OSCEOLA COUNTY
ADMINISTRATIVE PLAN
FOR THE
HOUSING CHOICE VOUCHER PROGRAM

MARCH, 2006

Approved by the Osceola County Commissioners [3/20/2006]

Revised 4/23/2009

Revised 6/11/2012

RESOLUTION NO. 06-014R

ADOPTION OF ADMINISTRATIVE PLAN FOR THE SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

Whereas a written Administrative Plan for administration of the Housing Choice Voucher program of HUD [HCV] is required to state Public Housing Agency (PHA) policy on matters for which the PHA has discretion to establish local policies, and

Whereas, a PHA must administer its program in accordance with its Administrative Plan, and

Whereas a PHA is required to revise its administrative plan to be in accordance with HUD regulations and requirements, and

Whereas the current Administrative Plan for the HCV Program of the County of Osceola (OCHA), dated June 1, 2001 is not in accordance with revised HUD regulations as set forth in 24 CFR Parts 5,8,35,92, 882, 887,888,903, 908, 982, 983, 984, 985 and *Federal Register* Notices or other binding program directives that were promulgated subsequent to June 1, 2001,

Now, Therefore, Be it Resolved, that Osceola County hereby (1) deletes from its Administrative Plan all policies and procedures pertaining to matters for which the PHA has discretion that are inconsistent with current HUD regulations and requirements, (2) incorporates into its Administrative Plan all current non-discretionary requirements, and (3) automatically incorporates into its Administrative Plan future non-discretionary requirements concurrent with the Effective Date of the *Federal Register* rule or other binding program directive establishing such requirements.

Osceola County further resolves that its discretionary policies on the 22 subjects specified in 24 CFR 932.54 (d) are as set forth in this Administrative Plan dated January 19, 2006.

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CHAPTER 1: OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

The PHA receives its funding for the Housing Choice Voucher (HCV) program from the United States Department of Housing and Urban Development. The PHA is not a federal department or agency. A public housing agency (PHA) is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. In the case of Osceola County, the County is the designated Public Housing Agency [PHA]. It has assigned resp0onsibility for administration to the Office of Housing. The PHA enters into an Annual Contributions Contract with HUD to administer the program requirements on behalf of HUD. The PHA must ensure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

1-A. ORGANIZATION AND STRUCTURE OF THE PHA

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by the **Osceola County Commissioners**.

The Osceola County Commissioners are elected in accordance with state housing law and generally serve in the same capacity as the directors of a corporation, establishing policies under which the PHA conducts business, ensuring that policies are followed by PHA staff and ensuring that the PHA is successful in its mission. The board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability. The board administers the County through a County Manager. The HCV program is administered within the Housing Office.

Formal actions of the PHA are taken through written resolutions, adopted by the board of commissioners and entered into the official records of the PHA.

The principal staff member of the PHA is the Human Services Manager hired by the Board of Commissioners. The Human Services Manager along with the Housing Manager are directly responsible for carrying out the policies established by the commissioners and is delegated the responsibility for hiring, training and supervising the remainder of the PHA's staff in order to manage the day-to-day operations of the PHA to ensure compliance with federal and state laws and directives for the programs managed. In addition, the Housing Manager's duties include budgeting and financial planning for the agency.

1-B. PHA MISSION

The mission of the Osceola County Section 8 Housing Program is to develop and implement new programs and improve the quality of existing programs in our community. Fostering these programs will ensure participants have access to safe, decent, and sanitary housing.

1-C. THE PHA'S PROGRAMS

The PHA's administrative plan is applicable to the operation of the Housing Choice Voucher program.

1-D. THE PHA'S COMMITMENT TO ETHICS AND SERVICE

As a public service agency, the PHA is committed to providing excellent service to HCV program participants [families and owners] in the community. The PHA's standards include:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe, and sanitary housing – in compliance with program housing quality standards – for very low-income families while ensuring that family rents are fair, reasonable, and affordable.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.
- Promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
- Promote a housing program that maintains quality service and integrity while providing an incentive to private property owners to rent to very low-income families.
- Promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the PHA's support systems and commitment to our employees and their development.

The PHA will make every effort to keep program participants informed of HCV program rules and regulations, and to advise participants of how the program rules affect them.

1-E. OVERVIEW AND HISTORY OF THE PROGRAM

The United States Housing Act of 1937 (the "Act") initiated federal housing program initiatives. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing developments for low-income residents. This Act has been amended several times, including in 1974 when an experimental housing allowance program was made permanent and became known as Section 8 (after the section number in the 1937 Act which authorized this new program).

While there have been minor revisions to the program since 1974, there was a major revision in 1998 when the Quality Housing and Work Responsibility Act was passed. Most notably all previous Section 8 certificates and vouchers were converted into Housing Choice Vouchers;

vouchers could be used for homeownership and the performance measurement system known as SEMAP was introduced.

1-F. HCV PROGRAM BASICS

The purpose of the HCV program is to provide rental and homeownership assistance to eligible families. The rules and regulations of the HCV program are determined by the U.S. Department of Housing and Urban Development. The PHA is afforded choices in the operation of the program which are included in the PHA's administrative plan, a document approved by the board of commissioners of the PHA.

The HCV program offers mobility to eligible families because they may search for suitable housing anywhere in the PHA's jurisdiction and may also be eligible to move to any part of the country.

When a family is determined to be eligible for the program and funding is available, the PHA issues the family a housing voucher. When the family finds a suitable housing unit and funding is available, the PHA will enter into a contract with the owner and the family will enter into a lease with the owner or the family will proceed to purchase a home. Each party makes their respective payment to the owner/lender so that the owner/lender receives full rent/mortgage payment.

Even though the family is determined to be eligible for the program, the owner has the responsibility of approving the family as a suitable renter for the rental program. The PHA continues to make payments to the owner/lender as long as the family is eligible and in the case of a rental, the housing unit continues to qualify under the program.

1-G. THE HCV PARTNERSHIPS

To administer the HCV program, the PHA enters into a contractual relationship with HUD known as the Annual Contributions Contract [ACC]. The PHA also enters into contractual relationships with the assisted family and the owner or landlord of the rental housing unit.

For the HCV program to work and be successful, all parties involved – HUD, the PHA, the owner, the lender and the family – have important roles to play. The roles and responsibilities of all parties are defined in federal regulations and in legal documents that parties execute to participate in the program.

What does HUD do?

HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices and other guidance to implement HCV housing program legislation passed by Congress;
- Allocate HCV program funds to PHAs;
- Provide technical assistance to PHAs on interpreting and applying HCV program requirements;
- Monitor PHA compliance with HCV program requirements and PHA performance in program administration.

What does the PHA do?

The PHA administers the HCV program under contract with HUD and has the following major responsibilities:

- Establish local policies;
- Review applications from interested applicant families to determine whether applicants are eligible for the program;
- Maintain waiting list and select families for admission;
- Issue voucher to selected family and, if necessary, assist the family in finding a place to live;
- Conduct outreach to owners, with special attention to owners outside areas of poverty or minority concentration;
- Approve the rental or homeownership unit (including assuring compliance with housing quality standards and rent reasonableness or financial soundness of the purchase), the owner, and the tenancy/purchaser;
- Make housing assistance payments to the owner/lender in a timely manner;
- Ensure that families (and for rental units, that their rental units) continue to qualify under the program;
- Ensure that owners and families comply with program rules;
- Provide families and owners with prompt, professional service;
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, the PHA's administrative plan, and other applicable federal, state and local laws.

What does the Rental Owner do?

The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine if they will be good renters.
  - The PHA can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.
  - The owner should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.
- Comply with the terms of the Housing Assistance Payments contract, executed with the PHA;
- Comply with all applicable fair housing laws and discriminate against no one;
- Maintain the housing unit by making necessary repairs in a timely manner;

- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

What does the Family do?

The family has the following responsibilities:

- Provide the PHA with complete and accurate information, determined by the PHA to be necessary for administration of the program;
- Make their best and most timely efforts to find a place to live that is suitable for them and that qualifies for the program;
- Cooperate in attending all appointments scheduled by the PHA;
- Allow the PHA to inspect the unit at reasonable times and after reasonable notice;
- Take responsibility for care of the housing unit, including any violations of housing quality standards caused by the family;
- Comply with the terms of the lease with the owner (for renters);
- Comply with the family obligations of the voucher;
- Not commit serious or repeated violations of the lease (for renters);;
- Not engage in drug-related or violent criminal activity;
- Notify the PHA and the owner before moving or terminating the lease (for renters);
- Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit, assign the lease, or have any interest in the unit (for renters);;
- Promptly notify the PHA of any changes in family composition, income or allowable expenses;
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

If all parties fulfill their obligations in a professional and timely manner, the program responsibilities will be fulfilled in an effective manner.

1-H. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 982: Housing Choice Voucher Program

1-I. OVERVIEW AND PURPOSE OF THE PLAN

The administrative plan is required by HUD. The purpose of the administrative plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in the PHA's agency plan. This administrative plan is a supporting document to the PHA agency plan, and is available for public review as required by CFR 24 Part 903.

This administrative plan is set forth to define the PHA's local policies for operation of the housing programs in the context of federal laws and regulations. All issues related to Section 8 not addressed in this document are governed by such federal regulations, HUD handbooks and guidebooks, notices and other applicable law. The policies in this administrative plan have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding.

The PHA is responsible for complying with all changes in HUD regulations pertaining to the HCV program. If such changes conflict with this plan, HUD regulations will have precedence.

Administration of the HCV program and the functions and responsibilities of PHA staff shall be in compliance with the PHA's personnel policy and HUD's Section 8 regulations as well as all federal, state and local fair housing laws and regulations.

1-J. CONTENTS OF THE PLAN (24CFR 982.54)

HUD regulations contain a list of what must be included in the administrative plan. This PHA administrative plan covers PHA policies on these subjects.

A primary focus of HUD's Rental Integrity Monitoring (RIM) and SEMAP programs is consistency – consistency in how PHAs conduct their business and in how HUD monitors PHA activities. HUD expects that all staff will be consistent in the procedures they follow and the calculations they make and that their actions will be consistent with the PHA's administrative plan.

HUD makes a distinction between:

- Mandatory policies: those driven by legislation, regulations, current handbooks, notices, and legal opinions, and
- Optional, non-binding guidance, including guidebooks, notices that have expired and recommendations from individual HUD staff.

The Osceola Housing Office has developed its policies and procedures to be consistent with HUD's mandatory policies and to make clear which are the optional policies the PHA has adopted.

In many cases the PHA has developed procedures which implement policies and which are not included in this Administrative Plan but which the Osceola Housing Office believes are consistent with and accomplish the intention of those policies.

1-K. UPDATING AND REVISING THE PLAN

The PHA will revise this administrative plan as needed to comply with changes in HUD regulations. The original plan and any changes must be approved by the board of commissioners of the agency, the pertinent sections included in and provided to HUD through the PHA Plan, a separate document and required by HUD on an annual basis 75 days prior to the end of the PHA's fiscal year.

PHA Policy

The Osceola County Section 8 Housing Program will review and update the plan at least once a year, and

more often if needed, to reflect changes in regulations, Osceola County Section 8 Housing Program operations, or when needed to ensure staff consistency in operation. Such changes will be included in the Osceola County Section 8 Housing Program PHA Plan.

CHAPTER 2: FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

This chapter explains the laws and HUD regulations requiring PHAs to affirmatively further civil rights and fair housing in all federally-assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and processes. The responsibility to further nondiscrimination pertains to all areas of the PHA's housing choice voucher (HCV) operations.

2-A. OVERVIEW

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

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- When more than one civil rights law applies to a situation, the laws will be read and applied together.
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

PHA Added Policy

2-B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes. State and local requirements, as well as PHA policies, can prohibit discrimination against additional classes of people.

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

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

PHA Added Policy

The Osceola County Section 8 Housing Program will not discriminate because of race, color, religion, gender, familial status, age, disability or national origin referred to as "protected class").

The PHA will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the housing choice voucher program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or participant toward or away from a particular area based any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class.

Providing Information to Families and Owners

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

Discrimination Complaints

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

PHA Added Policy

Applicants or participants who believe that they have been subject to unlawful discrimination may notify the Osceola County Section 8 Housing Program in writing.

The Osceola County Section 8 Housing Program will attempt to remedy discrimination complaints made against the Osceola County Section 8 Housing Program.

The Osceola County Section 8 Housing Program will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

2-C. OVERVIEW OF DISABILITIES POLICIES

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

The PHA must ensure that persons with disabilities have full access to the PHA's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the HCV program.

PHA Added Policy

The Osceola County Section 8 Housing Program will notify all applicants and participants if they require any type of accommodations in writing, on the intake application, reexamination documents, and notices of adverse action by the Osceola County Section 8 Housing Program, by including the following language:

"If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the housing office and complete a reasonable accommodation request form."

A specific name and phone number will be indicated as the contact for requests for reasonable accommodation for persons with disabilities.

2-D. DEFINITION OF REASONABLE ACCOMMODATION

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

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

Types of Reasonable Accommodations

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

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the PHA range) if the PHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit
- Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with PHA staff
- Displaying posters and other housing information in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair

2-E. REQUEST FOR AN ACCOMMODATION

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

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

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

PHA Added Policy

The Osceola County Section 8 Housing Program will encourage families to make their request in writing using a reasonable accommodation request form.

2-F. VERIFICATION OF DISABILITY

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

reasonable accommodation is much broader than the HUD definition of disability which is used for waiting list preferences and income allowances.

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

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

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

When verifying a disability, the PHA will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 17. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]
- The PHA must request only information that is necessary to evaluate the disability-related need for the accommodation. The PHA will not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.

2-G. APPROVAL/DENIAL OF REQUESTED ACCOMMODATION

[Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

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

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

Requests for accommodations must be assessed on a case-by-case basis, taking into account factors such as the cost of the requested accommodation, the financial resources of the PHA at the time of the request, the benefits that the accommodation would provide to the family, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

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

PHA Added Policy

After a request for an accommodation is presented, the Osceola County Section 8 Housing Program will respond, in writing, within 10 business days.

If the Osceola County Section 8 Housing Program denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of the Osceola County Section 8 Housing Program operations), the Osceola County Section 8 Housing Program will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden. If it is determined that the alternative accommodation would effectively meet the requester's disability related needs and is reasonable, the PHA will grant the request.

If the Osceola County Section 8 Housing Program believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the Osceola County Section 8 Housing Program will notify the family, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the family. Reasonable accommodation request must be supported with backup documentation and will be approved by the Housing Manager. Any person who voluntarily discloses a disability and requests an accommodation, the PHA will require third-party verification that accommodation being requested would remove a barrier that is due to the disability. Third party verification will be accepted from professionals

competent to render the opinion and knowledgeable about the person's situation.

The PHA can deny a request for reasonable accommodation if the request was not made by or on behalf of a person with a disability or if there is no disability related need for the accommodation. The PHA may also deny a reasonable accommodation request if it will cause an undue financial hardship to the Section 8 Program.

2-H. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

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

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

PHA Added Policy

To meet the needs of persons with hearing impairments or with vision impairments, the PHA will make available alternative resources for these persons to access the information. This may include but not limited to, translation and interpretation services. Persons that require reasonable accommodations due to hearing and/or vision impairments must notify the Section 8 Program staff within 10 business days of their need for special arrangements.

Additionally a third party representative (a friend, relative or advocate, named by the applicant) will be permitted to receive, interpret and explain housing materials and be present at all meetings with the applicant in conjunction with Section 8 Program staff.

2-I. PHYSICAL ACCESSIBILITY

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

- PIH 2002-01 (HA), Accessibility Notice
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

The PHA's policies concerning physical accessibility must be readily available to applicants and participants. They can be found in three key documents:

- This plan describes the key policies that govern the PHA's responsibilities with regard to physical accessibility.
- Notice PIH 2002-01(HA) Accessibility Notice (which must be posted in the HCV offices in a conspicuous place) summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.
- The PHA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of PHA facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Newly-constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the HCV program.

When issuing a voucher to a family that includes an individual with disabilities, the PHA will include a current list of available accessible units known to the PHA and will assist the family in locating an available accessible unit, if necessary.

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

2-J. DENIAL OR TERMINATION OF ASSISTANCE

A PHA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 982.552 (2)(iv)].

When applicants with disabilities are denied assistance, the notice of denial must inform them of the PHA's informal review process and their right to request a hearing. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal hearing process.

When a participant family's assistance is terminated, the notice of termination must inform them of the PHA's informal hearing process and their right to request a hearing and reasonable accommodation.

When reviewing reasonable accommodation requests, the PHA must consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to the PHA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the PHA must make the accommodation.

2-K. OVERVIEW LEP

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the HCV program. In certain

circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal Register*.

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

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

In order to determine the level of access needed by LEP persons, the PHA will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the Housing Choice Voucher program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the PHA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the PHA.

2-L. ORAL INTERPRETATION

In a courtroom, a hearing, or situations in which health, safety, or access to important benefits and services are at stake, the PHA will generally offer, or ensure that the family is offered through other sources, competent services free of charge to the LEP person.

PHA Added Policy

Where feasible, the Osceola County Section 8 Housing Program will hire bilingual staff to be available to act as interpreters and translators. Where feasible and possible, the Osceola County Section 8 Housing Program will encourage the use of qualified community volunteers for assistance with oral interpretation.

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to any language services offered by the Osceola County Section 8 Housing Program. The interpreter may be a family member or friend so long as an additional Section 8 staff person is present. Exceptions to this policy will be evaluated by the Housing Manager on a case by case basis.

2-M. WRITTEN TRANSLATION

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

PHA Added Policy

In order to comply with written-translation obligations, the Osceola County Section 8 Housing Program will take the following steps:

The Osceola County Section 8 Housing Program will provide written translations of vital documents for each eligible LEP language group which constitutes 25 percent or 1,000 persons, whichever is less, of the population of persons being served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally.

If there are fewer than 50 persons in a language group which reaches the 25 percent trigger, the Osceola County Section 8 Housing Program does not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials.

2-N. IMPLEMENTATION PLAN

After completing the four-factor analysis and deciding what language assistance services are appropriate, the PHA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If the PHA determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to the PHA's Housing Choice Voucher program and services.

PHA Added Policy

If it is determined that the Osceola County Section 8 Housing Program serves very few LEP persons, and the Osceola County Section 8 Housing Program has very limited resources, the Osceola County Section 8 Housing Program will not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into the process.

If the Osceola County Section 8 Housing Program determines it is appropriate to develop a written LEP plan, the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LEP plan.

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

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

The phrase "physical or mental impairment" includes:

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

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

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

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

The definition of a person with disabilities does not include:

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

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

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

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

CHAPTER 3: ELIGIBILITY

INTRODUCTION

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

To be eligible for the HCV program:

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

3-A. OVERVIEW

Some eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the assisted unit. This part provides information that is needed to correctly identify family and household members, and to apply HUD's eligibility rules.

3-B. FAMILY AND HOUSEHOLD [24 CFR 982.201(C), HUD-50058 IB, P. 13]

The terms *family* and *household* have different meanings in the HCV program.

Family

To be eligible for assistance, an applicant must qualify as a family. *Family* is defined by HUD as a single person or a group of persons, a family with a child or children, two or more elderly or disabled persons living together, and one or more elderly or disabled persons, with one or more live-in aides. The PHA has the discretion to determine if any other group of persons qualifies as a family.

PHA Added Policy

Each family must identify the individuals to be included in the family at the time of application and must update this information if the family's composition changes in writing to the Section 8 Program staff within 10 business days.

To qualify as a family when proposed family members are not related by blood, marriage, adoption, or other operation of law, the Osceola County Section 8 Housing Program will require applicants to demonstrate that the individuals have lived together previously, and certify that each individual's income and other resources will be available to meet the needs of the family. Applicants in this category will have to establish that they have had a stable family relationship for two years prior to the application. The following sources will be considered as proof of the two year relationship: lease agreements with both parties' names, joint bank accounts, utility bills, and or any other documented proof as determined by the Section 8 staff.

Household

Household is a broader term that includes additional people who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

3-C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY

Family Break-up [24 CFR 982.315]

The PHA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up. However, if a court determines the disposition of property between members of the assisted family in a divorce or separation decree, the PHA is bound by the court's determination of which family members continue to receive assistance.

PHA Added Policy

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open.

If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted. The remaining family member that retains the minor children will be the priority, with the other members being assisted if and when a new voucher becomes available.

In the absence of a judicial decision, or an agreement among the original family members, the Osceola County Section 8 Housing Program will determine which family

retains their placement on the waiting list, or will continue to receive assistance taking into consideration the following factors: (1) the interest of any minor children, including custody arrangements, (2) the interest of any ill, elderly, or disabled family members, (3) any possible risks to family members as a result of domestic violence or criminal activity, and (4) the recommendations of social service professionals.

Remaining Member of a Tenant Family [24 CFR 5.403]

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

If dependents are the only "remaining members of a tenant family" and there is no family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6-I.B, for the policy on "Caretakers for a Child."

3-D. HEAD OF HOUSEHOLD [24 CFR 5.504(B)]

Head of household means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a co-head or spouse.

PHA Policy

The family may designate any qualified family member as the head of household.

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

3-E. SPOUSE, CO-HEAD, AND OTHER ADULT

A family may have a spouse or co-head, but not both [HUD-50058 IB, p. 13].

Spouse means the marriage partner of the head of household.

PHA Policy

A marriage partner *includes the partner in a "common law" marriage as defined in state law. The term "spouse" does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.*

A *co-head* is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can have only one co-head.

PHA Policy

Minors who are emancipated under state law may be designated as a co-head.

