or 982.555. The participant/applicant status of the family is identified by the initial PHA under the Certification Statement under Part I of form HUD 52665.

c. Responding to the Initial PHA. Once the initial PHA contacts the receiving PHA to inquire whether the receiving PHA will bill or absorb, the receiving PHA must respond by email or other confirmed delivery method to the initial PHA's inquiry. If the receiving PHA notifies the initial PHA that they will absorb the voucher, the receiving PHA cannot reverse its decision at a later date without the initial PHA's consent. This prevents placing a financial hardship on the initial PHA and putting a family that has already terminated the lease, vacated their assisted unit, and moved to the new jurisdiction at risk of losing their assistance.

d. Expired Initial PHA Voucher. If the initial PHA's voucher has already expired when the family arrives at the receiving PHA, regulations require the receiving PHA to contact the initial PHA to determine whether it will extend the voucher term. If the initial PHA extends the voucher, the receiving PHA processes the ported family and the receiving PHA's voucher expiration date will be based on the initial PHA's extended deadline (see section 10.f below for an example of this policy). An informal hearing is not required when a voucher has expired without the family leasing a unit. This is because regulations at 24 CFR 982.555(b) do not require an informal hearing for a PHA determination not to approve an extension of a voucher term. In determining whether to grant an extension of the voucher term, PHAs must follow their own policies as addressed in their HCV administrative plan.

e. Determining the Unit Size. The receiving PHA is required by regulation to determine the family unit size for the family, and base its determination on its own subsidy standards.

f. Voucher Issuance. After receiving the form HUD-52665 and supporting documentation from the initial PHA, the receiving PHA must promptly issue a voucher to the family for its search in

the receiving PHA's jurisdiction. HUD expects the receiving PHA to process the family's paperwork and issue the family a voucher within two weeks of receiving the HUD-52665 and supporting documentation provided the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures.

The term of the receiving PHA's voucher may not expire before 30 calendar days from the expiration date of the initial PHA's voucher. For example, if the initial PHA's voucher expires 10/30/2016, the receiving PHA's voucher may not expire before 11/29/2016.

If the initial PHA extends the term of the voucher as explained in section 10.d above, the receiving PHA's voucher may not expire before 30 days from the new expiration date of the initial PHA's voucher. For example, if in the example in the preceding paragraph the initial PHA extends the voucher until 11/30/2016 the receiving PHA voucher may not expire before 12/30/2016. Receiving PHAs may extend the voucher beyond this additional 30 days (see section 10.g below on voucher extensions).

The receiving PHA may delay issuance of the voucher or approval of the unit if the family refuses to comply with the receiving PHA's procedures. In any case where the receiving PHA is refusing to process or provide assistance under the portability procedures, the family must be given the opportunity for an informal review or hearing in accordance with 24 CFR § 982.554 or 982.555.

g. Voucher Extensions. The receiving PHA may subsequently extend its own voucher's term. Any extensions of search time provided by the receiving PHA are only valid for the family's search in the receiving PHA's jurisdiction. The receiving PHA is required by regulation to inform the initial PHA of any extensions of the voucher term.

When extending the voucher, receiving PHAs should consider the billing deadline (see section 14.b below for billing deadline information). The receiving PHA must ensure that any voucher expiration date leaves sufficient time to process a Request for Tenancy Approval, execute the HAP contract, and cover the anticipated delivery time (if the PHA is not submitting the billing information by fax or email) of the initial billing. If the initial billing is not received by the initial PHA by the deadline date, the receiving PHA will have to absorb the voucher unless the initial PHA accepts the late billing.

h. Reexaminations. Receiving PHAs may choose to conduct a new income reexamination for a participant family. In such cases, the receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit until those processes are completed. However, the PHA may take subsequent action against the family based on the results (e.g., recalculating the HAP payment based on updated income information).

In the case of an applicant family, the receiving PHA may delay issuing a voucher or otherwise delay approval of a unit only if it is necessary to re-determine income eligibility. For example, if the applicant family initially reported they had no earned income but they subsequently obtain new employment, the receiving PHA shall re-determine income eligibility for the applicant family to ensure the family is income eligible in the receiving PHA's jurisdiction. As a reminder,

the receiving PHA does not re-determine income eligibility for a portable family that was already receiving voucher assistance.

i. Family Decides Not to Lease in the Receiving PHA's Jurisdiction. If an incoming family ultimately decides not to lease in the jurisdiction of the receiving PHA, the receiving PHA must refer the family back to the initial PHA. The voucher of record for the family is once again the voucher originally issued by the initial PHA, and the initial PHA's policies apply. Any extensions of the initial PHA's voucher to allow the family additional search time to return to the initial PHA's jurisdiction or to move to another jurisdiction are at the discretion of the initial PHA. The initial PHA must apply its own policies on moves for families that decide not to use their voucher to port to another jurisdiction

j. Notifying the Initial PHA. Regulations require the receiving PHA to promptly notify the initial PHA if the family has leased an eligible unit under the program, or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the voucher.

k. Absorption of the Ported Voucher. The receiving PHA may absorb the family into its own program provided it has funding available under its ACC to do so and such a decision will not result in over-leasing for the Calendar Year.