Other adult means a family member, other than the head, spouse, or co-head, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults.

3-F. DEPENDENT [24 CFR 5.603]

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

Joint Custody of Dependents

PHA Policy

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

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the Osceola County Section 8 Housing Program will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

3-G. FULL-TIME STUDENT [24 CFR 5.603, HVC GB P. 5-29]

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

Identifying each FTS is important because (1) each family member that is an FTS, other than the head, spouse, or co-head, qualifies the family for a dependent deduction and (2) the income of such an FTS is treated differently from the income of other family members.

PHA Policy

Osceola County Section 8 Program will require all full time student family members to provide documented proof of their educational status. Acceptable documentation will include a statement or certificate of enrollment from a college and or university or a letter from the college or university verifying admission status.

Additionally, families will be required to submit an official transcript of the full time student per semester.

3-H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100 AND 5.403]

Elderly Persons

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

Near-Elderly Persons

A *near-elderly person* is a person who is at least 50 years of age but below the age of 62.

Elderly Family

An *elderly family* is one in which the head, spouse, co-head, or sole member is an elderly person. Identifying elderly families is important because these families qualify for special deductions from income as described in Chapter 6.

3-I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403]

Persons with Disabilities

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

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

Disabled Family

A *disabled family* is one in which the head, spouse, or co-head is a person with disabilities. Identifying disabled families is important because these families qualify for special deductions from income as described in Chapter 6.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent the PHA from denying assistance for reasons related to alcohol and drug abuse following policies found in Part III of this chapter, or from terminating assistance following the policies in Chapter 12.

3-J. GUESTS [24 CFR 5.100]

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

PHA Policy

A guest can remain in the assisted unit no longer than 14 consecutive days or a total of 30 cumulative calendar days during any 12 month period.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the assisted household more than 50 percent of the time, are not subject to the time limitations of guests as described above.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 40 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

3.K. FOSTER CHILDREN AND FOSTER ADULTS

Foster adults are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609].

The term *foster child* is not specifically defined by the regulations.

Foster children and foster adults that are living with an applicant or assisted family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603 and HUD-50058 IB, p. 13].

PHA Policy

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

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

Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3-I.L.

3-L. ABSENT FAMILY MEMBERS

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

Definitions of Temporarily and Permanently Absent

PHA Policy

Generally an individual who is or is expected to be absent from the assisted unit for 90 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 90 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Members of the Military

PHA Policy

When someone who has been considered a family member is an active member of the military and is away from home, the person will not continue to be considered a family member unless information becomes available to the Osceola County Section 8 Housing Program indicating that the person has not established a separate household. This policy does not apply to members of the National Guard or Reserves.

Absent Students

PHA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the Osceola County Section 8 Housing Program indicating that the student has established a separate household.

Absences Due to Placement in Foster Care [24 CFR 5.403]

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

PHA Policy

If a child has been placed in foster care, the Osceola County Section 8 Housing Program will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

Absent Head, Spouse, or Co-head

PHA Policy

An employed head, spouse, or co-head absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

Family Members Permanently Confined for Medical Reasons [HCV GB, p. 5-22]

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted [HCV GB, p. 5-22].

PHA Policy

The Osceola County Section 8 Housing Program will request verification from a responsible medical professional and will use this documentation in determining if the family member should continue being considered part of the household. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

Return of Permanently Absent Family Members

PHA Policy

The family must request Osceola County Section 8 Housing Program approval for the return of any adult family members that the Osceola County Section 8 Housing Program has determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed elsewhere in this chapter.

3-M. LIVE-IN AIDE

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the persons, (2) is not obligated for the support of the persons, and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

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

A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations [24 CFR 5.609(b)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

PHA Policy

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member.

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

The Osceola County Section 8 Housing Program will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 982.316(b)]:

The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

The person commits drug-related criminal activity or violent criminal activity; or

The person currently owes rent or other amounts to the Osceola County Section 8 Housing Program or to another PHA in connection with housing choice voucher or public housing assistance under the 1937 Act.

Within 10 business days of receiving a request for a live-in aide, including all required documentation

related to the request, the Osceola County Section 8 Housing Program will notify the family of its decision in writing.

3-N. INCOME ELIGIBILITY AND TARGETING

INCOME LIMITS

HUD is required by law to set income limits that determine the eligibility of applicants for HUD's assisted housing programs, including the housing choice voucher program. The income limits are published annually and are based on HUD estimates of median family income in a particular area or county, with adjustments for family size.

Types of Low-Income Families

Low-income family. A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.

Very low-income family. A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.

Extremely low-income family. A family whose annual income does not exceed 30 percent of the median income for the area, adjusted for family size.

HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Using Income Limits for Eligibility [24 CFR 982.201]

Income limits are used for eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, a family must be one of the following:

- A *very low-income* family
- A *low-income* family that has been "continuously assisted" under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program [24 CFR 982.4]

  PHA Policy

  The Osceola County Section 8 Housing Program will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were issued a voucher by the Osceola County Section 8 Housing Program.

- A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173

- A low-income or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101

HUD permits the PHA to establish additional categories of low-income families that may be determined eligible. The additional categories must be consistent with the PHA plan and the consolidated plans for local governments within the PHA's jurisdiction.

PHA Policy

The Osceola County Section 8 Housing Program has not established any additional categories of eligible low-income families.

Using Income Limits for Targeting [24 CFR 982.201]

At least 75 percent of the families admitted to the PHA's program during a PHA fiscal year must be extremely low-income families. HUD may approve exceptions to this requirement if the PHA demonstrates that it has made all required efforts, but has been unable to attract an adequate number of qualified extremely low-income families.

Families continuously assisted under the 1937 Housing Act and families living in eligible low-income housing that are displaced as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not subject to the 75 percent restriction.

3-O. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, SUBPART E]

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration status. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with the PHA's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

Declaration [24 CFR 5.508]

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

U.S. Citizens and Nationals

In general, citizens and nationals are required to submit only a signed declaration that claims their status. However, HUD regulations permit the PHA to request additional documentation of their status, such as a passport.

PHA Policy

Family members who declare citizenship or national status will not be required to provide additional documentation unless the Osceola County Section 8 Housing Program receives information indicating that an individual's declaration may not be accurate.

Eligible Noncitizens

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with PHA efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

Ineligible Noncitizens

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a non-contending family members listing, signed by the head, spouse, or co-head (regardless of citizenship status), indicating their ineligible immigration status. The PHA is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

Mixed Families

A family is eligible for assistance as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered *mixed families*. Such families will be given notice that their assistance will be prorated and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 17 for a discussion of informal hearing procedures.

Ineligible Families [24 CFR 5.514(d), (e), and (f)]

A PHA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by the PHA that the individual or at least one family member is eligible [24 CFR 5.512(a)].

PHA Policy

The Osceola County Section 8 Housing Program will not provide assistance to a family before the verification of at least one family member.

When Osceola County Section 8 Housing Program *determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, during the verification process, the family will be sent a written notice within 10 business days of the determination.*

The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance, and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with the Osceola County Section 8 Housing Program. The informal hearing with the Osceola County Section 8 Housing Program may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

Informal hearing procedures are contained in Chapter 17.

Timeframe for Determination of Citizenship Status [24 CFR 5.508(g)]

For new occupants joining the assisted family the PHA must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

If an individual qualifies for a time extension for the submission of required documents, the PHA must grant such an extension for no more than 30 days [24 CFR 5.508(h)].

Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

PHA Policy

The Osceola County Section 8 Housing Program will verify the status of applicants at the time other eligibility factors are determined.

3-P. SOCIAL SECURITY NUMBERS [24 CFR 5.216 AND 5.218]

For every family member age 6 or older the family must provide documentation of a valid Social Security Number (SSN) or a certification stating that no SSN has been issued. If a family member who is required to execute a certification is less than 18 years old, the certification must be executed by the individual's parent or guardian [24 CFR 5.216(j)]. Assistance cannot be provided to a family until all SSN documentation requirements are met. A detailed discussion of acceptable documentation is provided in Chapter 7.

If a new member who is at least six years of age is added to the family, the new member's SSN documentation must be submitted at the family's next interim or regular reexamination, whichever comes first. If any member of the family who is at least six years of age obtains a previously undisclosed SSN, or has been assigned a new SSN, the documentation must be submitted at the family's next regularly scheduled reexamination.

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

3-Q. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230]

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

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

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

3-R. OVERVIEW DENIAL OF ASSISTANCE

A family that does not meet the following eligibility criteria discussed above must be denied assistance.

In addition, HUD requires or permits the PHA to deny assistance based on certain types of current or past behaviors of family members.

Forms of Denial [24 CFR 982.552(a)(2); HCV GB, p. 5-35]

Denial of assistance includes any of the following:

- Not placing the family's name on the waiting list,
- Denying or withdrawing a voucher,
- Not approving a request for tenancy or refusing to enter into a HAP contract, or

- Refusing to process a request for or to provide assistance under portability procedures.

Prohibited Reasons for Denial of Assistance [24 CFR 982.202(b)]

HUD rules prohibit denial of assistance to the program based on any of the following criteria:

- Age, disability, race, color, religion, sex, or national origin. (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
- Where a family lives prior to admission to the program
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside the PHA's jurisdiction (See Chapter 10, Portability.)
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock
- Whether the family includes children
- Whether a family decides to participate in a family self-sufficiency program

3-S. MANDATORY DENIAL OF ASSISTANCE [24 CFR 982.553(A)]

HUD requires the PHA to deny assistance in the following cases:

- Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity. HUD permits but does not require the PHA to admit an otherwise-eligible family if the household member has completed a PHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g. the person involved in the criminal activity no longer lives in the household).

  PHA Policy

  The Osceola County Section 8 Housing Program may admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity, if the Osceola County Section 8 Housing Program is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the Osceola County Section 8 Housing Program, or the person who committed the crime, is no longer living in the household.

- The PHA determines that any household member is currently engaged in the use of illegal drugs.

  PHA Policy

  Currently engaged in is defined as any use of illegal drugs during the previous twelve (12) months.

- The PHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

  PHA Policy

  In determining reasonable cause, the Osceola County Section 8 Housing Program will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol.

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing
- Any household member is subject to a lifetime registration requirement under a state sex offender registration program

3-T. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE

HUD permits, but does not require the PHA to deny assistance for the reasons discussed in this section.

Criminal Activity [24 CFR 982.553]

HUD permits, but does not require, the PHA to deny assistance if the PHA determines that any household member is currently engaged in, or has engaged in during a reasonable time before the family would receive assistance, certain types of criminal activity.

PHA Policy

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past five years, the family will be denied assistance.

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

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

Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or

Criminal activity that may threaten the health or safety of property owners and management staff, and persons performing contract administration functions or other responsibilities on behalf of the Osceola County Section 8 Housing Program (including a Osceola County Section 8 Housing Program employee or a Osceola County Section 8 Housing Program contractor, subcontractor, or agent).

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

Evidence of such criminal activity includes, but is not limited to:

Conviction for drug-related or violent criminal activity within the past 5 years;

Any arrests for drug-related or violent criminal activity within the past 5 years;

Any record of eviction from public or privately-owned housing as a result of criminal activity within the past 5 years;

In making its decision to deny assistance, the Osceola County Section 8 Housing Program will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the Osceola County Section 8 Housing Program, may, on a case-by-case basis, decide not to deny assistance.

3-U. PREVIOUS BEHAVIOR IN ASSISTED HOUSING [24 CFR 982.552(C)]

HUD authorizes the PHA to deny assistance based on the family's previous behavior in assisted housing:

PHA Policy

The Osceola County Section 8 Housing Program ***will not*** *deny assistance to an otherwise eligible family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program or the Welfare to Work voucher program.*

*The Osceola County Section 8 Housing Program **will** deny assistance to an applicant family if:*

The family does not provide information that the Osceola County Section 8 Housing Program or HUD determines is necessary in the administration of the program.

The family does not provide complete and true information to the Osceola County Section 8 Housing Program.

Any family member has been evicted from federally-assisted housing in the last five years.

Any PHA other than Osceola County Section 8 Housing Program has terminated assistance under a federal housing *program for any member of the family.*

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

The family owes rent or other amounts to any Osceola County Section 8 Housing Program in connection with the HCV, Family Self Sufficiency, HCV Homeownership, and VASH, unless the family repays the full amount of the debt prior to being selected from the waiting list.

If the family has not reimbursed Osceola County Section 8 Housing Program for currency the Osceola County Section 8 Housing Program paid to an owner under a HAP contract for rent, or other amounts owed by the family under the lease, the family will not be admitted on the program unless the family repays the full amount of the debt prior to being selected from the waiting list.

The family has breached the terms of a repayment agreement entered into with the Osceola County Section 8 Housing Program, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.

A family member has engaged in or threatened violent or abusive behavior toward Osceola County Section 8 Housing Program personnel.

Abusive or violent behavior towards Osceola County Section 8 Housing Program personnel *includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.*

Threatening *refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.*

In making its decision to deny assistance, the Osceola County Section 8 Housing Program will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the Osceola County Section 8 Housing Program may, on a case-by-case basis, decide not to deny assistance.

Screening for Eligibility

PHAs are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the HCV program. This authority assists the PHA in complying with HUD requirements and PHA policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records the PHA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

PHAs are required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 982.553(a)(2)(i)].

If the PHA proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission [24 CFR 5.903(f) and 5.905(d)].

Screening for Suitability as a Tenant [24 CFR 982.307]

The PHA has no liability or responsibility to the owner for the family's behavior or suitability for tenancy. The PHA may opt to conduct additional screening to determine whether an applicant is likely to be a suitable tenant.

PHA Policy

The Osceola County Section 8 Housing Program will not conduct additional screening to determine an applicant family's suitability for tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. The PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner. An owner may consider a family's history with respect to factors such as: payment of rent and utilities, caring for a unit and premises, respecting the rights of other residents to the peaceful enjoyment of their housing, criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

HUD requires the PHA to provide prospective owners with the family's current and prior address (as shown in PHA records) and the name and address (if known) of the owner at the family's current and prior addresses. HUD permits the PHA to provide owners with additional information, as long as families are notified that the information will be provided, and the same type of information is provided to all owners.

PHA Policy

The Osceola County Section 8 Housing Program will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the initial HQS inspection or before. The Osceola County Section 8 Housing Program will not provide any additional information to the owner, such as tenancy history, criminal history, etc. The Section 8 Housing Program staff will notify the family of owners' request for previous rental history. Request for family information must be made in writing.

3-V. CRITERIA FOR DECIDING TO DENY ASSISTANCE

Evidence [24 CFR 982.553(c)]

PHA Policy

The Osceola County Section 8 Housing Program will use the concept of the preponderance of the evidence as the standard for making all admission decisions.

Preponderance of the evidence *is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.*

Consideration of Circumstances [24 CFR 982.552(c)(2)]

HUD authorizes the PHA to consider all relevant circumstances when deciding whether to deny assistance based on a family's past history except in the situations for which denial of assistance is mandated (see Section 3-III.B).

PHA Policy

The Osceola County Section 8 Housing Program will consider the following factors when making its decision:

The seriousness of the case, especially with respect to how it would affect other residents;

The effects that denial of assistance may have on other members of the family who were not involved in the action or failure;

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities;

The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future;

In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.

The Osceola County Section 8 Housing Program will require the applicant 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.

Removal of a Family Member's Name from the Application [24 CFR 982.552(c)(2)(ii)]

HUD permits PHAs to impose as a condition of admission, a requirement that family members who participated in or were culpable for an action or failure to act which results in the denial of assistance, to not reside in the unit.

PHA Policy

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

After admission to the program, the family must present evidence of the former family member's current

address upon Osceola County Section 8 Housing Program request.

Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]

If the family includes a person with disabilities, the PHA's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

PHA Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, the Osceola County Section 8 Housing Program will determine whether the behavior is related to the disability. If so, upon the family's request, the Osceola County Section 8 Housing Program will determine whether alternative measures are appropriate as a reasonable accommodation. The Osceola County Section 8 Housing Program will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of assistance. See Chapter 2 for a discussion of reasonable accommodation.

3-W. NOTICE OF ELIGIBILITY OR DENIAL

Eligible for Assistance

If the family is eligible for assistance, the PHA will notify the family when it extends the invitation to attend the voucher briefing appointment, as discussed in Chapter 5.

If the PHA determines that a family is not eligible for the program for any reason, the family must be notified promptly. The notice must describe (1) the reasons for which assistance has been denied (2) the family's right to an informal review, and (3) the process for obtaining the informal review [24 CFR 982.554 (a)]. See Chapter 17, for informal review policies and procedures.

If a criminal record is the basis of the denial, a copy of the record must accompany the notice. In addition, a copy of the criminal record must be provided to the subject of the record [24 CFR 982.553(d)].

Notice requirements related to denying assistance to noncitizens are contained in Section 3-II.B.

PHA Policy

The family will be notified of a decision to deny assistance in writing within 10 business days of the determination.

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

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

Has a disability, as defined in 42 U.S.C. Section 423(d) (1) (A), which reads:

> Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; *or*
>
> In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i) (1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act [42U.S.C.6001(8)], which defines developmental disability in functional terms as:

> A severe, chronic disability of a person 5 years of age or older which:
>
> - Is attributable to a mental or physical impairment or combination of mental and physical impairments;
> - Is manifested before the person attains age twenty-two;
> - Is likely to continue indefinitely;
> - Results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and responsive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; *and*
> - Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated; except that such term, when applied to infants and young children, means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided."

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

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

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

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

Individual with Handicaps [24 CFR 8.3]

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

(1) Physical or mental impairment includes:

(a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

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

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

(4) *Is regarded as having an impairment* means:

(a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;

(b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or

(c) Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.

CHAPTER 4: APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

When a family wishes to receive Section 8 HCV assistance, the family must submit an application that provides the PHA with the information needed to determine the family's eligibility. HUD requires the PHA to place all families that apply for assistance on a waiting list. When HCV assistance becomes available, the PHA must select families from the waiting list in accordance with HUD requirements and PHA policies as stated in the administrative plan and the annual plan.

The PHA is required to adopt a clear approach to accepting applications, placing families on the waiting list, selecting families from the waiting list and must follow this approach consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the PHA to receive preferential treatment. Funding earmarked exclusively for families with particular characteristics may also alter the order in which families are served.

HUD regulations require that all families have an equal opportunity to apply for and receive housing assistance, and that the PHA affirmatively further fair housing goals in the administration of the program [24 CFR 982.53, HCV GB p. 4-1]. Adherence to the selection policies described in this chapter ensures that the PHA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and PHA policies for taking applications, managing the waiting list and selecting families for HCV assistance. The policies outlined in this chapter are organized into three sections, as follows:

4-A. APPLYING FOR ASSISTANCE [HCV GB, PP. 4-11 – 4-16]

Any family that wishes to receive HCV assistance must apply for admission to the program. HUD permits the PHA to determine the format and content of HCV applications, as well how such applications will be made available to interested families and how applications will be accepted by the PHA.

PHA Policy

Osceola County Section 8 Housing Program initially will require families to provide only the information needed to make an initial assessment of the family's eligibility and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list.

Families may obtain application forms from the Osceola County Section 8 Housing Program's website when the waiting list is opened and according to the advertised procedures at that time.

Completed applications must be submitted to the Osceola County Section 8 Housing Program online only. Applications must be complete in order to be accepted by the Osceola County Section 8 Housing Program for processing. If an applicant is a person with special needs or disabilities and cannot complete the application online, then the applicant must call the housing agency to request a reasonable accommodation. If because of their disability, they are unable to complete the application by any of the means available, the applicant will need to contact the Osceola County Housing Office to request additional reasonable accommodations. If an application is incomplete, the Osceola County Housing Office will notify the family of the additional information required.

4-B. ACCESSIBILITY OF THE APPLICATION PROCESS

Elderly and Disabled Populations [24 CFR 8]

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

Limited English Proficiency

PHAs are required to take reasonable steps to ensure meaningful access to their programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion on the PHA's policies related to ensuring access to people with limited English proficiency (LEP).

4-C. PLACEMENT ON THE WAITING LIST

The PHA must review each complete application received and make a preliminary assessment of the family's eligibility. The PHA must accept applications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations [24 CFR 982.206(b)(2)]. Where the family is determined to be ineligible, the PHA must notify the family in writing [24 CFR 982.201(f)]. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list [24 CFR 982.202(c)].

Ineligible for Placement on the Waiting List

PHA Policy

If the Osceola County Section 8 Housing Program can determine from the information provided that a family is ineligible, the family will not be placed in the lottery for a position on the waiting list. Where a family is determined to be ineligible, the PHA will send written notification of the ineligibility determination within 10 business days of receiving a completed application. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review and explain the process for doing so (see Chapter 17).

Eligible for Placement on the Waiting List

PHA Policy

The Osceola County Section 8 Housing Program will send written notification of the preliminary eligibility determination after receiving a complete online application for those selected from the random lottery drawing.

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

Applicants will be placed on the waiting list according to a random lottery system to include the preferences they are entitled to at that time of application.

4-D. ORGANIZATION OF THE WAITING LIST [24 CFR 982.204 AND 205]

The PHA's HCV waiting list must be organized in such a manner to allow the PHA to accurately identify and select families for assistance in the proper order, according to the admissions policies described in this plan.

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

- Applicant name;
- Family unit size;
- Date and time of application;
- Qualification for any local preference;
- Racial or ethnic designation of the head of household.

HUD requires the PHA to maintain a single waiting list for the HCV program unless it serves more than one county or municipality. Such PHAs are permitted, but not required, to maintain a separate waiting list for each county or municipality served.

PHA Policy

The Osceola County Section 8 Housing Program will maintain a single waiting list for the HCV program.

HUD directs that a family that applies for assistance from the HCV program must be offered the opportunity to be placed on the waiting list for any public housing, project-based voucher or moderate rehabilitation program the PHA operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs.

HUD permits, but does not require, that PHAs maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs.

A family's decision to apply for, receive, or refuse other housing assistance must not affect the family's placement on the HCV waiting list, or any preferences for which the family may qualify.

PHA Policy

The Osceola County Section 8 Housing Program will not merge the HCV waiting list with the waiting list for any other program the Osceola County Section 8 Housing Program operates.

4-E. OPENING AND CLOSING THE WAITING LIST [24 CFR 982.206]

Closing the Waiting List

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

PHA Policy

The Osceola County Section 8 Housing Program will close the waiting list when we have reached 300 applications. Where the Osceola County Section 8 Housing Program has particular preferences or funding criteria that require a specific category of family, the Osceola County Section 8 Housing Program may elect to continue to accept applications from these applicants while closing the waiting list to others.

Reopening the Waiting List

If the waiting list has been closed, it cannot be reopened until the PHA publishes a notice in local newspapers of general circulation, minority media, and other suitable media outlets. The notice must comply with HUD fair housing requirements and must specify who may apply, and where and when applications will be received.

PHA Policy

The Osceola County Section 8 Housing Program will announce the reopening of the waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

The Osceola County Section 8 Housing Program will give public notice by publishing in a newspaper of general circulation or other suitable media outlets including the Osceola County website.

4-F. FAMILY OUTREACH [HCV GB, PP. 4-2 TO 4-4]

The PHA must conduct outreach as necessary to ensure that the PHA has a sufficient number of applicants on the waiting list to use the HCV resources it has been allotted.

Because HUD requires the PHA to serve a specified percentage of extremely low income families (see Chapter 4, Part III), the PHA may need to conduct special outreach to ensure that an adequate number of such families apply for assistance [HCV GB, p. 4-20 to 4-21].

PHA outreach efforts must comply with fair housing requirements. This includes:

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

PHA outreach efforts must be designed to inform qualified families about the availability of assistance under the program. These efforts may include, as needed, any of the following activities:

- Submitting press releases to local newspapers, including minority newspapers
- Developing informational materials and flyers to distribute to other agencies
- Providing application forms to other public and private agencies that serve the low income population
- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

PHA Policy

The Osceola County Section 8 Housing Program will monitor the characteristics of the population being served and the characteristics of the population as a whole in the Osceola County Section 8 Housing Program's jurisdiction. Targeted outreach efforts will

be undertaken if a comparison suggests that certain populations are being underserved.

4-G. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

PHA Policy

While the family or participant is on the waiting list, the family must immediately inform the Osceola County Section 8 Housing Program of changes in contact information, including current residence, mailing address, and phone number and any changes in claimed preferences. Updates to the family composition must also be reported. The changes must be submitted online or in writing to Osceola County Section 8 Program within 10 business days of the change.

4-H. UPDATING THE WAITING LIST [24 CFR 982.204]

HUD requires the PHA to establish policies to use when removing applicant names from the waiting list.

Purging the Waiting List

The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to a PHA request for information or updates because of the family member's disability, the PHA must reinstate the applicant family to their former position on the waiting list [24 CFR 982.204(c)(2)].

PHA Policy

The waiting list will be updated annually to ensure that all applicants and applicant information is current and timely.

To update the regular waiting list, the Osceola County Section 8 Housing Program will send an update request via regular mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that the Osceola County Section 8 Housing Program has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be in writing and may be ~~delivered~~ submitted on line, in person, or by mail. Responses should be postmarked or received by the Osceola County Section 8 Housing Program no later than

15 business days from the date of the Osceola County Section 8 Housing Program letter.

If the family fails to respond within 15 business days, the family will be removed from the waiting list without further notice.

If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice.

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have ~~10~~ 15 business days to respond from the date the letter was re-sent.

If a family is removed from the waiting list for failure to respond, the Human Services Manager or their designee may reinstate the family if s/he determines the lack of response was due to Osceola County Section 8 Housing Program error, or to circumstances beyond the family's control.

Removal from the Waiting List

PHA Policy

If at any time an applicant family is on the waiting list, the Osceola County Section 8 Housing Program determines that the family is not eligible for assistance, (see Chapter 3) the family will be removed from the waiting list.

If a family is removed from the waiting list because the Osceola County Section 8 Housing Program has determined the family is not eligible for assistance, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review of the Osceola County Section 8 Housing Program's decision (see Chapter 17) [24 CFR 982.201(f)].

4-I. SELECTION AND HCV FUNDING SOURCES

Special Admissions [24 CFR 982.203]

HUD may award funding for specifically-named families living in specified types of units (e.g., a family that is displaced by demolition of public housing; a non-purchasing family residing in a

HOPE 1 or 2 projects). In these cases, the PHA may admit families that are not on the waiting list, or without considering the family's position on the waiting list. The PHA must maintain records showing that such families were admitted with special program funding.

Targeted Funding [24 CFR 982.204(e)]

HUD may award a PHA funding for a specified category of families on the waiting list. The PHA must use this funding only to assist the families within the specified category. Within this category of families, the order in which such families are assisted is determined according to the policies provided in Section 4-III.C.

PHA Policy

The Osceola County Section 8 Housing Program will administer targeted funding (e.g., Family Unification, Non-elderly/Disabled) if awarded vouchers:

Regular HCV Funding

Regular HCV funding may be used to assist any eligible family on the waiting list. Families are selected from the waiting list according to the policies provided in Section 4-III.C.

4-J. SELECTION METHOD

PHAs must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the PHA will use [982.202(d)].

Local Preferences [24 CFR 982.207; HCV p. 4-16]

PHAs are permitted to establish local preferences, and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the PHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the PHA plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources.

PHA Policy

The need for tenant-based rental assistance in Osceola County exceeds the availability of funds for this purpose, and a housing choice voucher is a scarce resource which is in great demand. For the purpose of ordering the issuance of housing choice vouchers to those most in need, and reflecting the priorities of the Osceola County Housing Agency, the local preferences described below and their weighted scores have been established.

Local Preferences

- *A legal resident of Osceola County*
- *Working families with minor children as defined by working 20 or more hours per week*

- *Working persons as defined by working 20 or more hours per week*
- *A person 62 years old or older or a person unable to work because of the extent of their disability*

Preference Ranking with weighted score:

1. ***Osceola County Resident at the time of application (ex: driver's license and one of the following: lease, utility bill, etc.) - 10 points.***
2. ***Working families with minor children as defined by working 20 or more hours per week - 8 points***
3. ***Working persons as defined by working 20 or more hours per week - 6 points***
4. ***A person 62 years old or older or a person unable to work because of the extent of their disability (ex: birth certificate, Social Security/SSI disability award letter) - 4 points***

Preferences are assigned using the weighted scores above. Applicants may apply for multiple preferences in addition to the Osceola County resident preference. The more preferences points an applicant has, the higher the applicant's place on the pre-approved waiting list. Once an applicant is approved, a final waiting list will be established. All preference selections are made using this weight system. Applicants with equal preference status weights will be addressed by a random lottery system. For those without any preferences, selections are made by a random lottery drawing. Preference information on all applications will be verified as applicants are selected from the pre-approved waiting list. Once an applicant is approved, a final waiting list will be established. At that time, Osceola County Section 8 Program will obtain necessary third party verification of preferences. Additional verification is mandatory before receiving a voucher.

Section 1001 of Title 18 of the U.S. Code makes it a criminal offense to make or use any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry.

If this offense occurs, your application will be removed from the waiting list.

Income Targeting Requirement [24 CFR 982.201(b)(2)]

HUD requires that extremely low-income (ELI) families make up at least 75% of the families admitted to the HCV program during the PHA's fiscal year. ELI families are those with annual incomes at or below 30% of the area median income. To ensure this requirement is met, a PHA may skip non-ELI families on the waiting list in order to select an ELI family.

Low income families admitted to the program that are "continuously assisted" under the 1937 Housing Act [24 CFR 982.4(b)], as well as low-income or moderate-income families admitted to the program that are displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, are not counted for income targeting purposes [24 CFR 982.201(b)(2)(v)].

PHA Policy

The Osceola County Section 8 Housing Program will monitor progress in meeting the ELI requirement throughout the fiscal year. It should be noted that the Osceola County Housing Agency reserves the right to skip applicants who are not Extremely Low Income (<30% of Median Income for the County) if and when it is apparent that the agency will not meet the minimum target of 75% of new voucher holders being Extremely Low Income for the agency's fiscal year. In this respect, any new applicant to the program using portability to move into Osceola County shall be counted in terms of the targeting requirement. In addition, any household being admitted from Osceola's waiting list and using portability to move to another jurisdiction shall not be counted in terms of the targeting requirement.

Order of Selection

The PHA system of preferences may select families either according to the date and time of application, or by a random selection process [24 CFR 982.207(c)]. When selecting families from the waiting list PHAs are required to use targeted funding to assist only those families who meet the specified criteria, and PHAs are not permitted to skip down the waiting list to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list [24 CFR 982.204(d) and (e)].

PHA Policy

Families will be selected from the pre-approved waiting list based on the order of their placement on the list from a random lottery drawing within the

equally weighted preferences. Once an applicant is approved, a final waiting list will be established.

4-K. NOTIFICATION OF SELECTION

When a family has been selected from the waiting list, the PHA must notify the family.

PHA Policy

The Osceola County Section 8 Housing Program will notify the family by first class mail or by email when selected from the pre-approved waiting list. The notice will inform the family of the procedures which must be followed in terms of completing the selection process before being added to the final waiting list.

If a notification letter is returned to the Osceola County Section 8 Housing Program with no forwarding address, the family will be removed from the waiting list. The Section 8 Housing Specialist will place a note in the file along with the letter that was returned undeliverable

4-L. THE APPLICATION INTERVIEW

HUD recommends that the PHA obtain the information and documentation needed to make an eligibility determination though a private interview [HCV GB, pg. 4-16]. Being invited to attend an interview does not constitute admission to the program.

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

PHA Policy

Families selected from the waiting list are required to participate in a group briefing as per Chapter 5.

The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, as well as completing required forms, providing required signatures, and submitting required documentation. If any materials are missing, the Osceola County Section 8 Housing Program will provide the family with a written list of items that must be submitted within 10 days from notice. If documents are not provided in the specified timeframe, applicant will be terminated from the waiting list. These procedures are set forth in a document supplied by the Osceola County Section 8 Housing Program to the family upon notification of selection.

4-M. COMPLETING THE APPLICATION PROCESS

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

PHA Policy

If the Osceola County Section 8 Housing Program determines that the family is ineligible, the Osceola County Section 8 Housing Program will send written notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 17).

If a family fails to qualify for any preference criteria that affected the order in which it was selected from the waiting list, the family will be returned to the appropriate position on the waiting list to which they are then entitled. The Osceola County Section 8 Housing Program will notify the family in writing that it has been returned to the waiting list and will specify the reasons for it.

CHAPTER 5: BRIEFINGS AND VOUCHER ISSUANCE

INTRODUCTION

This chapter explains the briefing and voucher issuance process. When a family is determined to be eligible for the Housing Choice Voucher (HCV) program, the PHA must ensure that the family fully understands the way the program operates and the family's obligations under the program. This is accomplished through both an oral briefing and provision of a briefing packet containing written documentation of information the family needs to know. Once the family is fully informed of the program's requirements, the PHA issues the family a voucher. The voucher includes the unit size the family qualifies for based on the PHA's subsidy standards, as well as the dates of issuance and expiration of the voucher. The voucher is the document that permits the family to begin its search for a unit, and limits the amount of time the family has to successfully locate an acceptable unit.

5-A. BRIEFING [24 CFR 982.301]

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

PHA Policy

Briefings will be conducted in group meetings.

The head of household and all adult members 18 and over are required to attend the briefing.

Families that attend group briefings and still need individual assistance will be referred to an appropriate PHA staff person.

Briefings will be conducted in English. For Limited English Proficient (LEP) applicants, the Osceola County Section 8 Housing Program will provide translation services in accordance with the Osceola County Section 8 Housing Program's LEP plan (See Chapter 2).

Notification and Attendance

PHA Policy

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

If the notice is returned by the post office with no forwarding address, a notice of denial (see Chapter 3) will be sent to the family's address of record, as well as to any alternate address provided on the initial application.

Applicants who fail to attend a scheduled briefing will automatically be scheduled for another briefing. The Osceola County Section 8 Housing Program will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without Osceola County Section 8 Housing Program approval, will be denied assistance (see Chapter 3).

Each briefing must provide information on the following subjects:

- How the Housing Choice Voucher program works;
- Family and owner responsibilities;
- Where the family can lease a unit, including renting a unit inside or outside the PHA's jurisdiction;
- For families eligible under portability, an explanation of portability. The PHA cannot discourage eligible families from moving under portability;
- For families living in high-poverty census tracts, an explanation of the advantages of moving to areas outside of high-poverty concentrations; and
- For families receiving welfare-to-work vouchers, a description of any local obligations of a welfare-to-work family and an explanation that failure to meet the obligations is grounds for denial of admission or termination of assistance.

Briefing Packet [24 CFR 982.301(b)]

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

- The term of the voucher, and the PHA's policies on any extensions or suspensions of the term. If the PHA allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how the PHA determines the payment standard for a family, how the PHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how the PHA determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit. For a family that qualifies to lease a unit outside the PHA jurisdiction under portability procedures, the information must include an explanation of how portability works.
- The HUD-required tenancy addendum, which must be included in the lease.

- The form the family must use to request approval of tenancy**,** and a description of the procedure for requesting approval for a tenancy.
- A statement of the PHA policy on providing information about families to prospective owners.
- The PHA subsidy standards including when and how exceptions are made.
- The HUD brochure on how to select a unit.
- The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home.*
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form.
- A list of landlords or other parties willing to lease to assisted families or help families find units, especially outside areas of poverty or minority concentration.
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the PHA.
- The family obligations under the program, including any obligations of a welfare-to-work family.
- The grounds on which the PHA may terminate assistance for a participant family because of family action or failure to act.
- PHA informal hearing procedures including when the PHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.

If the PHA is located in a metropolitan FMR area, the following additional information must be included in the briefing packet in order to receive full points under SEMAP Indicator 7, Expanding Housing Opportunities [24 CFR 985.3(g)].

- Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction.
- Information about the characteristics of these areas including job opportunities, schools, transportation and other services.
- An explanation of how portability works, including a list of portability contact persons for neighboring PHAs including names, addresses, and telephone numbers.

Additional Items to be Included in the Briefing Packet

In addition to items required by the regulations, PHAs may wish to include supplemental materials to help explain the program to both participants and owners [HCV GB p. 8-7].

5-B. FAMILY OBLIGATIONS

Obligations of the family are described in the housing choice voucher (HCV) regulations and on the voucher itself. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. The PHA must inform families of these obligations during the oral briefing, and the same information must be included in the briefing packet. When the family's

unit is approved and the HAP contract is executed, the family must meet those obligations in order to continue participating in the program. Violation of any family obligation may result in termination of assistance, as described in Chapter 12.

Time Frames for Reporting Changes Required By Family Obligations

PHA Policy

Unless otherwise noted below, when family obligations require the family to respond to a request or notify the Osceola County Section 8 Housing Program of a change, notifying the Osceola County Section 8 Housing Program of the request or change within 10 business days is considered prompt notice.

When a family is required to provide notice to the Osceola County Section 8 Housing Program, the notice must be in writing.

Family Obligations [24 CFR 982.551]

Following is a listing of a participant family's obligations under the HCV program:

- The family must supply any information that the PHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.
- The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.
- The family must notify the PHA and the owner before moving out of the unit or terminating the lease.

PHA Policy

The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the Osceola County Section 8 Housing Program at the same time the owner is notified.

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

  PHA Policy

  The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The Osceola County Section 8 Housing Program will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify the PHA in writing if any family member no longer lives in the unit.
- If the PHA has given approval, a foster child or a live-in aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when PHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3, and Chapter 11.
- The family must not sublease the unit, assign the lease, or transfer the unit.

  PHA Policy

  Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member. Osceola County Section 8 Program does not allow subleasing.

- The family must supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the PHA when the family is absent from the unit.

  PHA Policy

  Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the Osceola County Section 8 Housing Program at the start of the extended absence. Any leave of absence shall not exceed 90 days.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].

- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and PHA policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

5-C. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402]

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

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

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the housing quality standards.
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
- Any live-in aide (approved by the PHA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size;

- Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the PHA subsidy standards.

PHA Policy

The Osceola County Section 8 Housing Program will assign two heartbeats per living space in determining the unit size for an assisted family. Age and sex of family members will be considered on a case by case basis as approved by the Human Services Manager and/or the Housing Manager. This policy only applies to Osceola County issued vouchers. However, in cases of portability vouchers being administered by Osceola County, we reserve the right to apply this policy if in the best interest of the initial housing agency and Osceola County.

Live-in aides will be allocated a separate bedroom.

Single person families will be allocated an efficiency, (0 bedroom), or one bedroom.

The Osceola County Section 8 Housing Program will reference the following chart in determining the appropriate voucher size for a family:

Voucher Size	**Persons in Household** **(Minimum – Maximum)**
0 Bedroom	1-2
1 Bedroom	1-3
2 Bedrooms	2-6
3 Bedrooms	3-8
4 Bedrooms	5-10
5 Bedrooms	7-12

5-D. EXCEPTIONS TO SUBSIDY STANDARDS

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

- A need for an additional bedroom for medical equipment

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

For a single person who is not elderly, disabled, or a remaining family member, an exception cannot override the regulatory limit of a zero or one bedroom [24 CFR 982.402(b)(8)].

PHA Policy

The Osceola County Section 8 Housing Program will consider granting an exception for any of the reasons specified in the regulation: the age, sex, health, handicap, or relationship of family members or other personal circumstances.

The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a larger family unit size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source, unless the disability and the disability-related request for accommodation is readily apparent or otherwise known.

The Osceola County Section 8 Housing Program will notify the family of its determination within 10 business days of receiving the family's request. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

5-E. VOUCHER ISSUANCE [24 CFR 982.302]

When a family is selected from the waiting list (or as a special admission as described in Chapter 4), or when a participant family wants to move to another unit, the PHA issues a Housing Choice Voucher, form HUD-52646. This chapter deals only with voucher issuance for applicants. For voucher issuance associated with moves of program participants, please refer to Chapter 10.

The voucher is the family's authorization to search for housing. It specifies the unit size for which the family qualifies, and includes both the date of voucher issuance and date of expiration. It contains a brief description of how the program works and explains the family obligations under the program. The voucher is evidence that the PHA has determined the family to be eligible for the program, and that the PHA expects to have money available to subsidize the family if the family finds an approvable unit. However, the PHA does not have any liability to any party by the issuance of the voucher, and the voucher does not give the family any right to participate in the PHA's housing choice voucher program [Voucher, form HUD-52646]

A voucher can be issued to an applicant family only after the PHA has determined that the family is eligible for the program based on information received within the 60 days prior to issuance [24 CFR 982.201(e)] and after the family has attended an oral briefing.

PHA Policy

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

The PHA should have sufficient funds to house an applicant before issuing a voucher. If funds are insufficient to house the family at the top of the waiting list, the PHA must wait until it has adequate funds before it calls another family from the list [HCV GB p. 8-10]. If the PHA determines that there is insufficient funding after a voucher has been issued, the PHA may rescind the voucher and place the affected family back on the waiting list.

5-F. VOUCHER TERM, EXTENSIONS, AND SUSPENSIONS

Voucher Term [24 CFR 982.303]

The initial term of a voucher must be at least 60 calendar days. The initial term must be stated on the voucher [24 CFR 982.303(a)].

PHA Policy

The initial voucher term will be 60 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 60-day period unless the Osceola County Section 8 Housing Program grants an extension.

Extensions of Voucher Term [24 CFR 982.303(b)]

The PHA has the authority to grant extensions of search time, to specify the length of an extension, and to determine the circumstances under which extensions will be granted. There is no limit on the number of extensions that the PHA can approve. Discretionary policies related to extension and expiration of search time must be described in the PHA's administrative plan [24 CFR 982.54].

PHAs must approve additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose.

The family must be notified in writing of the PHA's decision to approve or deny an extension. The PHA's decision to deny a request for an extension of the voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

PHA Policy

The Osceola County Section 8 Housing Program will automatically approve one 60-day extension upon written request from the family.

The Osceola County Section 8 Housing Program will approve additional extensions only in the following circumstances:

It is necessary as a reasonable accommodation for a person with disabilities.

It is necessary due to reasons beyond the family's control, as determined by the Osceola County Section 8 Housing Program. Following is a list of extenuating circumstances that the Osceola County Section 8 Housing Program may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:

Serious illness or death in the family

Other family emergency

Obstacles due to employment or military service

Whether the family has already submitted requests for tenancy approval that were not approved by the Osceola County Section 8 Housing Program

Whether family size or other special requirements make finding a unit difficult

Any request for an additional extension must include the reason(s) an additional extension is necessary. The Osceola County Section 8 Housing Program will require the family to provide documentation to support the request.

All requests for extensions to the voucher term must be made in writing and submitted to the Osceola County Section 8 Housing Program prior to the expiration date of the voucher (or extended term of the voucher).

The Osceola County Section 8 Housing Program will decide whether to approve or deny an extension request within 10 business days of the date the request is received, and will immediately provide the family written notice of its decision.