Although a receiving PHA notifies the initial PHA of its intent to absorb an incoming family early in the portability process, a PHA does not technically "absorb" a family into its program until the receiving PHA executes a HAP contract on behalf of the family in the receiving PHA's jurisdiction. False processing of portability paperwork (sham portability moves) to address a PHA's utilization or leasing problems is prohibited. If the family does not move to a different unit and is not placed under a HAP contract in the receiving PHA's jurisdiction, the receiving PHA cannot absorb the family.

The receiving PHA may also absorb a family for which it was billing by terminating the billing arrangement with the initial PHA. In such cases, the receiving PHA must send form HUD-52665 to the initial PHA. The receiving PHA selects option 8 under Part II-B of such form. See section 16 below for more information.

11. Portability - Receiving PHA Ongoing Responsibilities. This section outlines the ongoing responsibilities of receiving PHAs once a ported family leases a unit in the receiving PHA's jurisdiction.

a. Special Purpose Vouchers. The receiving PHA must maintain any special purpose voucher codes (i.e., VASH, NED, FUPF/FUPY, NHT) on line 2n of the Form 50058 as long as it is billing for the family. Receiving PHAs are required to administer special purpose vouchers in accordance with any HUD-established alternative program requirement, including any portability alternative requirement.

Currently, only the HUD-VASH program has alternative portability requirements, which may be found in Section G of the Federal Register (FR) Notice "Section 8 Housing Choice Vouchers: Revised Implementation of the HUD-VA Supportive Housing Program." This FR notice can be

found at the following address: <http://www.gpo.gov/fdsys/pkg/FR-2012-03-23/pdf/2012-7081.pdf>. While no other special purpose voucher program has alternative portability requirements, portability information for the Family Unification Program (FUP) program can be found in the FUP FAQs at the following address:

http://portal.hud.gov/hudportal/documents/huddoc?id=fupfaqs_dec2012.pdf.

And, there are specific portability provisions that apply to the Family Self-Sufficiency (FSS) program and the HCV Homeownership program, which can be found in regulations at 24 CFR 984.306 and 24 CFR 982.636, respectively. Additional guidance on FSS portability provisions is found in PIH Notice 2016-08.

b. Updated Form HUD-50058. The receiving PHA must send the initial PHA a copy of the updated Form HUD-50058 at each reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family. Receiving PHAs send the updated HUD-50058 regardless of whether there is a change in the billing amount. A copy of Form HUD-50058 must also accompany the submission of a portability form (HUD-52665) reporting any changes in the billing amount. See Section 14.e for more information.

The updated form HUD-50058 must be sent to the initial PHA no later than 10 business days following the effective date of the reexamination. Receiving PHA's are strongly encouraged to send the updated form as soon as the family's reexamination is complete. This notification serves as a "reconciliation" to assist both PHAs in fulfilling their accounting and record-keeping responsibilities. The frequency of this notification will be based on how frequently the receiving PHA conducts reexaminations for voucher families, including those that have ported into their jurisdiction.

c. Failure to Send the Updated Form HUD-50058. If the receiving PHA fails to send the updated form 50058 on time, the initial PHA must continue paying the receiving PHA based on the last Form HUD-50058 received, unless instructed otherwise by HUD. Initial PHAs should make a first attempt at resolving any late submissions of the updated form 50058 with the receiving PHA. Should such attempts fail to result in a resolution, initial PHAs may seek assistance from their local PIH field office. If assistance from the local PIH field office also fails to result in a resolution, the initial PHA may seek absorption of the vouchers in question by following the steps below. PHAs are reminded to document all communications between agencies and to retain a record of all transactions between PHAs.

(1) The initial PHA may request absorption of the vouchers in question by memorandum to their local PIH field office Director. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached to the memorandum. A copy of the memorandum must be sent to the receiving PHA.