Suspensions of Voucher Term [24 CFR 982.303(c)]

At its discretion, a PHA may adopt a policy to suspend the housing choice voucher term if the family has submitted a Request for Tenancy Approval (RTA) during the voucher term. "Suspension" means stopping the clock on a family's voucher term from the time a family submits the RTA until the time the PHA approves or denies the request [24 CFR 982.4]. The PHA's determination not to suspend a voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

PHA Policy

When a Request for Tenancy Approval and proposed lease is received by the Osceola County Section 8 Housing Program, the term of the voucher will not be suspended while the Osceola County Section 8 Housing Program processes the request.

Expiration of Voucher Term

Once a family's housing choice voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program. If the family still wishes to receive assistance, the PHA may require that the family reapply, or may place the family on the waiting list with a new application date but without requiring reapplication. Such a family does not become ineligible for the program on the grounds that it was unable to locate a unit before the voucher expired [HCV GB p. 8-13].

PHA Policy

If an applicant family's voucher term or extension expires before the Osceola County Section 8 Housing Program has submitted a Request for Tenancy Approval (RFTA), the Osceola County Section 8 Housing Program will require the family to reapply for assistance. If the RFTA is subsequently disapproved by the Osceola County Section 8 Housing Program (after the voucher term has expired), the family will be required to reapply for assistance.

Within 10 business days after the expiration of the voucher term or any extension, the Osceola County Section 8 Housing Program will notify the family in writing that the voucher term has expired and that the family must reapply in order to be placed on the waiting list.

CHAPTER 6: INCOME AND SUBSIDY DETERMINATIONS

6-A. HOUSEHOLD COMPOSITION AND INCOME

Overview

This section in the plan discusses household composition only as it relates to income calculations. Additional information on household composition as it relates to eligibility is found in Chapter 3 of the model plan.

Temporarily Absent Family Members

HUD rules require the PHA to count family members approved to live in a unit, even if a family member is temporarily absent from the unit [HCV GB, p. 5-18].

PHA Policy

Generally an individual who is or is expected to be absent from the assisted unit for 90 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 90 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

HUD does not specifically address students who are absent from a household. Although this issue would also apply to students under 18 years who are living away from the family, the major focus of this policy is to deal with students 18 and above who may or may not still be family members.

PHA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the Osceola County Section 8 Housing Program indicating that the student has established a separate household.

Absences Due to Placement in Foster Care

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

PHA Policy

If a child has been placed in foster care, the Osceola County Section 8 Housing Program will verify with the appropriate agency whether and when the child is

expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

Absent Head, Spouse, or Co-head

PHA Policy

An employed head, spouse, or co-head absent from the unit more than 180 consecutive days due to employment (including military service) will continue to be considered a family member.

Family Members Permanently Confined for Medical Reasons

The *HCV Guidebook* specifies that a family member permanently confined to a nursing home or hospital is no longer considered a family member [HCV GB, p. 5-22]. The model plan includes this safe harbor language and elaborates on this guidance by (1) establishing how the PHA will determine if the family member is permanently absent and (2) clarifying that if the permanently absent member is the only person who qualifies the family for the medical expense deduction, the family is no longer eligible for the medical expense deduction.

PHA Policy

The Osceola County Section 8 Housing Program will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or co-head, qualifies as an elderly person or a person with disabilities.

Joint Custody of Dependents

When a joint custody agreement causes a child to live in more than one location, the PHA must determine whether the child is a member of an assisted family.

PHA Policy

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

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the Osceola County Section 8 Housing Program will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

Caretakers for a Child

This policy is intended to address those relatively rare and temporary circumstances in which children remain in a unit without a parent or designated guardian. This might happen in the case of the death of the parent. In such circumstances, the care arrangements for the child may be formal or informal.

PHA Policy

If neither a parent nor a designated guardian remains in a household receiving HCV assistance, the Osceola County Section 8 Housing Program will take the following actions.

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

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

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

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

6-B. ANTICIPATING ANNUAL INCOME

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

Basis of Annual Income Projection

The PHA generally will use current circumstances to determine anticipated income for the coming 12-month period. However, under certain conditions, HUD authorizes the PHA to use other than current circumstances to anticipate income.

PHA Policy

When the Osceola County Section 8 Housing Program cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the Osceola County Section 8 Housing Program will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income. Anytime current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the Osceola County Section 8 Housing Program to show why the historic pattern does not represent the family's anticipated income.

If the Osceola County Section 8 Housing Program verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period.

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the Osceola County Section 8 Housing Program will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the Osceola County Section 8 Housing Program's policy in Chapter 11 does not require interim reexaminations for other types of changes.

Using Electronic Income Verification (EIV) to Project Income

In its verification guidance, HUD lists up-front income verification (EIV) as the highest method of income verification. It further states: "Whenever HUD makes available wage, unemployment, and SSA information, the PHA should use the information as part of the reexamination process." The model plan follows this recommendation, adopting as PHA policy guidance issued by HUD in using EIV in conjunction with family-provided documents to anticipate annual income.

PHA Policy

Osceola County Section 8 Housing Program procedures for anticipating annual income will include the use of EIV methods approved by HUD in conjunction with family-provided documents dated within the last 60 days of the Osceola County Section 8 Housing Program interview date.

The Osceola County Section 8 Housing Program will follow "HUD Guidelines for Projecting Annual Income When Up-Front Income Verification (EIV) Data Is Available" in handling differences between EIV and family-provided income data. The guidelines depend on whether a difference is substantial or not. HUD defines substantial difference as a difference of $200 or more per month.

No Substantial Difference. *If EIV information for a particular income source differs from the information provided by a family by less than $200 per month, the Osceola County Section 8 Housing Program will follow these guidelines:*

If the EIV figure is less than the family's figure, the Osceola County Section 8 Housing Program will use the family's information.

If the EIV figure is more than the family's figure, the Osceola County Section 8 Housing Program will use the EIV data unless the family provides documentation of a change in circumstances to explain the discrepancy (e.g., a reduction in work hours). Upon receipt of acceptable family-provided documentation of a change in circumstances, the Osceola County Section 8 Housing Program will use the family-provided information.

Substantial Difference. *If EIV information for a particular income source differs from the information provided by a family by $200 or more per month, the*

Osceola County Section 8 Housing Program will follow these guidelines:

The PHA will request written third-party verification from the discrepant income source in accordance with 24 CFR 5.236(b)(3)(i).

When the Osceola County Section 8 Housing Program cannot readily anticipate income (e.g., in cases of seasonal employment, unstable working hours, or suspected fraud), the Osceola County Section 8 Housing Program will review historical income data for patterns of employment, paid benefits, and receipt of other income.

The Osceola County Section 8 Housing Program will analyze all EIV, third-party, and family-provided data and attempt to resolve the income discrepancy.

The Osceola County Section 8 Housing Program will use the most current verified income data and, if appropriate, historical income data to calculate anticipated annual income.

6-C. EARNED INCOME [24 CFR 5.609(B) AND (C)]

This section of the model plan lists types of **earned** income and specifies whether they are included in or excluded from annual income.

Wages and Related Compensation [24 CFR 5.609(b)(1)]

The regulation at 24 CFR 5.609(b)(1) requires the PHA to include in annual income all forms of "compensation for personal services." While some forms, like regular wages and salaries, may be fairly easy to anticipate, other forms, like bonuses and commissions, may vary considerably from one pay period to the next.

PHA Policy

For persons who regularly receive bonuses or commissions, the Osceola County Section 8 Housing Program will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the Osceola County Section 8 Housing Program will use the prior year amounts. In either case the family may provide, and the Osceola County Section 8 Housing Program will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the

Osceola County Section 8 Housing Program will count only the amount estimated by the employer.

State and Local Employment Training Programs [24 CFR 5.609(c)(8)(v)]

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program.

PHA Policy

The Osceola County Section 8 Housing Program defines training program *as "a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education" [expired Notice PIH 98-2, p. 3].*

The Osceola County Section 8 Housing Program defines incremental earnings and benefits *as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program. In calculating the incremental difference, the Osceola County Section 8 Housing Program will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.*

End of participation in a training program must be reported in accordance with the Osceola County Section 8 Housing Program's interim reporting requirements.

HUD-Funded Training Programs [24 CFR 5.609(c)(8)(i)]

For consistency, the model plan recommends using the same definition of *training program* for HUD-funded training programs as for state and local employment training programs.

PHA Policy

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

6-D. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617]

Eligibility

No PHA policy decisions are required.

Calculation of the Disallowance

The EID regulations require the PHA to compare the current income of a family member who is eligible for the EID with the "prior income" of that family member and exclude all or part of the difference that is "a result of employment" [24 CFR 5.617(c)(1) and (2)]. To ensure consistency, the PHA must clarify the meaning of *prior income*.

PHA Policy

The Osceola County Section 8 Housing Program defines prior income, or prequalifying income, as the family member's last certified income prior to qualifying for the EID.

Initial 12-Month Exclusion

The EID regulations state that the initial 12-month exclusion period begins "on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment" [24 CFR 5.617(c)(1)]. However, in frequently asked questions on the EID, HUD has stated that, for tracking and administrative purposes, a PHA may begin the EID on the first day of the month following new employment or an increase in earnings.

PHA Policy

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

Second 12-Month Exclusion and Phase-In

No PHA policy decisions are required.

Lifetime Limitation

Because the end of a family member's eligibility for the full or partial EID may not coincide with the family's annual reexamination cycle, the PHA must decide whether to impose special interim reporting requirements related to the EID. Even though general reexamination requirements are covered in Chapter 11, the model plan also addresses this issue in the EID section.

PHA Policy

During the 48-month eligibility period, the Osceola County Section 8 Housing Program will schedule and conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

6-E. BUSINESS INCOME [24 CFR 5.609(B)(2)]

24 CFR 5.609(b)(2) indicates that net income from a business or profession must be included in annual income. The complete text of the regulation is provided in the model plan. PHA policies are required in the following areas:

- Definitions for calculating business income
- Treatment of negative net income
- Withdrawals from a business
- Co-owned businesses

Definitions for Calculating Business Income

HUD uses several financial terms in the regulation but does not define them.

Business Expenses

Calculation of net income requires that business expenses be deducted, but the regulation provides no list of allowable business expenses.

PHA Policy

To determine business expenses that may be deducted from gross income, the Osceola County Section 8 Housing Program will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.

Business Expansion

HUD rules specify that the cost of business expansion may not be used to determine net income from a business but does not define *business expansion*.

PHA Policy

Business expansion is defined as any capital expenditures made to add new business activities, to

expand current facilities, or to operate a business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

Capital Indebtedness

HUD rules specify that amortization of capital indebtedness cannot be counted as a business expense for the purpose of determining net income. The language included in the model plan explains what this means and clarifies how capital indebtedness is handled in rent calculations.

PHA Policy

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the Osceola County Section 8 Housing Program will allow as a business expense interest, but not principal, paid on capital indebtedness.

Negative Business Income

The plan borrows language from HUD Handbook 4350.3 [p. 5-10] to clarify that no income will be counted if business income is negative and that losses cannot offset other income.

Withdrawal of Cash or Assets from a Business

The regulation requires the PHA to include in annual income the value of cash or assets withdrawn from a business unless the withdrawal reimburses a family member for investments the family has made in the business. However, it gives no guidance about what constitutes an investment that may be reimbursed.

PHA Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of $2,000 to help a business get started, the Osceola County Section 8 Housing Program will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

The regulation and HUD guidance do not provide information about how to treat a business that is co-owned by someone who is not a member of the family.

PHA Policy

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

6-F. ASSETS [24 CFR 5.609(B)(3) AND 24 CFR 5.603(B)]

Overview

There is no asset limitation for participation in the HCV program. However, HUD requires that the PHA include in annual income the "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)]. This section provides guidance on how different types of assets are valued and how income from these assets is established.

The section begins with a discussion of general policies related to assets and then provides HUD rules and PHA policies related to each type of asset. Each type of asset covered in the plan is identified below. Only those that require a PHA policy are discussed. Read the plan to make sure your PHA is following HUD's rules.

General Policies

Income from Assets

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. The model plan provides a policy clarifying how the PHA will deal with situations in which something other than current circumstances is used to determine income from an asset.

PHA Policy

Anytime current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to the Osceola County Section 8 Housing Program to show why the asset income determination does not represent the family's anticipated asset income.

Valuing Assets

No PHA policy decisions are required.

Lump-Sum Receipts

No PHA policy decisions are required.

Imputing Income from Assets

No PHA policy decisions are required.

Determining Actual Anticipated Income from Assets

No PHA policy decisions are required.

Withdrawal of Cash or Liquidation of Investments

No PHA policy decisions are required.

Jointly Owned Assets

In its "Summary of Asset Inclusions and Exclusions," the *HCV Guidebook* states the following [p. 5-25]:

- Assets include "assets which, although owned by more than one person, allow unrestricted access by the applicant."
- Assets do **not** include "assets not controlled by or accessible to the family and which provide no income for the family."

PHA Policy

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the Osceola County Section 8 Housing Program will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the Osceola County Section 8 Housing Program will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the Osceola County Section 8 Housing Program will prorate the asset evenly among all owners.

Assets Disposed Of for Less than Fair Market Value

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

Minimum Threshold

The *HVC Guidebook* permits the PHA to set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

PHA Policy

The Osceola County Section 8 Housing Program will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $1,000.

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

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

Separation or Divorce

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives "important consideration" not measurable in dollar terms. The regulation does not specify what important consideration might be.

PHA Policy

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

Foreclosure or Bankruptcy

No PHA policy decisions are required.

Family Declaration

PHA Policy

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The Osceola County Section 8 Housing Program may verify the value of the assets disposed of if

other information available to the Osceola County Section 8 Housing Program does not appear to agree with the information reported by the family.

Types of Assets

Checking and Savings Accounts

The PHA must count amounts in a family's savings and checking accounts as assets. The plan establishes how the value of these assets will be determined and how the anticipated income from these assets will be calculated.

PHA Policy

In determining the value of a checking account, the Osceola County Section 8 Housing Program will use the average monthly balance for the last six months.

In determining the value of a savings account, the Osceola County Section 8 Housing Program will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account, the Osceola County Section 8 Housing Program will multiply the value of the account by the current rate of interest paid on the account.

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

When family assets are held in investment accounts, calculating asset value and anticipated income can be difficult because of fluctuations in value and rates of return. The plan provides a clarification of HUD policy related both to how assets are valued and how income is determined.

PHA Policy

In determining the market value of an investment account, the Osceola County Section 8 Housing Program will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), the Osceola County Section 8 Housing Program will calculate asset income based on the earnings for the most recent reporting period.

Equity in Real Property or Other Capital Investments

Equity is the estimated current market value of an asset (such as a house) less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25].

The model plan lists types of property and capital investment that are not counted and explains how assets and income are determined for two types of capital investment: (1) family ownership of a mortgage or deed of trust and (2) joint ownership of real property with someone outside the family unit.

PHA Policy

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless the Osceola County Section 8 Housing Program determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

Trusts

No PHA policy decisions are required.

Retirement Accounts

No PHA policy decisions are required.

Personal Property

HUD rules exclude from assets necessary items of personal property such as furniture and automobiles [24 CFR 5.603(b)]. However, they do not exclude personal property held as an investment. The plan establishes how the PHA will value personal property held as an investment and what items of personal property it will consider necessary.

PHA Policy

In determining the value of personal property held as an investment, the Osceola County Section 8 Housing Program will use the family's estimate of the value. However, the Osceola County Section 8 Housing Program also may obtain an appraisal if appropriate to confirm the value of the asset. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to

be earned in the coming year is counted as actual income from the asset.

Necessary personal property consists of items such as clothing, furniture, household furnishings, jewelry that is not held as an investment, and vehicles, including those specially equipped for persons with disabilities.

Life Insurance

No PHA policy decisions are required.

HUD regulations specifically exclude from annual income a few forms of periodic payments. All other forms must be included. The model plan lists the main categories that are included as well as the specific types that are excluded. It also addresses the treatment of lump-sum amounts that represent the delayed start of a periodic payment. (For a discussion of other lump-sum receipts, see section 6-I.G.)

Periodic Payments Included in Annual Income

No PHA policy decisions are required.

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

HUD requires that PHAs include in annual income most lump sums and prospective amounts that are received as the result of delays in the processing of ongoing forms of periodic income. However, the regulation specifically exempts deferred social security and SSI lump-sum payments from this requirement. Deferred lump-sum payments from these sources are **not** counted as income whether they are paid in a single lump sum or in prospective monthly amounts [24 CFR 5.609(c)(14)].

There are three issues the PHA must address related to lump sums received as a result of the delayed start of a periodic payment:

- When must the family report receipt of the payments?
- When the lump sum is reported, will the PHA make a retroactive adjustment of the family's share or include the amount in prospective rent calculations?
- If the family owes the PHA as a result of a retroactive calculation, under what circumstances will the PHA offer a repayment agreement?

PHA Policy

When a delayed-start payment is received and reported during the period in which the Osceola County Section 8 Housing Program is processing an annual reexamination, the Osceola County Section 8 Housing Program will adjust the family share and Osceola County Section 8 Housing Program subsidy retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to

enter into a repayment agreement with the Osceola County Section 8 Housing Program.

See Chapter 11 for information about a family's obligation to report lump-sum receipts between annual reexaminations.

See Chapter 17 for policies related to repayment agreements.

Periodic Payments Excluded from Annual Income

No PHA policy decisions are required.

6-H. PAYMENTS IN LIEU OF EARNINGS

No PHA policy decisions are required.

6-I. WELFARE ASSISTANCE

The plan identifies welfare assistance as a type of income that must be counted. It also summarizes the rules for counting welfare income when a sanction has been imposed by a welfare agency for noncompliance with certain requirements.

- The regulation at 24 CFR 5.609(b)(6)(ii) gives special rules for counting welfare assistance in "as-paid" welfare localities. Since "as-paid" localities are the exception, not the rule, the model plan does not include these special rules. Therefore PHAs whose jurisdictions include as-paid welfare localities must add the rules to this plan.
- Each as-paid locality works somewhat differently, and many are subject to court-ordered modifications to the basic policy. Hence the PHA may need to consult with legal counsel to determine the specific language that must be included in the plan.

Special Rules for As-Paid Welfare Localities [24 CFR 5.609(b)(6)(ii)]

An as-paid welfare assistance system is used in the PHA's jurisdiction.

In an as-paid jurisdiction a family receives an amount from a welfare agency specifically for shelter and utilities, and that amount is adjusted based upon the actual amount the family pays for shelter and utilities. The welfare assistance amount specifically designated for rent and utilities is called the "welfare rent." Because an as-paid welfare assistance system is used, a special calculation of public assistance income is required for welfare recipients who receive HCV assistance.

To determine annual income for public assistance recipients in as-paid localities, the PHA will include: (1) the amount of the family's grant for other than shelter and utilities and (2) the maximum amount the welfare department can pay for shelter and utilities for the family's size (i.e., the welfare rent). This may be different from the amount the family is actually receiving.

Alimony and Child Support

The PHA must count alimony or child support amounts awarded as part of a divorce or separation agreement *unless* the PHA verifies that the payments are not being made. The PHA must determine what documentation is required to show that the family receives less than the court-ordered amount.

PHA Policy

The Osceola County Section 8 Housing Program will count court-awarded amounts for alimony and child support unless the Osceola County Section 8 Housing Program verifies that (1) the payments are not being made and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments.

Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection. The Section 8 Program staff as due diligence will encourage families to seek all possible measures to collect any income owed to them from child support and/or alimony.

Regular Contributions or Gifts

The PHA must count as income regular monetary and nonmonetary contributions or gifts from someone outside the family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

PHA Policy

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

Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by the Osceola County Section 8 Housing Program. For contributions that may vary from month to month (e.g., utility payments), the Osceola County Section 8 Housing Program will include an average amount based upon past history.

6-J. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

No PHA policy decisions are required.

6-K. DEDUCTIONS OVERVIEW

There are five mandatory deductions from annual income provided for in the regulations at 24 CFR 5.611. These deductions include:

- $480 for each dependent
- $400 for any elderly family or disabled family
- Unreimbursed medical expenses
- Unreimbursed disability assistance expenses that enable a family member to work
- Reasonable child care expenses that enable a family member to seek work, be employed, or pursue his or her education

Anticipating Expenses

In the same way that the PHA must anticipate income for the coming year, it must also anticipate family circumstances to determine the deductions for which a family qualifies.

PHA Policy

Generally, the Osceola County Section 8 Housing Program will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses), the Osceola County Section 8 Housing Program will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, the Osceola County Section 8 Housing Program will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The Osceola County Section 8 Housing Program may require the family to provide documentation of payments made in the preceding year.

6-L. DEPENDENT DEDUCTION

No PHA policy decisions are required.

6-M. ELDERLY OR DISABLED FAMILY DEDUCTION

No PHA policy decisions are required.

6-N. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(A)(3)(I) AND 5.603(B)]

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

PHA policies are required in two areas related to medical expenses:

- Definition of *medical expenses*
- Classifying medical and disability expenses when either could apply

Definition of *Medical Expenses*

HUD recommends that PHAs use IRS Publication 502, *Medical and Dental Expenses*, as the standard for defining what qualifies as a medical expense but requires PHAs to develop their own policies addressing this issue.

PHA Policy

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

Families That Qualify for Both Medical and Disability Assistance Expenses

In elderly or disabled households, it is possible that the same expense could be considered either a medical expense or a disability assistance expense. The PHA must clarify for staff how these expenses will be handled.