(2) The local PIH field office will notify the local PIH field office with jurisdiction over the receiving PHA within 15 business days of receiving the initial PHA's memorandum.

(3) The local PIH field office with jurisdiction over the receiving PHA will provide the receiving PHA with 15 business days to respond and provide any supporting documentation if the receiving PHA is contesting the initial PHA's request.

(4) The initial PHA's local PIH field office will send a letter to the initial and receiving PHA within 15 business days from the date the receiving PHA's response was due indicating whether the initial PHA's request was approved. A copy of the letter must be sent to the receiving PHA's local PIH field office. Both PIH field offices will work together in making a final determination. If the two PIH field offices cannot agree on a decision, they should contact their respective regional director(s) for resolution.

(5) If the vouchers are to be absorbed by the receiving PHA, the billing arrangement on behalf of the family or families in question ceases at the end of the month on the date of the local PIH field office letter. For example, if the local PIH field office letter is dated June 15, the billing arrangement ends June 30. The initial PHA continues to be responsible for any outstanding payments due to the receiving PHA.

HUD may in certain instances require the initial PHA to honor a late submission of the reexamination documents (such as where the receiving PHA does not have the funds to support the voucher and the family would be terminated if the initial PHA refused to accept the late billing). In such a case HUD may take action to address the receiving PHA's failure to submit the notification in a timely manner, which may include reducing the receiving PHA's administrative fee.

d. Family Decides to Port to Another Jurisdiction. The receiving PHA does not issue a voucher to a family under a billing arrangement that decides to move under portability to another jurisdiction. Instead, the receiving PHA notifies the initial PHA of the family's request. The initial PHA is responsible for issuing the family a voucher and following the procedures outlined in section 9 above. Good communication between all three PHAs is crucial in these cases.

12. Portability – Administrative Fees. With the release of the HCV administrative fee study, the formula for determining administrative fee amounts owed under portability may change. Until such time as a change in the administrative fee formula is implemented through rulemaking, the requirements of this notice continue to apply.

The administrative fee structure changed with the release of the final portability rule. Revised regulations at 24 CFR § 982.355(e)(3) now provide that the initial PHA reimburses the receiving PHA for the lesser of 80% of the initial PHA's ongoing administrative fee or 100% of the receiving PHA's ongoing administrative fee for each program unit under HAP contract on the first day of the month for which the receiving PHA is billing the initial PHA. The example below illustrates how administrative fees are now calculated. Initial and receiving PHAs continue to have discretion to negotiate and agree to a different administrative fee amount.

The initial PHA's column B administrative fee rate (as indicated in previous guidance) and the receiving PHA's column B administrative fee rate are used in determining the administrative fee amount owed for a ported voucher. HUD publishes the administrative fee rates every year. The posted administrative fees are found at www.hud.gov/offices/pih/programs/hcv.

Proration due to insufficient administrative fee funding will apply to the administrative fee amount for which the receiving PHA may bill the initial PHA. That is, when determining the administrative fee amount, proration will be applied to both the initial and receiving PHA's

administrative fee rate. Information on administrative fee proration for portability billing purposes will be provided in the administrative fee rate guidance published by HUD every year in the following webpage:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hc
v.

The administrative fee amounts may be used for the entire calendar year to avoid the need for PHAs to re-calculate their portable fees each quarter, unless otherwise instructed by HUD.

ATTACHMENT THREE
VAWA

Notification of Rights under Violence Against Women Act for Section 8 and Public Housing

The Congress of the United States passed the Violence Against Women Act (VAWA) and the Department of Justice Reauthorization Act of 2005, which President Bush signed into law in 2006. This law provides certain rights and protections to Section 8 and Public Housing assisted tenants and members of their households. On March 7, 2013 President Obama signed into law the Violence Against Women Reauthorization Act of 2013 which has implemented several key changes related to these housing protections for victims of domestic violence, dating violence, sexual assault, and/or stalking. As established by law these rights are required to be provided to applicants and tenants of both programs.

Note: The following appendices will not appear in the Code of Federal Regulations.

Appendix A
Mexico Housing Authority
Notice of Occupancy Rights under the Violence Against Women Act

To all Tenants and Applicants

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, and stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation. The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that the Mexico Housing Authority is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.

Protections for Applicants

If you otherwise qualify for assistance under Mexico Housing Authority, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Protections for Tenants

If you are receiving assistance under the Mexico Housing Authority, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you

may not be denied rental assistance or occupancy rights under the Mexico Housing Authority solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household. Removing the Abuser or Perpetrator from the Household

The Mexico Housing Authority may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking. If the Mexico Housing Authority chooses to remove the abuser or perpetrator, the Mexico Housing Authority may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, the Mexico Housing Authority must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, the Mexico Housing Authority must follow Federal, State, and local eviction procedures. In order to divide a lease, the Mexico Housing Authority may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault or stalking.