PHA Policy

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

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the Osceola County Section 8 Housing Program will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-O. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(B) AND 5.611(A)(3)(II)]

Unreimbursed disability assistance expenses may be deducted to the extent that the sum of those expenses and any medical expenses for which a family is eligible exceed three percent of annual income.

HUD recommends that PHAs further define and describe eligible auxiliary apparatus. The model plan recommends that the PHA further elaborate on the following topics:

- Implementing the earned income limit, including determining which family is enabled to work
- Defining eligible, necessary, and reasonable disability expenses
- Classifying medical and disability expenses

Earned Income Limit on the Disability Assistance Expense Deduction

When more than one family member is enabled to work, the PHA must establish whose earned income to count when determining the cap on disability expenses. The earned income used to limit the deduction is earned income before any exclusions or disallowances are taken (column 7d of form HUD-50058).

PHA Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the Osceola County Section 8 Housing Program will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the Osceola County Section 8 Housing Program determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' incomes.

Eligible Disability Expenses

Eligible Auxiliary Apparatus

Although the *HCV Guidebook* gives examples of auxiliary apparatus, some additional explanation is recommended.

PHA Policy

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus

itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

Eligible Attendant Care

When a family includes a person with disabilities, the family determines the type of attendant care, if any, that is appropriate for the person. HUD has not provided detailed guidance on the types of attendant care that are eligible for deduction. To ensure consistency, the PHA should elaborate on what this care includes.

PHA Policy

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

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

If the care attendant also provides other services to the family, the Osceola County Section 8 Housing Program will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Payments to Family Members

No policy decisions required.

Necessary and Reasonable Expenses

The regulation requires disability assistance expenses to be "necessary" and "reasonable," but HUD provides no further definition of these terms. It is not appropriate for PHA staff to

determine the medical or care needs of a person with disabilities. Therefore the person's family, not the PHA, must determine the type of attendant care or auxiliary apparatus that is necessary. However, the PHA must still determine whether the cost of the disability assistance is reasonable.

PHA Policy

The Osceola County Section 8 Housing Program determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the Osceola County Section 8 Housing Program will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the Osceola County Section 8 Housing Program will consider, the family's justification for costs that exceed typical costs in the area.

Families That Qualify for Both Medical and Disability Assistance Expenses

In elderly or disabled households, it is possible that the same expense could be considered either a medical expense or a disability assistance expense. The PHA must clarify for staff how these expenses will be handled.

PHA Policy

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

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the Osceola County Section 8 Housing Program will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-P. CHILD CARE EXPENSE DEDUCTION

HUD provides a definition of *child care expenses* in the regulations at 24 CFR 5.603(b), and additional guidance is found in the *HCV Guidebook* and in HUD's verification guidance. All of this information is in the model plan. The PHA must clarify implementation issues including:

- How the family qualifies for each eligible activity
- How the earned income limit on child care that enables a family member to work is administered
- What child care expenses are eligible, reasonable, and necessary

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

Reasonable child care expenses that enable a family member to be gainfully employed, to seek work, or to pursue his or her education can be deducted from annual income.

HUD leaves to the PHA the determination of who is enabled to work, seek employment, or further his or her education. When this section uses the term *eligible activity*, it means one or more of these three purposes.

PHA Policy

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

In evaluating the family's request, the Osceola County Section 8 Housing Program will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

The plan clarifies how the PHA will determine whether the family qualifies based upon the type of eligible activity.

PHA Policy

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the child care expense being allowed by the Osceola County Section 8 Housing Program.

Furthering Education

The PHA must define the types of educational activities that would qualify a family for child care based upon furthering education.

PHA Policy

If the child care expense being claimed is to enable a family member to further his or her education, the

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

Being Gainfully Employed

The PHA must determine whether a family qualifies for the child care expense deduction because a family member is gainfully employed.

PHA Policy

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Child Care Expense Deduction

When more than one family member may be enabled to work, the PHA must determine whose earned income to count when determining the cap on child care expenses. The earned income used to limit the deduction is earned income after any disallowances or exclusions are applied (column 7f of form HUD-50058).

PHA Policy

When the child care expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the Osceola County Section 8 Housing Program generally will limit allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

Eligible Child Care Expenses

HUD permits each assisted family to determine the type of child care to be provided. The PHA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care.

To ensure consistency, the PHA should specify:

- What activities are included under the definition of *child care*
- How the PHA will determine whether child care expenses are necessary and reasonable

Allowable Child Care Activities

PHA Policy

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

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

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the Osceola County Section 8 Housing Program will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

HUD regulations require child care expenses to be "necessary" and "reasonable," but HUD provides no further definition of these terms. It is not appropriate for PHA staff to determine the child care needs of individual children. Therefore the family, not the PHA, must determine the type of child care that is necessary. However, PHA staff must still evaluate whether the timing

and duration of the child care are consistent with the eligible activities and whether the costs are reasonable for the type of care being provided.

PHA Policy

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

To establish the reasonableness of child care costs, the Osceola County Section 8 Housing Program will use the schedule of child care costs from the local welfare agency. Families may present, and the Osceola County Section 8 Housing Program will consider, justification for costs that exceed typical costs in the area.

6-Q. RENT AND SUBSIDY CALCULATIONS

This presents the regulatory formula for calculating total tenant payment (TTP). The application of payment standards and utility allowances are covered separately above.

Only three policy decisions must be made by the PHA:

(1) The PHA must specify whether any part of its jurisdiction is an "as-paid" welfare locality.

(2) The PHA must establish a minimum rent from $0 to $50.

(3) The PHA must determine to whom utility reimbursement payments will be made.

Each of these decisions is discussed below.

TTP Formula [24 CFR 5.628]

A family's total tenant payment (TTP) is the greatest of:

- 30 percent of the family's monthly adjusted income
- 10 percent of the family's monthly gross income
- The welfare rent (in as-paid jurisdictions only)
- The minimum rent (established by the PHA)

Welfare Rent [24 CFR 5.628]

The third item considered when determining TTP is the welfare rent, which is defined at 24 CFR 5.628(a)(3) as follows: "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 [is considered the welfare rent]."

24 CFR 5.628 requires the PHA to enter a welfare rent as part of the TTP formula when welfare assistance in the jurisdiction is provided "as paid." *As paid* refers to a system in which a separate amount within a family's welfare grant is specifically designated for shelter and utilities and is adjusted based upon the family's actual housing costs.

PHA Policy

Welfare rent does not apply in this locality.

Note: The as-paid system also requires a special calculation of annual income.

Minimum Rent [24 CFR 5.630]

HUD requires the PHA to establish a minimum rent that may be from $0 to $50.

Minimum rent applies only when the PHA-established minimum rent is the highest amount in the TTP calculation. HUD regulations provide for hardship exemptions from minimum rent. See below for a discussion of hardship policies.

PHA Policy

The minimum rent for this locality is $50.

Utility Reimbursement [24 CFR 982.514(b)]

When the PHA subsidy exceeds a family's rent to owner, the family is due a utility reimbursement. HUD permits the PHA to make the utility payment to the family or directly to the utility provider.

PHA Policy

The Osceola County Section 8 Housing Program will make utility reimbursements to the provider.

6-R. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

Overview

The financial hardship exemption applies only to the payment of the minimum rent and not to a family's inability to pay based upon other elements of the TTP formula. HUD identifies four types of hardship in the regulations and permits the PHA to add other hardship criteria.

When a family requests a financial hardship exemption, the steps required by the regulations depend on whether the PHA determines that the request is valid and whether the hardship will be temporary or long-term. HUD's requirements and PHA decision points are described below.

HUD-Defined Financial Hardship

HUD-defined hardships specified in 24 CFR 5.630(b) include:

(1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family 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.

PHA Policy

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

(2) The family would be evicted because it is unable to pay the minimum rent.

PHA Policy

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.

(3) Family income has decreased because of changed family circumstances, including the loss of employment.

No PHA policy decisions are required.

(4) A death has occurred in the family.

PHA Policy

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

(5) The family has experienced other circumstances determined by the PHA.

The PHA is permitted to establish additional hardship criteria.

PHA Policy

The Osceola County Section 8 Housing Program has determined that medical emergencies shall be considered a hardship.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request. When the

minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The family's share is not automatically reduced to zero in hardship cases.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary (expected to last 90 days or less) or long-term.

The regulation is silent on submission requirements and only requires that the PHA make its determination "promptly" [24 CFR 5.630(b)(2)(ii)(B)]. The plan specifies family submission requirements and requires the PHA to make a decision within 30 days of the family's request.

PHA Policy

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

The Osceola County Section 8 Housing Program will make the determination of hardship within 30 calendar days.

No Financial Hardship

The regulation requires that if there is no financial hardship, the PHA must reinstate the minimum rent and require the family to repay the amounts suspended on terms and conditions set by the PHA [24 CFR 5.630(b)(2)(iii)(A)].

PHA Policy

The Osceola County Section 8 Housing Program will require the family to repay the suspended amount within 30 calendar days of the Osceola County Section 8 Housing Program's notice that a hardship exemption has not been granted.

Temporary Hardship

If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed and the hardship is now a long-term hardship. The plan permits the PHA and the family to agree on a repayment schedule in accordance with the PHA's policy.

PHA Policy

The Osceola County Section 8 Housing Program will enter into a repayment agreement in accordance with the procedures found in Chapter 17 of this plan.

Long-Term Hardship

If the PHA determines that the financial hardship is long-term, the PHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. Repayment of the minimum rent for the period of the long-term hardship is not required.

The plan specifies when the hardship ends. The policy addresses hardships based upon loss of income and hardship-related expenses.

PHA Policy

The hardship period ends when any of the following circumstances apply:

(1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.

(2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60/month child support payment, the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.

(3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

6-S. APPLYING PAYMENT STANDARDS [24 CFR 982.505]

No PHA policy decisions are required.

6-T. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]

A PHA-established utility allowance schedule is used to determine family share and PHA subsidy.

Reasonable Accommodation

No PHA policy decisions are required.

Utility Allowance Revisions

At reexamination, the PHA must use the PHA current utility allowance schedule [24 CFR 982.517(d)(2)].

PHA Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted [HCV GB, p. 18-9].

6-U. PRORATED ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.520]

No PHA policy decisions are required.

CHAPTER 7: VERIFICATION

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

INTRODUCTION

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

The PHA will follow the verification guidance provided by HUD in PIH Notice 2004-01 Verification Guidance and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

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

7-A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230]

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

Consent Forms

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

Penalties for Failing to Consent [24 CFR 5.232]

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

HUD's Verification Hierarchy

HUD authorizes the PHA to use five methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification. In order of priority, the forms of verification that may be used are:

- Electronic (EIV) or Up-front Income Verification (UIV) whenever available
- Third-party Written Verification
- Third-party Oral Verification
- Review of Documents
- Self-Certification

Each of the verification methods is discussed in subsequent sections below. Exhibit 7-1 at the end of the chapter contains an excerpt from the notice that provides guidance with respect to how each method may be used.

Requirements for Acceptable Documents

PHA Policy

Any documents used for verification must be the original (not photocopies), must be the most current and generally must be dated within 60 calendar days of the date they are provided to the Osceola County Section 8 Housing Program. The documents must not be damaged, altered or in any way illegible.

Faxes and print-outs from web pages are considered original documents.

The Osceola County Section 8 Housing Program staff member who views the original document must be provided a copy of the document by the family.

Any family self-certifications must be made in a format acceptable to the Osceola County Section 8 Housing Program and must be signed in the presence of a Osceola County Section 8 Housing Program representative or Osceola County Section 8 Housing Program notary public.

File Documentation

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

7-B. UP-FRONT INCOME VERIFICATION (UIV) OR ELECTRONIC VERIFICATION (EIV)

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

The PHA must restrict access to and safeguard EIV/UIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD.

There may be legitimate differences between the information provided by the family and EIV/UIV-generated information. No adverse action can be taken against a family until the PHA has independently verified the EIV/UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the PHA.

Definition of Substantial Difference

EIV/UIV information is used differently depending upon whether there is a *substantial difference* between information provided by the family and the EIV/UIV information. In "HUD Guidelines for Projecting Annual Income When UIV Data is Available" [HUD website, April 2004], HUD recommends using $200 per month as the threshold for a substantial difference. The PHA will therefore use $200 per month as the threshold for a substantial difference.

See Chapter 6 for the PHA's policy on the use of EIV/UIV to project annual income and for the PHA's threshold for substantial difference.

When No Substantial Difference Exists

If EIV/UIV information does not differ substantially from family information, the EIV/UIV documentation may serve as third-party written verification.

When a Substantial Difference Exists

When there is a substantial difference between the information provided by the EIV/UIV source and the family, the PHA must request another form of third-party written verification and use any other verification methods (in priority order) to reconcile the difference(s).

7-C. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

Reasonable Effort and Timing

Unless third-party verification is not required as described below, HUD requires the PHA to make at least two unsuccessful attempts to obtain third-party verification before using another form of verification [VG, p. 15].

PHA Policy

The Osceola County Section 8 Housing Program will diligently seek third-party verification using a combination of written and oral requests of verification sources. Information received orally from third parties may be used either to clarify

information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.

The Osceola County Section 8 Housing Program may mail, fax, e-mail, or hand deliver third-party written verification requests and will accept third-party responses using any of these methods. The Osceola County Section 8 Housing Program will send a written request for verification to each required source within 5 business days of securing a family's authorization for the release of the information and give the source 10 business days to respond in writing. If a response has not been received by the 11th business day, the Osceola County Section 8 Housing Program will request third-party oral verification.

The Osceola County Section 8 Housing Program will make a minimum of two attempts, one of which may be oral, to obtain third-party verification. A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source will be documented in the file. Regarding third-party oral verification, Osceola County Section 8 Housing Program staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds orally to the initial written request for verification the Osceola County Section 8 Housing Program will accept the oral response as oral verification but will also request that the source complete and return any verification forms that were provided.

If a third party agrees to confirm in writing the information provided orally, the Osceola County Section 8 Housing Program will wait no more than 10 business days for the information to be provided. If the information is not provided by the 6th business day, the Osceola County Section 8 Housing Program will use any information provided orally in combination with reviewing family-provided documents.

When Third-Party Information is Late

When third-party verification has been requested and the timeframes for submission have been exceeded, the PHA will use the information from documents on a provisional basis. If the PHA later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, the PHA will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of the PHA's interim reexamination policy.

When Third-Party Verification is Not Required

Primary Documents

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

Certain Assets and Expenses

The PHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

The PHA will determine that third-party verification is not available if the asset or expense involves an insignificant amount, making it not cost-effective or reasonable to obtain third-party verification [VG, p. 15].

PHA Policy

The Osceola County Section 8 Housing Program will use review of documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than $2,000 annually ***and*** *the family has original documents that support the declared amount.*

Certain Income, Asset and Expense Sources

The PHA will determine that third-party verification is not available when it is known that an income source does not have the ability to provide written or oral third-party verification [VG, p. 15]. For example, the PHA will rely upon review of documents when the PHA determines that a third party's privacy rules prohibit the source from disclosing information. Another example would be where the Social Security Administration (SSA) has refused to respond to requests for third-party verification.

PHA Policy

The Osceola County Section 8 Housing Program also will determine that third-party verification is not available when there is a service charge for verifying an asset or expense and *the family has original documents that provide the necessary information.*

If the family cannot provide original documents, the Osceola County Section 8 Housing Program will pay the

service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

7-D. REVIEW OF DOCUMENTS

Using Review of Documents as Verification

If the PHA has determined that third-party verification is not available or not required, the PHA will use documents provided by the family as verification.

The PHA may also review documents when necessary to help clarify information provided by third parties. In such cases the PHA will document in the file how the PHA arrived at a final conclusion about the income or expense to include in its calculations.

7-E. SELF-CERTIFICATION

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the PHA.

PHA Policy

The Osceola County Section 8 Housing Program may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the Osceola County Section 8 Housing Program and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a Osceola County Section 8 Housing Program representative or Osceola County Section 8 Housing Program

—notary public.

7-F. VERIFICATION OF LEGAL IDENTITY

PHA Policy

The Osceola County Section 8 Housing Program will require families to furnish verification of legal identity for each household member.

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

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

7-G. SOCIAL SECURITY NUMBERS [24 CFR 5.216 AND HCV GB, P. 5-12]

For every family member age 6 or older, the family must provide documentation of a valid social security number (SSN), or a self-certification stating that no SSN has been issued. The self-certification must be executed personally by any family member 18 or older, or by a parent or guardian for a minor.

PHA Policy

The Osceola County Section 8 Housing Program will also accept the following documents as evidence if the SSN is provided on the document:

Driver's license

Other identification card issued by a federal, state, or local agency, a medical insurance company or provider, or employer or trade union

Payroll stubs

Benefit award letters from government agencies; retirement benefit letters; life insurance policies

Court records (real estate, tax notices, marriage and divorce, judgment or bankruptcy records)

If the family reports an SSN but cannot provide acceptable documentation of the number, the PHA will require a self-certification stating that documentation of the SSN cannot be provided at this time. The PHA will require documentation of the SSN within 60 calendar days from the date of the family member's self-certification mentioned above. If the family is an applicant, assistance cannot be provided until proper documentation of the SSN is provided.

PHA Policy

The Osceola County Section 8 Housing Program will instruct the family to obtain a duplicate card from the local Social Security Administration (SSA) office.

For individuals who are at least 62 years of age and are unable to submit the required documentation of their SSN within the initial 60-day period, the Osceola County Section 8 Housing Program will grant an additional 60 calendar days to provide documentation.

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

If any family member obtains an SSN after admission to the program, the new SSN must be disclosed at the next regularly scheduled reexamination. In addition, if a child reaches the age of 6 and has no SSN, the parent or guardian must execute a self-certification stating that the child has no SSN at the next regularly scheduled reexamination.

The social security numbers of household members, such as live-in aids, must be verified for the purpose of conducting criminal background checks.

7-H. DOCUMENTATION OF AGE

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

PHA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the Osceola County Section 8 Housing Program will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

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

7-I. FAMILY RELATIONSHIPS

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

PHA Policy

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

household normally is sufficient verification of family relationships.

Marriage

PHA Policy

Certification by the head of household is normally sufficient verification. If the Osceola County Section 8 Housing Program has reasonable doubts about a marital relationship, the Osceola County Section 8 Housing Program will require the family to document the marriage.

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

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

Separation or Divorce

PHA Policy

Certification by the head of household is normally sufficient verification. If the Osceola County Section 8 Housing Program has reasonable doubts about a separation or divorce, the Osceola County Section 8 Housing Program will require the family to document the divorce, or separation.

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

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

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

Absence of Adult Member

PHA Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g.,

documentation of another address at which the person resides such as a lease or utility bill).

Foster Children and Foster Adults

PHA Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

7-J. VERIFICATION OF STUDENT STATUS

PHA Policy

The Osceola County Section 8 Housing Program requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

The family claims full-time student status for an adult other than the head, spouse, or co-head, or

The family claims a child care deduction to enable a family member to further his or her education.

7-K. DOCUMENTATION OF DISABILITY

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

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

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

The PHA will attempt to obtain information about disability benefits through the HUD EIV/UIV System when it is available, or HUD's Tenant Assessment Subsystem (TASS). If the HUD EIV/UIV System or TASS is not available, the PHA will attempt to obtain third-party written/oral verification from the SSA. If third-party verification is not available, the family may provide an original SSA document that confirms the current benefits.

Verification of receipt of SSA benefits or SSI based upon disability is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions.

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

Family Members Not Receiving SSA Disability Benefits

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

7-L. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and PHA verification requirements related to citizenship status.

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

U.S. Citizens and Nationals

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

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

PHA Policy

Family members who claim U.S. citizenship or national status will be required to provide additional

documentation unless the Osceola County Section 8 Housing Program receives information indicating that an individual's declaration may not be accurate.

Documents Required

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

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

PHA Verification [HCV GB, pp. 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

The PHA will follow all USCIS protocols for verification of eligible immigration status.

7-M. VERIFICATION OF PREFERENCE STATUS

The PHA must verify any preferences claimed by an applicant.

PHA Policy

The Osceola County Section 8 Housing Program applies various preferences; therefore verification of preferences is required.

Chapter 6 of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. The following provides PHA policies which supplement the general verification procedures specified above.

7-N. EARNED INCOME

Tips

PHA Policy

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

7-O. BUSINESS AND SELF EMPLOYMENT INCOME

PHA Policy

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

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

All schedules completed for filing federal and local taxes in the preceding year.

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

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

At any reexamination the PHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

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

7-P. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

PHA Policy

To verify the SS/SSI benefits of applicants, the Osceola County Section 8 Housing Program will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the Osceola County Section 8 Housing Program will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant has received the benefit verification letter they will be required to

provide it to the Osceola County Section 8 Housing Program.

To verify the SS/SSI benefits of participants, the Osceola County Section 8 Housing Program will obtain information about social security/SSI benefits through the HUD UIV System or the Tenant Assessment Subsystem (TASS). If benefit information is not available in HUD systems, the Osceola County Section 8 Housing Program will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) the Osceola County Section 8 Housing Program will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the participant has received the benefit verification letter they will be required to provide it to the Osceola County Section 8 Housing Program.

Alimony and Child Care Payments

PHA Policy

The way the Osceola County Section 8 Housing Program will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that it **receives regular payments**, *verification will be sought in the following order.*

If payments are made through a state or local entity, the Osceola County Section 8 Housing Program will request a record of payments for the past 12 months and request that the entity disclose any known information about the likelihood of future payments.

Third-party verification from the person paying the support

Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules

Copy of the latest check and/or payment stubs

Family's self-certification of amount received and of the likelihood of support payments being received in

the future, or that support payments are not being received.

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

A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts

If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

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

7-Q. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

PHA Policy

The Osceola County Section 8 Housing Program will verify the value of assets disposed of only if:

The Osceola County Section 8 Housing Program does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this $10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

7-R. NET INCOME FROM RENTAL PROPERTY

PHA Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the Osceola County Section 8 Housing Program will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-S. RETIREMENT ACCOUNTS

PHA Policy

When third-party verification is not available the type of original document that will be accepted depends upon the family member's retirement status.

Before *retirement, the Osceola County Section 8 Housing Program will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.*

Upon *retirement, the Osceola County Section 8 Housing Program will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.*

After *retirement, the Osceola County Section 8 Housing Program will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the*

account balance, any lump sums taken and any regular payments.

7-T. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6.

The PHA must obtain verification for income exclusions only if, without verification, the PHA would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, the PHA will confirm that PHA records verify the child's age but will not send a verification request to the restaurant. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

PHA Policy

The Osceola County Section 8 Housing Program will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family share (as is the case with the earned income disallowance). In all other cases, the Osceola County Section 8 Housing Program will report the amount to be excluded as indicated on documents provided by the family.

7-U. ZERO ANNUAL INCOME STATUS

Families claiming to have no annual income will be required to execute verification forms to determine that certain forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by the household.

7-V. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

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

Dependent Deduction

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

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

Elderly/Disabled Family Deduction

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

7-W. MEDICAL EXPENSE DEDUCTION

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

Amount of Expense

PHA Policy

The Osceola County Section 8 Housing Program will provide a third-party verification form directly to the medical provider requesting the needed information.

Medical expenses will be verified through:

Third-party verification form signed by the provider, when possible

If third-party is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case the Osceola County Section 8 Housing Program will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The Osceola County Section 8 Housing Program will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months

In addition, the PHA must verify that:

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

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62, or a person with disabilities. The PHA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 of this plan.

Qualified Expenses

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

Un-reimbursed Expenses

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

PHA Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

Expenses Incurred in Past Years

PHA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, the Osceola County Section 8 Housing Program will verify:

The anticipated repayment schedule

The amounts paid in the past, and

Whether the amounts to be repaid have been deducted from the family's annual income in the last 12 months.

7-X. DISABILITY ASSISTANCE EXPENSES

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

Amount of Expense

Attendant Care

PHA Policy

The Osceola County Section 8 Housing Program will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

Third-party verification form signed by the provider, when possible

If third-party is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source

Auxiliary Apparatus

PHA Policy

Expenses for auxiliary apparatus will be verified through:

Third-party verification of anticipated purchase costs of auxiliary apparatus

If third-party is not possible, billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months

In addition, the PHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in Chapter 6).
- The expense is not reimbursed from another source (as described in Chapter 6).

Family Member is a Person with Disabilities

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

Family Member(s) Permitted to Work

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

PHA Policy

The Osceola County Section 8 Housing Program will seek third-party verification from a Rehabilitation Agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See Chapter 6).

If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Un-reimbursed Expenses

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

PHA Policy

An attendant care provider will be asked to certify that, to the best of the provider's knowledge, the

expenses are not paid by or reimbursed to the family from any source.

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

7-Y. CHILD CARE EXPENSES

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

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

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

Unreimbursed Expense

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

PHA Policy

The child care provider will be asked to certify that, to the best of the provider's knowledge, the child care expenses are not paid by or reimbursed to the family from any source.

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

Pursuing an Eligible Activity

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

PHA Policy

Information to be gathered

The Osceola County Section 8 Housing Program will verify information about how the schedule for the claimed activity relates to the hours of care

provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible the Osceola County Section 8 Housing Program will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the Osceola County Section 8 Housing Program will request verification from the agency of the member's job seeking efforts to date and require the family to submit to the Osceola County Section 8 Housing Program any reports provided to the other agency.

In the event third-party verification is not available, the Osceola County Section 8 Housing Program will provide the family with a form on which the family member must record job search efforts. The Osceola County Section 8 Housing Program will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The Osceola County Section 8 Housing Program will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered.

Gainful Employment

The Osceola County Section 8 Housing Program will seek verification from the employer of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

PHA Policy

The Osceola County Section 8 Housing Program will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

The Osceola County Section 8 Housing Program will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The Osceola County Section 8 Housing Program will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

PHA Policy

The actual costs the family incurs will be compared with the Osceola County Section 8 Housing Program's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the Osceola County Section 8 Housing Program will request additional documentation, as required, to support a determination that the higher cost is appropriate.

CHAPTER 8: HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 Subpart I and 24 CFR 982.507]

INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits the PHA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and PHA-established requirements. HQS inspections are required before the Housing Assistance Payments (HAP) Contract is signed and at least annually during the term of the contract.

HUD also requires PHAs to determine that units rented by families assisted under the HCV program have rents that are reasonable when compared to comparable unassisted units in the market area.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

8.A. GENERAL HUD REQUIREMENTS

HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

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

Additional guidance on these requirements is found in the following HUD resources:

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

Tenant Preference Items

HUD requires the PHA to enforce minimum HQS but also requires that certain judgments about acceptability be left to the family. For example, the PHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic condition of the facilities is acceptable.

Modifications to Provide Accessibility

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

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

PHA Policy

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

8.B. ADDITIONAL LOCAL REQUIREMENTS

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

Thermal Environment [HCV GB p.10-7]

The PHA must define a “healthy living environment” for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

PHA Policy

The heating system must be capable of maintaining an interior temperature of 65 degrees Fahrenheit between October 1 and May 1.

Clarifications of HUD Requirements

PHA Policy

As permitted by HUD, the Osceola County Section 8 Housing Program has adopted the following specific requirements that elaborate on HUD standards.

Walls

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

Windows

Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced.

Windows must be weather-stripped as needed to ensure a weather-tight seal.

Window screens must be in good condition (applies only if screens are present).

Doors

All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.

All interior doors must have no holes, have all trim intact, and be able to be opened without the use of a key.

Floors

All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be secured and made level. If they cannot be leveled, they must be replaced.

All floors must be in a finished state. Raw wood or concrete is not permitted.

All floors should have some type of cove base, trim, or sealing for a "finished look." Vinyl cove base is permitted.

Sinks

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

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

All sinks must have functioning stoppers.

Security

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

Pools

Osceola County does not allow families to rent units that have swimming pools, unless the unit is located in a multi-family property and the family is not responsible for the pool maintenance.

8.C. LIFE THREATENING CONDITIONS [24 CFR 982.404(A)]

HUD requires the PHA to define life threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life threatening conditions within 24 hours of PHA notification.

PHA Policy

The following are considered life threatening conditions:

Any condition which jeopardizes the security of the unit

Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling

Natural or LP gas or fuel oil leaks

Any electrical problem or condition that could result in shock or fire

Absence of a working heating system when outside temperature is below 50 degrees Fahrenheit.

Utilities not in service, including no running hot water

Conditions that present the imminent possibility of injury

Obstacles that prevent safe entrance or exit from the unit

Absence of a functioning toilet in the unit

Inoperable smoke detectors

If an owner fails to correct life threatening conditions as required by the Osceola County Section 8 Housing Program the housing assistance payment will be abated and the HAP contract will be terminated.

If a family fails to correct a family caused life-threatening condition as required by the Osceola County Section 8 Housing Program the Osceola County Section 8 Housing Program will terminate the family's assistance.

The owner will be required to repair an inoperable smoke detector unless the Osceola County Section 8 Housing Program determines that the family has intentionally disconnected or damaged it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

8-D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]

Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain family-supplied appliances
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

Owner Responsibilities

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

PHA may extend a routine 30 day violation up to 45 days if the Owner/Landlord requests in writing an extension before the re-inspection takes place and payment goes on abatement. The inspector will use judgment when a possible 24 hour fail for minor small cracks on an outlet, or covers that clearly do not present an immediate hazard for the occupants.

Repaired items may be re-inspected all together at once during the 30 or 45 days period.

An HQS deficiency that is the responsibility of the tenant and is not corrected within the given time frame, the PHA is mandated take prompt and vigorous action to enforce family obligations and ensure programs requirements are met.

8-E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL [24 CFR 35.1225]

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

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

PHA reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 17.

8-F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]

If the PHA determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms.

8-G. INSPECTIONS OVERVIEW [24 CFR 982.405]

Types of Inspections

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

- *Initial Inspections*. The PHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection before the effective date of the HAP Contract.
- *Annual Inspections*. HUD requires the PHA to inspect each unit under lease at least annually to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.

- *Special Inspections.* A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
- *Quality Control Inspections.* HUD requires that a sample of units be reinspected by a supervisor or other qualified individual to ensure that HQS are being enforced correctly and uniformly by all inspectors.

Inspection of PHA-owned Units [24 CFR 982.352(b)]

The PHA must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a PHA-owned unit. A PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of each inspection to the family and the PHA. The independent agency must be approved by HUD, and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government).

Inspection Costs

The PHA may not charge the family or owner for unit inspections [24 CFR 982.405(e)]. In the case of inspections of PHA-owned units, the PHA may compensate the independent agency from ongoing administrative fee for inspections performed. The PHA and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

Notice and Scheduling

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

PHA Policy

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:00a.m. and 4:00p.m. Generally inspections will be conducted on business days only. In the case of a life threatening emergency, the Osceola County Section 8 Housing Program will give as much notice as possible, given the nature of the emergency.

Attendance at inspections by owner and family.

HUD permits the PHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

PHA Policy

When a family occupies the unit at the time of inspection an adult family member must be present for the inspection. The presence of the owner or the

owner's representative is encouraged but is not required at annual re-inspections.

At an initial and interim inspection of a vacant unit, the Osceola County Section 8 Housing Program will inspect the unit in the presence of the owner or owner's representative.

8-H. INITIAL HQS INSPECTION [24 CFR 982.401(A)]

Timing of Initial Inspections

HUD requires the unit to pass HQS before the effective date of the lease and HAP Contract. HUD requires PHAs with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA). For PHAs with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

PHA Policy

During the initial inspection the owner, property manager, or predetermined designated representative must be present and all of which must be 18 years of age or older. Potential tenants or person(s) related to, or representing the potential tenant ***will not*** *be present during the initial inspection.* ***The unit must be completely empty and free from any major debris inside and outside of the unit. If the tenant request to move in before the initial inspection due to a verified disability or impairment of one or more household members, the PHA will review the request and opt to waive the requirement of the unit being empty.***

PHA inspectors will not use or accept any key box code from the owner, management or representative to conduct the initial inspection. If the owner can't make it to the inspection he or she will need to contact the PHA to arrange for another inspection date.

On an initial inspection if the unit does not comply with HQS requirements within the PHA specified time frame, Inspector(s) will notify property owner or designated representative with the results of the inspection. If the inspection fails the inspecting official will identify the failing items and provide a time frame for a re-inspection date, not to exceed the ending date of the month of the initial inspection

month (example 30 September, 2009). The PHA may cancel the tenancy approval and instruct the family to search for another unit.

*The PHA has outlined a tenancy procedure. The procedure has been clearly described throughout this document for tenant and owner to request an inspection, **(for example, in writing, email…)**, keeping in mind:*

- *The requirement to conduct inspections within 15 days or as quickly as possible*
- *The PHA may set deadlines for completion of repairs which, if not met, may result in cancellation of the tenancy approval.*
- *If the time frame to complete repairs becomes inordinately to lengthy, the tenant may wish to find another unit, or the PHA may decide that the unit is unacceptable for leasing because the owner, management, or responsible party maintaining the upkeep of the unit is non-responsive or has failed to comply with HQS within a reasonable period of time.*

Inspection Results and Re-inspections

PHA Policy

If any HQS violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by the Osceola County Section 8 Housing Program for good cause. The Osceola County Section 8 Housing Program will re-inspect the unit within 5 business days of the date the owner notifies the Osceola County Section 8 Housing Program in writing, by fax or by email that the required corrections have been made.

If the time period for correcting the deficiencies (or any Osceola County Section 8 Housing Program approved extension) has elapsed, or the unit fails HQS at the time of the re-inspection, the Osceola County Section 8 Housing Program will notify the owner and the family that the unit has been rejected and that the family

must search for another unit. The Osceola County Section 8 Housing Program may agree to conduct a second re-inspection, for good cause, at the request of the family and owner.

Following a failed re-inspection, the family may submit a new Request for Tenancy Approval for the unit if the family has not found another unit by the time the owner completes all repairs and the family continues to wish to live in the unit.

If the unit passes, the participant and landlord/owner will be given an approval letter by hand at the site. If either is not present it will be delivered by mail, email or fax within 5 working days.

If an owner has not notified the Osceola County Section 8 Housing Program within 30 days for non-emergency repairs, that the repairs have been completed and has not applied for and received approval for more time to make repairs, the HAP payment will be put on hold.

Utilities

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

PHA Policy

If utility service is not available for testing at the time of the initial inspection, the Osceola County Section 8 Housing Program will allow the utilities (gas only) to be placed in service after the unit has met all other HQS requirements. The Osceola County Section 8 Housing Program will re-inspect the unit to confirm that utilities are operational before the HAP contract is executed by the Osceola County Section 8 Housing Program.

Appliances

PHA Policy

If the family is responsible for supplying the stove and/or refrigerator, the Osceola County Section 8 Housing Program will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the HAP contract is executed by the Osceola County Section 8 Housing Program. The Osceola

County Section 8 Housing Program will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working. A confirmatory inspection will be scheduled within 30 days of HAP contract approval.

8.I. ANNUAL HQS INSPECTIONS [24 CFR 982.405(A)]

Scheduling the Inspection

Each unit under HAP contract must have an annual inspection no more than 12 months after the most recent inspection.

PHA Policy

The annual inspection process includes scheduling the unit for inspection before a 365 day lapse, notifying parties of inspection date and time, physical inspections, enforcing HQS requirements, when necessary abate payments, terminate the unity of HAP contracts, and initiate resolution of program assistance.

Representative for an annual inspection must be 18 years or older. If participant is not going to be the representative, the substitute must be established with the PHA inspection office in writing. If the unit is located at an apartment complex and the tenant wants to have the maintenance personnel open the unit for the inspector, the PHA will not inspect the unit until a member of the family's composition can be present due to liability reasons. If the tenant cannot make the scheduled annual inspection, the tenant must make all necessary arrangements to ensure the annual time frame has not expired. The tenant must notify the PHA in writing if they have intentions to reschedule or arrange for a specific time frame.

The inspector will require to rate the conditions of the unit in one of the following four categories: good, acceptable, action required, or immediate action required described below.

1- Good: Is used to identify elements that are in notably good condition.

2- Acceptable: Owner and tenants may use the acceptable section to annotate minor conditions that will not be corrected but should be noted as a

condition predating occupancy by the current tenant.

3- Action Required: This category includes unit deficiencies that should be repaired or replaced but do not represent an immediately hazardous condition. Examples of such deficiencies would be minor leaks, some stove burners not working, window's cracked without cutting edges or not weather tight.

4- Immediate Action Required: This category includes unit deficiencies that pose an immediate threat to the health or safety of unit occupants. Examples of such deficiencies include: electrical hazards, tripping or falling hazards, windows with cutting edges, unit not being securable.

A. Meeting Target Dates for Corrections

For each deficiency, the inspector must establish a target date for completion of repairs. The target should be discussed with the owner or management agent. At any time the owner or management agent may request in writing, additional time for the completion of repairs. If correction of deficiencies will take more than 30 days, the inspector must request specific dates for periodic status reports on the owner's progress in correcting the deficiencies. PHA may allow up to 72 hours and up to 45 days for corrections.

1- Good: No action required

2- Acceptable: The inspector will determine if the conditions of the unit are acceptable. Inspector, owner, and tenant may annotate in the acceptable section minor conditions that will not be corrected.

3- For Action required items: 30 days is the generally accepted practice. Time may be extended if the owner can demonstrate that the action is scheduled within a reasonable period as part of the overall process of repairs, or the replacing item is a out of state. LL may be granted an extension.

4- For Immediate Action Required items: 24 hours is the generally accepted practice. Time may be extended up to 72 hours if the owner can demonstrate that immediate action is being taken. If a serious condition cannot be corrected immediately, consideration will be given to relocating the resident to another unit.

8-J. SPECIAL INSPECTIONS

The PHA will conduct a special inspection if the owner, family, or another source reports HQS violations in the unit.

PHA Policy

Scheduling the Inspection

Special inspections are inspections conducted in response to complaints registered with the PHA by participants, citizens, owners, management companies, or other sources regarding the unit's condition. Special inspections are not limited to quality control inspections, or any other inspection the PHA may deem appropriate to conduct.

The PHA will conduct a special inspection if the owner, family, or another source report HQS violations in the unit.

During a special inspection, the Osceola County Section 8 Housing Program generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the annual inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled the Osceola County Section 8 Housing Program may elect to conduct a full annual inspection.

8-K. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(B)]

HUD requires a PHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample will include (1) each type of inspection (initial, annual, and special), (2) inspections completed by each inspector, and (3) units from a cross-section of neighborhoods.

8.L. INSPECTION RESULTS AND RE-INSPECTIONS FOR UNITS UNDER HAP CONTRACT

Notification of Corrective Actions

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the PHA will determine (1) whether or not the failure is a life threatening condition and (2) whether the family or owner is responsible.

PHA Policy

When life threatening conditions are identified, the Osceola County Section 8 Housing Program will immediately notify both parties by telephone, facsimile, or email or by providing a written notice by hand on site. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the Osceola County Section 8 Housing Program's notice. The Osceola County Section 8 Housing Program will schedule a re-inspection for the following day.

When failures that are not life threatening are identified, the Osceola County Section 8 Housing Program will provide the owner and the family a written notification of the inspection results within 5 business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally not more than 30 days will be allowed for the correction.

The notice of inspection results will inform the owner that if life-threatening conditions are not corrected within 24 hours and non-life threatening conditions are not corrected within 30 days (or any Osceola County Section 8 Housing Program approved extension), the owner's HAP will be abated in accordance with Osceola County Section 8 Housing Program policy. Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any Osceola County Section 8 Housing Program-approved extension, if applicable) the family's assistance will be terminated in accordance with Osceola County Section 8 Housing Program policy (see Chapter 12).

Extensions

For conditions that are life-threatening, the PHA cannot grant an extension to the 24 hour corrective action period. For conditions that are not life-threatening, the PHA may grant an exception to the required time frames for correcting the violation, if the PHA determines that an extension is appropriate [24 CFR 982.404].

PHA Policy

Extensions will be granted in cases where the Osceola County Section 8 Housing Program has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

A repair cannot be completed because required parts or services are not available.

A repair cannot be completed because of weather conditions.

A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case by case basis, but will not exceed 60 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided.

Re-inspections

PHA Policy

The Osceola County Section 8 Housing Program will conduct a re-inspection immediately following the end of the corrective period, or any Osceola County Section 8 Housing Program approved extension.

The family and owner will be given reasonable notice of the re-inspection appointment. If the deficiencies have not been corrected by the time of the re-inspection, the Osceola County Section 8 Housing Program will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with Osceola County Section 8 Housing Program policies. If the Osceola County Section 8 Housing Program is unable to gain entry to the unit in order to conduct the

scheduled re-inspection, the Osceola County Section 8 Housing Program will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

8.M. ENFORCING OWNER COMPLIANCE

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

HAP Abatement

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

PHA Policy

The Osceola County Section 8 Housing Program will inspect abated units within 5 business days of the owner's notification in writing that the work has been completed. Payment will resume effective on the day the unit passes inspection.

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

HAP Contract Termination

The PHA must decide how long any abatement period will continue before the HAP contract will be terminated. The PHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The PHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

PHA Policy

The maximum length of time that a HAP may be abated is 90 days. However, if the owner completes corrections and notifies the Osceola County Section 8 Housing Program before the termination date of the HAP contract, the Osceola County Section 8 Housing Program may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

Reasonable notice of HAP contract termination by the Osceola County Section 8 Housing Program is 30 days.

8.N. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(B)]

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the PHA (and any extensions), the PHA will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

8-O. RENT REASONABLENESS

No HAP contract can be approved until the PHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

PHA-owned Units [24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in a PHA-owned unit, the PHA must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of the rent reasonableness determination to the family and the PHA. The independent agency must be approved by HUD, and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government).

8-P. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

Owner-initiated Rent Determinations

The PHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The PHA (or independent agency in the case of PHA-owned units) will assist the family with the negotiations upon request. At initial occupancy the PHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

PHA Policy

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, the Osceola County Section 8 Housing

Program may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises the Osceola County Section 8 Housing Program will consider unit size and length of tenancy in the other units.

The Osceola County Section 8 Housing Program will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

All rents adjustments will be effective the first of the month following 60 days after the Osceola County Section 8 Housing Program's receipt of the owner's request or on the date specified by the owner, whichever is later.

PHA- and HUD-Initiated Rent Reasonableness Determinations

HUD requires the PHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 5 percent decrease in the Fair Market Rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the PHA to make a determination at any other time. The PHA may decide that a new determination of rent reasonableness is needed at any time.

PHA Policy

In addition to the instances described above, the PHA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the PHA determines that the initial rent reasonableness determination was in error or (2) the PHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

8-Q. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

HUD requires PHAs to take into consideration the factors listed below when determining rent comparability. The PHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made.
- Amenities, services, and utilities included in the rent

Units that Must Not be Used as Comparables

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance which impose rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance.

Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the PHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the PHA information regarding rents charged for other units on the premises.