Moving to Another Unit

Upon your request, the Mexico Housing Authority may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, the Mexico Housing Authority may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

- (1) You are a victim of domestic violence, dating violence, sexual assault, or stalking. If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
- (2) You expressly request the emergency transfer. Your housing provider may choose to require that you submit a form, or may accept another written or oral request.
- (3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

The Mexico Housing Authority will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

The Mexico Housing Authority's emergency transfer plan provides further information on emergency transfers, and the Mexico Housing Authority must make a copy of its emergency transfer plan available to you if you ask to see it.

Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

The Mexico Housing Authority can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from the Mexico Housing Authority must be in writing, and the Mexico Housing Authority must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. The Mexico Housing Authority may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to the Mexico Housing Authority as documentation. It is your choice which of the following to submit if the Mexico Housing Authority asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by the Mexico Housing Authority with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of the employee, agent, or volunteer of a victim service provider, and attorney, a medical professional or mental health

professional (collectively, “professional”) from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.

- Any other statement or evidence that the Mexico Housing Authority has agreed to accept. If you fail or refuse to provide one of these documents within the 14 business days, the Mexico Housing Authority does not have to provide you with the protections contained in the notice. If the Mexico Housing Authority receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), the Mexico Housing Authority has the right to request that you provide third-party documentation within thirty (30) calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, the Mexico Housing Authority does not have to provide you with the protections contained in this notice.

Confidentiality

The Mexico Housing Authority must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

The Mexico Housing Authority must not allow any individual administering assistance or other services on behalf of the Mexico Housing Authority (for example, employees, and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law. The Mexico Housing Authority must not enter your information into any shared database or disclose your information to any other entity or individual. The Mexico Housing Authority, however, may disclose the information provided if:

- You give written permission to the Mexico Housing Authority to release the information on a time limited basis.
- the Mexico Housing Authority needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires the Mexico Housing Authority or your landlord to release the information. VAWA does not limit the Mexico Housing Authority’s duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

Reasons a Tenant Eligible for Occupancy Rights under VAWA May be Evicted or Assistance May be Terminated

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, the Mexico Housing Authority cannot hold tenants who have been

victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if the Mexico Housing Authority can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

- 1) Would occur within an immediate time frame, and
- 2) Could result in death or serious bodily harm to other tenants or those who work on the property

If the Mexico Housing Authority can demonstrate the above, the Mexico Housing Authority should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

Other Laws

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

Non-Compliance with the Requirements of This Notice

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with the St. Louis HUD field office at 1222 Spruce Street, Suite 3.203, St. Louis, MO 63103-2836. Phone number (314) 418-5400, Fax (314) 539-6384

(office covers eastern portion of MO; for western portion of MO, see Kansas City, KS).

For Additional Information

You may view a copy of HUD's final VAWA rule at <https://www.gpo.gov/fdsys/pkg/FR-2016-11-29/pdf/2016-28437.pdf>.

Additionally, the Mexico Housing Authority must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact HUD's Public Housing program, contact Monica Shepherd, Director Public Housing Management and Occupancy Division, Office of Public and Indian Housing, Room 4204, telephone number 202-402-5687; HUD's Housing Choice Voucher program and Project-Based Voucher, contact Becky Primeaux, Director, Housing Voucher Management and Operations Division, Office of Public and Indian Housing, Room 4216, telephone number 202-402-6050 or go to <https://www.hudexchange.info/program-support/my-question/>.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may

also contact the Audrain County Crisis Intervention (A.C.C.I.S) Hotline 573-581-2280 or 573-581-3835 for the shelter.

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding sexual assault, you may contact The National Sexual Assault Hotline at 1-800-656-4673.

Victims of stalking seeking help may contact 855-4-VICTIM (855-484-2846).

If a victim moves to a new location to escape domestic violence, sexual abuse, or stalking, the Address Confidentiality Program (ACP) can help the victim in their attempt to keep their address confidential. When a victim becomes an ACP participant, their first class, certified and registered mail is sent to a secure substitute address and then forwarded to their new home. For help with confidentiality contact Missouri

Safe At Home

P.O. Box 1409

Jefferson City, MO 65102-1409

(866) 509-1409 (Toll-free)

safeathome@sos.mo.gov