8-R. PHA RENT REASONABLENESS METHODOLOGY

How Market Data is Collected

PHA Policy

The Osceola County Section 8 Housing Program will collect and maintain data on market rents in the Osceola County Section 8 Housing Program's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood and other identifiable natural or man-made boundaries. The

data will be updated on an ongoing basis and rent information that is more than 24 months old will be eliminated from the database.

How Rents are Determined

PHA Policy

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. The Osceola County Section 8 Housing Program will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for HCV assistance, the Osceola County Section 8 Housing Program may make adjustments to the range of prices to account for these differences.

The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal).

Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

The adjustment must reflect the rental value of the difference – not its construction costs (e.g., it might cost $20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rents units are presumed to have functioning roofs).

When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of $500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $500 x 11 months = 5500/12 months = actual monthly rent of $488.

The Osceola County Section 8 Housing Program will notify the owner of the rent the Osceola County Section 8 Housing Program can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The Osceola County Section 8 Housing

Program will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within 5 business days of the PHA's request for information or the owner's request to submit information.

8-S. OVERVIEW OF HUD HQS

Note: This document provides an overview of HQS. For more detailed information see the following documents:

- 24 CFR 982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Sanitary Facilities

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

PHA Policy

- *The bathroom must be located in a separate room and have a flush toilet in proper operating condition.*
- *The unit (lavatory) must a fixed basin with a sink trap with working hot and cold running water.*
- *The unit must have a shower or tub with hot and cold running water.*
- *The tub/shower, toilet, basin/lavatory must have a proper sewer trap, drain, and vents to prevent the escape of sewer gases or severe leakage of water. Drains must not be clogged and toilet must flush.*
- *Hot and cold water must be available at the tub, shower, and lavatory traps.*
- *The facilities must utilize an approved public or private disposal system, including a locally approved septic system.*
- *PHA must determine if the bathroom facilities are free of hazards which may endanger the occupants such as damaged or broken fixtures and plumbing leaks. Conditions which do not*

affect acceptability of the bathroom include but not limited to tenant preference items.

- *Example of bathroom hazards that may endanger the occupants: broken ceramic, broken metal or glass fixtures that may pose a cutting hazard. This includes and not to exclude unnamed items; towel racks, soap dishes, medicine cabinet, and mirrors.*
- *The bathroom must be contained within the dwelling unit, provide privacy by means of a door or curtain, and be for the exclusive use of the occupants.*
- *Leaking of hot water faucets that may pose a scalding threat.*

Food Preparation and Refuse Disposal

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

PHA Policy

- *The dwelling unit must have an oven and a stove or range. A microwave oven may be substituted for a tenant-supplied oven and stove or range. A microwave may be substituted for an owner-supplied oven and stove or range if the tenant agrees and microwave oven are furnished to both subsidized and unsubsidized tenants in the same building or premises.*
- *The dwelling unit must have a refrigerator of the appropriate size for the family. Refrigerator must be decent safe and sanitary.*
- *All required equipment, (refrigerator, stove or range including a microwave if substituted by the landlord) must be in proper operating condition. Dishwasher and garbage disposal are not necessary for the unit to pass inspection, but if item is present and or provided it must be operational. Landlord can remove and install regular drain pipes to replace these two items. According to lease, equipment may be supplied by the either the owner or the family. Note: Inspection of dishwasher can be passed with comments.*
- *The dwelling unit must have a kitchen sink in proper operating condition, with a sink trap with hot and cold water running water. The sink must drain into an approved public or private system.*

- *The unit must have space for food storage, preparation, and serving of food.*

- *Hot plates are not acceptable substitutes for stove or ranges. The oven must heat on both elements, bake and broil settings. All burners on the stove or range must work, all stove or range knobs must be present. The stove or range must be decent, safe and sanitary, and not rusting giving it an unsanitary or unsafe appearance. The stove or range must be free of any hazardous gas hook-ups, gas leaks, or electrical hazards.*

- *Units located in an apartment complex using gas utilities, will not be required to have that particular utility (gas) on to pass an initial inspection. PHA can require from the Management of those complexes to provide a final inspection outcome and approval report from the gas companies.*

- *The refrigerator must be of adequate size for the family and capable of maintaining a temperature low enough to keep food from spoiling. If landlord is to supply refrigerator, the refrigerator must be present at the time of the initial inspection. If tenant is supplying their own refrigerator they must submit in writing to the PHA their intentions before the initial inspection is conducted. The inspector must add on the comment section of the inspection form (HUD-52580) who is supplying the refrigerator. PHA may reject the size of the refrigerator only if it clearly cannot serve the needs of the family. For example, a counter top or compact size would not meet the needs of a family of four. A freezer must be present, operational, and capable of maintaining proper temperatures between 32 F and 40 F. Door seals must be able to properly seal the cabin preventing the refrigerator from spoiling food. Refrigerators must not be rusting and present an unsanitary appearance.*

- *Built-in space, equipment, table(s), or portable storage facilities are acceptable.*

- *Waste and refuse storage facilities are determined by local practice and may include trash cans or dumpsters facilities.*

- *It is mandatory that the electricity and water utilities be turned on during the initial inspection.*

Space and Security

The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons.

- *The dwelling unit must have at least one bedroom or living/sleeping room for every two persons. To be consider as a bedroom and meet all other bedroom requirements it must have a built in closet, a portable closet is acceptable. Other than very young children, children of opposite sex (after the age of six) are not required to occupy the same bedroom or living/sleeping room.*

  Performance Requirement

  Acceptable Criteria

- *At minimum, the dwelling unit must have a living room, a kitchen and a bathroom.*
- *Unit windows that are accessible from the outside must be lockable. If the room has more than one window and one is nailed down or sealed for any reason the unit can pass inspection if the remaining are lockable, safe, and sound.*
- *Exteriors doors to the unit must be lockable.*
- *A living room may be used as a sleeping (bedroom) space, but no more than two persons may occupy the space.*
- *Windows with sills less than six feet off the ground are considered accessible. Windows located on the first floor, at the basement level, on a fire escape, porch, or other outside space that can be reached from the ground and that are designed to be opened must have a locking device. Traditional window locks, thumb locks, those provided by storm/screen combination windows, window pins, and nail are acceptable. Windows leading to a fire escape or is required to meet ventilation requirements may not be permanently nailed shut, unless a second window is adjacent or abreast of the operational window or in the same area that may allow a means of egress.*
- *A working window is one that can be used for egress. Windows, when in the up or open position must remain open without additional support.*

Tenant Preference

- *The family may determinate the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type door and window locks. The dwelling unit must provide adequate space and security for the family.*

Thermal Environment

The unit must have a safe system for heating the dwelling unit. Air conditioning is not required but if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

. *Performance Requirement*

- *The dwelling unit must be able to provide a thermal environment that is healthy for the human body.*

Acceptability Criteria

There must be a safe system for heating the dwelling unit, such as a central heating/cooling unit. An electric portable unit may be utilized if this device has the UL approval.

- *The heating and the air conditioning system must be in proper operating condition and be able to provide adequate cooling either directly or indirectly to each room as defined by HUD. .*
- *The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene.*
- *Absolutely no kerosene heaters will be used to heat homes.*

The PHA must define a healthy living environment for local climate. Example; the PHA may define a heating system capable of maintaining an interior temperature of 65 between the months of October and May as adequate.

Adequate heat is required in all rooms used for living; the heat source does not have to be located in each room as long as the heat can pass to appropriate space and meet the definition of adequate. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for unit where permanent heat systems are required.

Improper operating conditions, including all conditions that may be unsafe, such as broken or damaged source vents, flues,

exhausts, gas or oil lines that create a potential fire hazard or threats to ones' health and safety are not permitted. Thermal units must contain proper gas and oil connections, PHA will go by local plumbing, fire or mechanical codes.

Heating systems inspections are often required by local or state authorities especially for large multi-family buildings. If the heating gas system has passed the prior inspection by the utility authority within the past two years, the PHA may accept this as proof of heating equipment safety.

Working cooling equipment refers to a central ventilation system, evaporative cooling system, and room or central air conditioning. These systems are not required by HQS, but if present, must be operating safely so as to prohibit a potential fire hazard or other threat to health and safety.

Tenant Preference

The PHA has no control over energy conservation measures, such as dwelling insulation or installation of storm windows and doors. The family must assess whether a dwelling without these is acceptable; the family must take into account the cost of utilities billed to the family and personal feelings about adequate heat. Dwellings that are poorly insulated or lack storm windows are generally drafty and more difficult to heat and cool.

Illumination and Electricity

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

- *Electrical fixtures and wiring must not pose a fire hazard.*
- *All electrical sources must be appropriately covered; cracks on outlets and covers are considered failing items, depending on the severity it may be passed with comments. The inspector will use proper judgment determination if the electrical covers pass or fail.*

Acceptability Criteria

- *There must be at least one window in both the living room and each sleeping room.*

- *The kitchen area and the bathroom must have a permanent ceiling or wall mounted fixture in proper operating condition.*
- *The kitchen and bathroom must have at least one electrical outlet and one light fixture in proper operating condition.*
- *The living room and each sleeping space 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.*
- *The PHA must be satisfied that electrical system is free of hazardous conditions, including: non-working outlets exposed, un-insulated or frayed wires, improper connections, improper insulation or grounding*

Tenant Preference

- *The family may determinate whether the location and numbers of outlets and fixtures over and above those required for acceptability standards are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.*

Structure and Materials

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

- *All additions to the unit that will become a livable area PHA will require proof of permits for construction.*

Tenant Preference

Families may determinate whether minor defects, such as lack of paint, or worn flooring or carpeting that will affect the livability of the unit.

Interior Air Quality

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one openable window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

Tenant Preference

Tenants may determinate whether window and door screens, filter, fans, or other devices for proper ventilation are adequate to meet the family personal needs.

In consideration to the high cost of electricity, and moderate income of participants, it is encouraged that tenants negotiate with their landlords the application of window and door screens so they may open their windows when mild or cool climate conditions permit and essentially saving money on electrical bills. Tenants will be instructed to use the air conditioning during the humid climatic time of the year to avoid mold in the unit.

Water Supply

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

Tenant Preference

The family may decide if the water heater has a large enough capacity for family use.

PHA will determinate if the water heater meets basic HQS standards, such as a temperature-pressure relief valve and discharge line. Tankless water heaters are acceptable, water heater must be free from exposed wires, rusty materials that may cause damage to the water heater, water supply or create a hazard.

Lead-Based Paint

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
- provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by the PHA
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices
- As part of ongoing maintenance ask each family to report deteriorated paint.

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

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

Access

Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

Site and Neighborhood

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

Sanitary Condition

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

Acceptability Criteria

The PHA requires that the unit is free of rodents and heavy accumulations of trash, garbage, or other debris that may harbor vermin. The unit must have adequate barriers to prevent infestation. The Inspector analysis will determinate if the roaches are persistent, or whether an infestation is present. In such situations the owner/LL or tenant will comply with the inspectors' decision unto who will exterminate the unit. A unit with a history of infestation, the owner must provide documentation of extermination by a certified licensed extermination company. Decisions will be based on type and time of inspection in conjunction with Florida statue landlord tenant law.

Tenant Preference

Provided the minimum standards required by the acceptability criteria have been met, the tenant must determinate whether the unit is in adequate sanitary condition. Occasional mice and roaches may be acceptable to the tenant.

Smoke Detectors

Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).

Acceptability Criteria

- *All smoke detectors must be mounted, and in operating condition.*

- *Units outfitted with one smoke detector per floor are required for all dwellings.*
- *Local housing and fire codes, often outlines responsibilities between owners and tenants for installation and maintenance of smoke detector batteries. At the initial inspection smoke detectors must have good batteries and be operable.*
- *PHA may determinate if missing or dead smoke detector batteries constitute a tenant or owner-caused failure in occupied units.*
- *If the unit is occupied by an hearing-impaired person, smoke detectors must have an alarm system designed for hearing-impaired persons as specified by NFPA 74 (or successor standards). Detectors for the hearing impaired are to be requested by the family.*

Tenant Preference

The family is not permitted to exercise any tenant preference regarding smoke detector requirements.

Hazards and Heath/Safety

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.

8-T. TENANT HOUSING STANDARDS PREFERENCES

Note: This document provides an overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Provided the minimum housing quality standards have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

- *Sanitary Facilities*. The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.

- *Food Preparation and Refuse Disposal*. The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.
- *Space and Security*. The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.
- *Energy conservation items*. The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
- *Illumination and Electricity*. The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.

(6) *Structure and Materials*. Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.

(7) *Indoor Air*. Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present they must be in good condition.

(8) *Sanitary Conditions*. The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.

(9) *Neighborhood conditions*. Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and smoke detectors.

CHAPTER 9: GENERAL LEASING POLICIES

INTRODUCTION

Chapter 9 covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the HAP contract.

In order for the PHA to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, the PHA must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by the PHA and meet the Housing Quality Standards (HQS) [24 CFR 982.305(a)]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)]
- The owner must be an eligible owner, approvable by the PHA, with no conflicts of interest [24 CFR 982.306]
- For families initially leasing a unit only: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]

9-A. TENANT SCREENING

The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy [24 CFR 982.307(a)(1)].

The PHA may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of the PHA's policies with regard to screening applicant families for program eligibility [24 CFR 982.307(a)(1)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before PHA approval of the tenancy, the PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)].

The PHA must provide the owner with the family's current and prior address (as shown in the PHA records); and the name and address (if known to the PHA) of the landlord at the family's current and prior address. [24 CFR 982.307 (b)(1)].

The PHA is permitted, but not required, to offer the owner other information in the PHA's possession about the family's tenancy [24 CFR 982.307(b)(2)].

The PHA's policy on providing information to the owner must be included in the family's briefing packet [24 CFR 982.307(b)(3)].

PHA Policy

The Osceola County Section 8 Housing Program will not screen applicants for family behavior or suitability for tenancy.

The Osceola County Section 8 Housing Program will not provide additional screening information to the owner.

9-B. REQUESTING TENANCY APPROVAL [FORM HUD-52517]

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request the PHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to the PHA:

- Completed Request for Tenancy Approval (RTA) – Form HUD-52517
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the PHA to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RTA and the proposed lease must be submitted no later than the expiration date stated on the voucher.

PHA Policy

The RTA must be signed by both the family and the owner.

The owner may submit the RTA on behalf of the family.

Completed RTA (including the proposed dwelling lease) must be submitted as hard copies, in-person, by mail, by email or by fax.

The family may not submit, and the Osceola County Section 8 Housing Program will not process, more than one (1) RTA at a time.

When the family submits the RTA the Osceola County Section 8 Housing Program will review the RTA for completeness.

If the RTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RTA, the Osceola County Section 8 Housing Program will notify the family and the owner of the deficiencies.

Missing information and/or missing documents will only be accepted as hard copies, in-person, by mail, by email or by fax. The Osceola County Section 8 Housing Program will not accept missing information over the phone.

When the family submits the RTA and proposed lease, the Osceola County Section 8 Housing Program will also review the terms of the RTA for consistency with the terms of the proposed lease.

If the terms of the RTA are not consistent with the terms of the proposed lease, the Osceola County Section 8 Housing Program will notify the family and the owner of the discrepancies.

Corrections to the terms of the RTA and/or the proposed lease will only be accepted as hard copies, in-person, by mail, by email or by fax. The Osceola County Section 8 Housing Program will not accept corrections by phone.

Because of the time sensitive nature of the tenancy approval process, the Osceola County Section 8 Housing Program will attempt to communicate with the owner and family by phone, fax, or email. The Osceola County Section 8 Housing Program will use mail when the parties can't be reached by phone, fax, or email.

9-C. OWNER PARTICIPATION

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)]

See Chapter 13 for a full discussion of owner qualification to participate in the HCV program.

9-D. ELIGIBLE UNITS

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in the PHA's jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units [24 CFR 982.352(a)]

The PHA may not assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

PHA-Owned Units [24 CFR 982.352(b)]

Otherwise eligible units that are owned or substantially controlled by the PHA issuing the voucher may also be leased in the voucher program. In order for a PHA-owned unit to be leased under the voucher program, the unit must not be ineligible housing and the PHA must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a PHA-owned unit without any pressure or steering by the PHA.

PHA Policy

The Osceola County Section 8 Housing Program does not have any eligible PHA-owned units available for leasing under the voucher program.

Special Housing Types [24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require, the PHA to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space (where the family owns the manufactured home and leases only the space), cooperative housing and homeownership option. See Chapter 15 for specific information and policies on any of these housing types that the PHA has chosen to allow.

The regulations do require the PHA to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Duplicative Assistance [24 CFR 982.352(c)]

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

- Public or Indian housing assistance;

- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.

Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family. See Chapter 5 for a full discussion of subsidy standards.

Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

Rent Burden [24 CFR 982.508]

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the dwelling unit rent must be at a level where the family's share of rent does not exceed 40 percent of the family's monthly adjusted income. See Chapter 6

for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

9-E. LEASE AND TENANCY ADDENDUM

The family and the owner must execute and enter into a written dwelling lease for the assisted unit. This written lease is a contract between the tenant family and the owner; the PHA is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

Lease Form and Tenancy Addendum [24 CFR 982.308]

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease is in such standard form.

All provisions in the HUD-required Tenancy Addendum must also be added word-for-word to the owner's standard lease form, for use with the assisted family. The Tenancy Addendum includes the tenancy requirements for the program and the composition of the household as approved by the PHA. As a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner and the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

PHA Policy

The Osceola County Section 8 Housing Program does not provide a model or standard dwelling lease for owners to use in the HCV program.

Lease Information [24 CFR 982.308(d)]

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant:
- The unit rented (address, apartment number, and any other information needed to identify the contract unit)
- The term of the lease (initial term and any provisions for renewal)
- The amount of the monthly rent to owner
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family

Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit the PHA to approve a shorter initial lease term if certain conditions are met.

PHA Policy

The Osceola County Section 8 Housing Program will not approve an initial lease term of less than one (1) year.

During the initial term of the lease, the owner may not raise the rent to owner [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be in the dwelling lease if they exist.

The PHA may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC. [24 CFR 982.309(b)].

Security Deposit [24 CFR 982.313 (a) and (b)]

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if the PHA chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

PHA Policy

The Osceola County Section 8 Housing Program will allow the owner to collect any security deposit amount the owner determines is appropriate. Therefore, no modifications to the HAP contract will be necessary.

Separate Non-Lease Agreements between Owner and Tenant

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner minus the PHA's housing assistance payments to the owner [24 CFR 982.451(b)(4)].

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].

PHA Policy

The Osceola County Section 8 Housing Program permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be

included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

PHA Review of Lease

The PHA will review the dwelling lease for compliance with all applicable requirements.

PHA Policy

If the dwelling lease is incomplete or incorrect, the Osceola County Section 8 Housing Program will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by mail, or by fax. The Osceola County Section 8 Housing Program will not accept missing and corrected information over the phone

Because the initial leasing process is time-sensitive, the Osceola County Section 8 Housing Program will

attempt to communicate with the owner and family by phone, fax, or email. The Osceola County Section 8 Housing Program will use mail when the parties can't be reached by phone, fax, or email.

The PHA is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if the PHA determines that the lease does not comply with State or local law [24 CFR 982.308(c)]

PHA Policy

The PHA will not review the owner's lease for compliance with state/local law.

After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, the PHA must promptly notify the family and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, the PHA must ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by the PHA and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit must is reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]; the owner is an eligible owner, not disapproved by the PHA, with no conflicts of interest [24 CFR 982.306]; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information [24 CFR 982.305(b)].

PHA Policy

The Osceola County Section 8 Housing Program will complete its determination within 10 business days of receiving all required information.

If the terms of the RTA/proposed lease are changed for any reason, including but not limited to negotiation with the Osceola County Section 8 Housing Program, the Osceola County Section 8 Housing Program will obtain corrected copies of the RTA and proposed lease, signed by the family and the owner.

Corrections to the RTA/proposed lease will only be accepted as hard copies, in-person, by mail, or by fax. The Osceola County Section 8 Housing Program will not accept corrections over the phone.

If the Osceola County Section 8 Housing Program determines that the tenancy cannot be approved for any

reason, the owner and the family will be notified in writing and given the opportunity to address any reasons for disapproval. The PHA will instruct the owner and family of the steps that are necessary to approve the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability (including rent burden and rent reasonableness), the Osceola County Section 8 Housing Program will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

9-F. HAP CONTRACT EXECUTION [24 CFR 982.305]

The HAP contract is a written agreement between the PHA and the owner of the dwelling unit occupied by a housing choice voucher assisted family. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit and obliges the owner to comply with all program requirements.

The HAP contract format is prescribed by HUD.

If the PHA has given approval for the family of the assisted tenancy, the owner and the PHA execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

The PHA is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

The PHA must make a best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

The PHA may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the PHA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60 day period is void, and the PHA may not pay any housing assistance payment to the owner.

PHA Policy

Owners who have not previously participated in the HCV program must attend a meeting with the Osceola County Section 8 Housing Program in which the terms of the Tenancy Addendum and the HAP contract will be explained. The Osceola County Section 8 Housing Program may waive this requirement on a case-by-case basis, if it determines that the owner is sufficiently familiar with the requirements and responsibilities under the HCV program.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the Osceola County Section 8 Housing Program. The Osceola County Section 8 Housing Program will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and the Osceola County Section 8 Housing Program will execute the HAP contract. The Osceola County Section 8 Housing Program will not execute the HAP contract until the owner has submitted IRS form W-9. The Osceola County Section 8 Housing Program will ensure that the owner receives a copy of the executed HAP contract.

See Chapter 13 for a discussion of the HAP contract and contract provisions.

9-G. CHANGES IN LEASE OR RENT [24 CFR 982.308]

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the PHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, PHA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, voucher assistance in the unit shall not be continued unless the PHA has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances
- Changes in lease provisions governing the term of the lease
- The family moves to a new unit, even if the unit is in the same building or complex

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RTA) along with a new dwelling lease containing the altered terms. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of rent, the owner must notify the PHA of any changes in the amount of the rent to owner at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. The PHA will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or give the family notice in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

PHA Policy

Where the owner is requesting a rent increase, the Osceola County Section 8 Housing Program will determine whether the requested increase is reasonable, within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

Rent increases will go into effect on the first of the month following the 60 day period after the owner notifies the Osceola County Section 8 Housing Program of the rent change or on the date specified by the owner, whichever is later.

CHAPTER 10: MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

Freedom of choice is a hallmark of the housing choice voucher (HCV) program. In general, therefore, HUD regulations impose few restrictions on where families may live or move with HCV assistance.

10-A. ALLOWABLE MOVES

HUD regulations list five conditions under which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in the following section.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.314(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice at the same time [24 CFR 982.314(d)(1)].
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.314(b)(1)(ii)].

  PHA Policy

  If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give the Osceola County Section 8 Housing Program a copy of the termination agreement.

- The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.314(b)(2)]. The family must give the PHA a copy of any owner eviction notice [24 CFR 982.551(g)].
- The PHA has terminated the assisted lease for the family's unit for the owner's breach [24 CFR 982.314(b)(1)(i)].
- The PHA determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the PHA must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives notice to the owner. [24 CFR 982.403(a) and (c)]

10-B. RESTRICTIONS ON MOVES

A family's right to move is generally contingent upon the family's compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which a PHA may deny a family permission to move and two ways in which a PHA may restrict moves by a family.

Denial of Moves

HUD regulations permit the PHA to deny a family permission to move under the following conditions:

Insufficient Funding

The PHA may deny a family permission to move if the PHA does not have sufficient funding for continued assistance [24 CFR 982.314(e)(1)].

PHA Policy

The Osceola County Section 8 Housing Program will deny a family permission to move on grounds that the Osceola County Section 8 Housing Program does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the Osceola County Section 8 Housing Program; (b) the Osceola County Section 8 Housing Program can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) the Osceola County Section 8 Housing Program can demonstrate, through a detailed cost-reduction plan based on reasonable assumptions, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs. This policy applies to moves within the Osceola County Section 8 Housing Program's jurisdiction as well as to moves outside it under portability.

Grounds for Denial or Termination of Assistance

The PHA has grounds for denying or terminating the family's assistance [24 CFR 982.314(e)(2)].

PHA Policy

If the Osceola County Section 8 Housing Program has grounds for denying or terminating a family's assistance, the Osceola County Section 8 Housing Program will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances.

Restrictions on Elective Moves [24 CFR 982.314(c)]

HUD regulations permit the PHA to prohibit any elective move by a participant family during the family's initial lease term. They also permit the PHA to prohibit more than one elective move by a participant family during any 12-month period.

PHA Policy

The Osceola County Section 8 Housing Program will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within the Osceola County Section 8 Housing Program's jurisdiction or outside it under portability.

The Osceola County Section 8 Housing Program will also deny a family permission to make more than one elective move during any 12-month period. This policy applies to all assisted families residing in the Osceola County Section 8 Housing Program jurisdiction.

The Osceola County Section 8 Housing Program will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, witness protection programs), to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.

In addition, the Osceola County Section 8 Housing Program will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).

10-C. MOVING PROCESS

Notification

If a family wishes to move to a new unit, the family must notify the PHA and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.314(d)(2)]. If the family wishes to move to a unit outside the PHA's jurisdiction under portability, the notice to the PHA must specify the area where the family wishes to move [24 CFR 982.314(d)(2), Notice PIH 2004-12]. The notices must be in writing [24 CFR 982.5].

Approval

PHA Policy

Upon receipt of a family's notification that it wishes to move, the Osceola County Section 8 Housing Program will determine whether the move is approvable in accordance with the regulations and policies set forth in sections 10-A and 10-B. The Osceola County Section 8 Housing Program will notify the family in writing of its determination within 10 business days following receipt of the family's notification.

Reexamination of Family Income and Composition

PHA Policy

For families approved to move to a new unit within the Osceola County Section 8 Housing Program's jurisdiction, the Osceola County Section 8 Housing Program will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan.

For families moving into or families approved to move out of the Osceola County Section 8 Housing Program's jurisdiction under portability, the PHA will follow the policies set forth later in this chapter.

Voucher Issuance and Briefing

PHA Policy

For families approved to move to a new unit within the Osceola County Section 8 Housing Program's jurisdiction, the Osceola County Section 8 Housing Program will issue a new voucher within 10 business days of the Osceola County Section 8 Housing Program's written approval to move. No briefing is required for these families. The Osceola County Section 8 Housing Program will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and the Osceola County Section 8 Housing Program approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of the Osceola County Section 8 Housing Program's jurisdiction under portability, the Osceola County

Section 8 Housing Program will follow the policies set forth in Part II of this chapter.

Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, the PHA may not make any housing assistance payment to the owner for any month **after** the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

10-D. OVERVIEW OF PORTABILITY

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The first PHA is called the **initial PHA [IPHA].** The second is called the **receiving PHA [RPHA].**

The receiving PHA has the option of administering the family's voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving PHA pays for the family's assistance out of its own program funds, and the initial PHA has no further relationship with the family.

The same PHA commonly acts as the initial PHA for some families and as the receiving PHA for others. Each role involves different responsibilities. The PHA will follow the rules and policies in section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving PHA for a family.

10-E. INITIAL PHA ROLE

Allowable Moves under Portability

A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one PHA in the area, the initial PHA may choose the receiving PHA [24 CFR 982.355(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the PHA's jurisdiction under portability. The initial PHA, in accordance with HUD regulations and PHA policy, determines whether a family qualifies.

Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside the PHA's jurisdiction under portability. However, HUD gives the PHA discretion to deny a portability

move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance.

PHA Policy

In determining whether or not to deny an applicant family permission to move under portability because the Osceola County Section 8 Housing Program lacks sufficient funding or has grounds for denying assistance to the family, the initial Osceola County Section 8 Housing Program will follow the policies established in section 10-B of this chapter.

In addition, the PHA may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

PHA Policy

If the head of household and the spouse/co-head of an applicant family did not have a domicile (legal residence) in the Osceola County Section 8 Housing Program's jurisdiction at the time the family's application for assistance was submitted, the family must live in the Osceola County Section 8 Housing Program's jurisdiction with voucher assistance for at least 12 months before requesting portability.

The Osceola County Section 8 Housing Program will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2). However, any exception to this policy is subject to the approval of the receiving Osceola County Section 8 Housing Program [24 CFR 982.353(c)(3)].

Participant Families

The Initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease. [24 CFR 982.3539b).]

PHA Policy

The Osceola County Section 8 Housing Program will determine whether a participant family may move out of the Osceola County Section 8 Housing Program's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-A and 10-B of this chapter. The Osceola County Section 8 Housing Program will notify the family of its determination in accordance with the

approval policy set forth in section 10-C of this chapter.

Determining Income Eligibility

Applicant Families

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(3)]. The family must specify the area to which the family wishes to move [Notice 2004-12].

The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.355(c)(1)]. If the applicant family is not income eligible in that area, the PHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2004-12].

Participant Families

The income eligibility of a participant family is not redetermined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2), 24 CFR 982.355(c)(1)].

Reexamination of Family Income and Composition

No new reexamination of family income and composition is required for an applicant family.

PHA Policy

For a participant family approved to move out of its jurisdiction under portability, the Osceola County Section 8 Housing Program generally will conduct a reexamination of family income and composition only if the family's annual reexamination must be completed on or before the initial billing deadline specified on form HUD-52665, Family Portability Information.

The Osceola County Section 8 Housing Program will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

Briefing

The regulations and policies on briefings set forth in Chapter 5 of this plan require the PHA to provide information on portability to all applicant families that qualify to lease a unit outside the PHA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

PHA Policy

No formal briefing will be required for a participant family wishing to move outside the Osceola County Section 8 Housing Program's jurisdiction under portability. However, the Osceola County Section 8 Housing Program will provide the family with the same

oral and written explanation of portability that it provides to applicant families selected for admission to the program (see Chapter 5). The Osceola County Section 8 Housing Program will provide the name, address, and phone of the contact for the Osceola County Section 8 Housing Program in the jurisdiction to which they wish to move. The Osceola County Section 8 Housing Program will advise the family that they will be under the Osceola County Section 8 Housing Program's policies and procedures, including subsidy standards and voucher extension policies.

Voucher Issuance and Term

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to applicant families, the PHA will follow the regulations and procedures set forth in Chapter 5. A new voucher is not required for portability purposes.

PHA Policy

For families approved to move under portability, the IPHA will issue a new voucher within 10 business days of the Osceola County Section 8 Housing Program's written approval to move.

The initial term of the voucher will be 60 days.

Voucher Extensions and Expiration

PHA Policy

*The Osceola County Section 8 Housing Program will approve **no** extensions to a voucher issued to an applicant or participant family porting out of the Osceola County Section 8 Housing Program's jurisdiction except under the following circumstances: (a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving Osceola County Section 8 Housing Program , (b) the family decides to return to the initial Osceola County Section 8 Housing Program's jurisdiction and search for a unit there, or (c) the family decides to search for a unit in a third Osceola County Section 8 Housing Program's jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.*

To receive or continue receiving assistance under the initial Osceola County Section 8 Housing Program's voucher program, a family that moves to another Osceola County Section 8 Housing Program's jurisdiction under portability must be under HAP contract in the receiving Osceola County Section 8 Housing Program's jurisdiction within 60 days following the expiration date of the initial Osceola County Section 8 Housing Program's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.)

Initial Contact with the Receiving PHA

After approving a family's request to move under portability, the initial PHA must promptly notify the receiving PHA to expect the family [24 CFR 982.355(c)(2)]. This means that the initial PHA must contact the receiving PHA directly on the family's behalf [Notice PIH 2004-12]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(2)].

PHA Policy

Because the portability process is time-sensitive, the Osceola County Section 8 Housing Program will notify the receiving Osceola County Section 8 Housing Program by phone, fax, or e-mail to expect the family. The initial Osceola County Section 8 Housing Program will also ask the receiving Osceola County Section 8 Housing Program to provide any information the family may need upon arrival, including the name, fax, email, payment standard and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. The Osceola County Section 8 Housing Program will pass this information along to the family. The Osceola County Section 8 Housing Program will also ask for the name, address, telephone number, fax and email of the person responsible for processing the billing information.

Sending Documentation to the Receiving PHA

The initial PHA is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2004-12]
- A copy of the family's voucher [Notice PIH 2004-12]

- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2004-12]
- Copies of the income verifications backing up the form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2004-12]

PHA Policy

In addition to these documents, the Osceola County Section 8 Housing Program will provide the following information, if available, to the receiving Osceola County Section 8 Housing Program :

Social security numbers (SSNs)

Documentation of SSNs for all family members age 6 and over

Documentation of legal identity

Documentation of citizenship or eligible immigration status

Documentation of participation in the earned income disallowance (EID) benefit

Documentation of participation in a family self-sufficiency (FSS) program

The PHA will notify the family in writing regarding any information provided to the receiving Osceola County Section 8 Housing Program.

Initial Billing Deadline [Notice PIH 2004-12]

When the initial PHA sends form HUD-52665 to the receiving PHA, it specifies in Part I the deadline by which it must receive the initial billing notice from the receiving PHA. This deadline is 60 days following the expiration date of the voucher issued to the family by the initial PHA. If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must contact the receiving PHA to determine the status of the family. If the receiving PHA reports that the family is not yet under HAP contract, the initial PHA may refuse to accept a late billing submission. If the receiving PHA reports that the family is under HAP contract and the receiving PHA cannot absorb the family, the initial PHA must accept a late billing submission; however, it may report to HUD the receiving PHA's failure to comply with the deadline.

PHA Policy

If the IPHA has not received an initial billing notice from the receiving agency (Osceola County Section 8 Housing Program) by the deadline specified on form HUD-52665, it will contact Osceola County Section 8

Housing Program by phone, fax, or e-mail on the next business day. If Osceola County Section 8 Housing Program reports that the family is not yet under HAP contract, PHA will inform the receiving agency (Osceola County Section 8 Housing Program) that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. The PHA will send the receiving agency (Osceola County Section 8 Housing Program) a written confirmation of its decision by mail.

The PHA will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving agency (Osceola County Section 8 Housing Program).

Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2004-12]

If the receiving PHA is administering the family's voucher, the initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be **received** by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of over-leasing or funding shortfalls. The PHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

Annual Updates of Form HUD-50058

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family's annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family.

Subsequent Family Moves

Within the Receiving PHA's Jurisdiction [24 CFR 314(e)(1), Notice PIH 2005-1]

The initial PHA has the authority to deny subsequent moves by portable families whom it is assisting under portability billing arrangements if it does not have sufficient funding for continued assistance.

PHA Policy

If the Osceola County Section 8 Housing Program determines that it must deny moves on the grounds that it lacks sufficient funding (see section 10-B), it

will notify all receiving PHAs with which it has entered into portability billing arrangements that they, too, must deny moves to higher cost units by portable families from the Osceola County Section 8 Housing Program's jurisdiction.

The Osceola County Section 8 Housing Program will allow exceptions to this policy for purposes of reasonable accommodation of a family member who is a person with disabilities.

Outside the Receiving PHA's Jurisdiction [Notice PIH 2004-12]

If the initial PHA is assisting a portable family under a billing arrangement and the family subsequently decides to move out of the receiving PHA's jurisdiction, the initial PHA is responsible for issuing the family a voucher while the family is either being assisted or has a voucher from the receiving PHA and, if the family wishes to port to another jurisdiction, sending form HUD-52665 and supporting documentation to the new receiving PHA. Any extensions of the initial PHA voucher necessary to allow the family additional search-time to return to the initial PHA's jurisdiction or to move to another jurisdiction would be at the discretion of the initial PHA.

Denial or Termination of Assistance [24 CFR 982.355(c)(9)]

If the initial PHA has grounds for denying or terminating assistance for a portable family that has not been absorbed by the receiving PHA, the initial PHA may act on those grounds at any time. (For PHA policies on denial and termination, see Chapters 3 and 12, respectively.)

10-F. RECEIVING PHA ROLE

If a family has a right to lease a unit in the receiving PHA's jurisdiction under portability, the receiving PHA must provide assistance for the family [24 CFR 982.355(10)].

The receiving PHA's procedures and preferences for selection among eligible applicants do not apply, and the receiving PHA's waiting list is not used [24 CFR 982.355(10)]. However, the family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(7)], and the amount of the family's housing assistance payment is determined in the same manner as for other families in the receiving PHA's voucher program [24 CFR 982.355(e)(2)].

Initial Contact with Family

When a family moves into the PHA's jurisdiction under portability, the family is responsible for promptly contacting the PHA and complying with the PHA's procedures for incoming portable families [24 CFR 982.355(c)(3)].

If the voucher issued to the family by the initial PHA has expired, the receiving PHA does not process the family's paperwork but instead refers the family back to the initial PHA [Notice PIH 2004-12].

When a portable family requests assistance from the receiving PHA, the receiving PHA must promptly inform the initial PHA whether the receiving PHA will bill the initial PHA for

assistance on behalf of the portable family or will absorb the family into its own program [24 CFR 982.355(c)(5)]. If the PHA initially bills the initial PHA for the family's assistance, it may later decide to absorb the family into its own program [Notice PIH 2004-12]. (See later under "Absorbing a Portable Family" for more on this topic.)

PHA Policy

Within 10 business days after a portable family requests assistance, the receiving agency (Osceola County Section 8 Housing Program) will notify the initial PHA whether it intends to bill the receiving PHA on behalf of the portable family or absorb the family into its own program.

For an incoming portable to Osceola, failure of the IPHA to have conducted a full examination for a new applicant or a re-examination due on or before the billing deadline [60 days after the expiration of the voucher] will be considered as incomplete paperwork to be provided Osceola and the portable processing will not commence and the family and all paperwork received will be returned to the IPHA.

If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2004-12]. (For more on this topic, see later under "Denial or Termination of Assistance.")

Briefing

HUD allows the receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search [Notice PIH 2004-12].

PHA Policy

The Osceola County Section 8 Housing Program will require the family to attend a briefing. The Osceola County Section 8 Housing Program will provide the family with a briefing packet (as described in Chapter 5) and in any individual briefing, will orally inform the family about the Osceola County Section 8 Housing Program's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process and the leasing process.

Income Eligibility and Reexamination

HUD allows the receiving PHA to conduct its own income reexamination of a portable family [24 CFR 982.355(c)(4)]. However, the receiving PHA may not delay voucher issuance or unit approval until the reexamination process is complete unless the reexamination is necessary to determine that an applicant family is income eligible for admission to the program in the area where the family wishes to lease a unit [Notice PIH 2004-12, 24 CFR 982.201(b)(4)]. The receiving PHA does not redetermine income eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program [24 CFR 982.355(c)(1)].

PHA Policy

For any family moving into its jurisdiction under portability, the Osceola County Section 8 Housing Program will not normally conduct a new reexamination of family income and composition unless there is evidence of a change since the last re-examination conducted by the IPHA. If it conducts such a re-exam, the Osceola County Section 8 Housing Program will not delay issuing the family a voucher for this reason. Nor will the Osceola County Section 8 Housing Program delay approving a unit for the family until the re-examination process is complete unless the family is an applicant and the Osceola County Section 8 Housing Program cannot otherwise confirm that the family is income eligible for admission to the program in the area where the unit is located.

In conducting its own re-examination, the Osceola County Section 8 Housing Program will rely upon any verifications provided by the initial Osceola County Section 8 Housing Program to the extent that they (a) accurately reflect the family's current circumstances and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

Voucher Issuance

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 CFR 982.355(b)(6)]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA's voucher [24 CFR 982.355(c)(6)].

Timing of Voucher Issuance

HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family's paperwork from the initial PHA if the information is in order, the family has contacted

the receiving PHA, and the family complies with the receiving PHA's procedures [Notice PIH 2004-12].

PHA Policy

When a family ports into its jurisdiction, the Osceola County Section 8 Housing Program will issue the family a voucher based on the paperwork provided by the family unless the family's paperwork from the initial Osceola County Section 8 Housing Program is incomplete (including correct dates, signatures and completion of all due verification including annual re-exams due by the billing date, the family's voucher from the initial Osceola County Section 8 Housing Program has expired or the family does not comply with the RPHA's procedures. The Osceola County Section 8 Housing Program will update the family's information when verification has been completed.

Voucher Term

The term of the receiving PHA's voucher may not expire before the term of the initial PHA's voucher [24 CFR 982.355(c)(6)].

PHA Policy

The receiving agency's (Osceola County Section 8 Housing Program) voucher will expire on the same date as the initial voucher unless an extension is approved in writing by the IPHA.

Voucher Extensions [24 CFR 982.355(c)(6), Notice 2004-12]

The receiving PHA may provide additional search time to the family beyond the expiration date of the initial PHA's voucher; however, if it does so, it must inform the initial PHA of the extension. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

PHA Policy

The Osceola County Section 8 Housing Program generally will not extend the term of the voucher that it issues to an incoming portable family unless the Osceola County Section 8 Housing Program plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth below.

The Osceola County Section 8 Housing Program will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

Notifying the Initial PHA

The receiving PHA must 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 receiving PHA's voucher [24 CFR 982.355(c)(8)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [24 CFR 982.355(e)(5), Notice PIH 2004-12]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher,")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA's voucher is only valid for the family's search in the receiving PHA's jurisdiction. [Notice PIH 2004-12]

Administering a Portable Family's Voucher

Initial Billing Deadline

If a portable family's search for a unit is successful and the receiving PHA intends to administer the family's voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) (a) no later than 10 business days following the date the receiving PHA **executes** a HAP contract on behalf of the family **and** (b) in time that the notice will be **received** no later than 60 days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2004-12]. A copy of the family's form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or e-mail.

PHA Policy

The Osceola County Section 8 Housing Program_will send its initial billing notice by e-mail, if necessary, to meet the billing deadline but will also send the notice by certified regular mail or fax.

If the receiving PHA fails to send the initial billing within 10 business days following the date the HAP contract is executed, it is required to absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or (b) HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is overleased) [Notice PIH 2004-12].

Ongoing Notification Responsibilities [Notice PIH 2004-12, HUD-52665]

Annual Reexamination. The receiving PHA must send the initial PHA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

PHA Policy

The Osceola County Section 8 Housing Program will send a copy of the updated HUD-50058 by regular mail, fax or email at the same time the Osceola County Section 8 Housing Program and owner are notified of the reexamination results.

Change in Billing Amount. The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments
- Termination of the HAP contract
- Payment of a damage/vacancy loss claim for the family
- Termination of the family from the program

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount.

Late Payments [Notice PIH 2004-12]

If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving PHA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request by memorandum to the director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

PHA Policy

A list of incomplete payments will be assembled on the 15th working day of the month and all IPHAs delinquent in paying will be notified by certified mail within 1 working day with a copy of such notices to the HUD Field Office.

If any IPHA delinquency continues in part or in whole into the following month, a letter requesting transfer of the budget authority for that participant from the IPHA to the RPHA will be sent within 1 working day to the HUD Field Office and legal action will be commenced to collect the delinquent amount that same day.

Overpayments [Notice PIH 2004-12]

In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

At HUD's discretion, the receiving PHA will be subject to the sanctions spelled out in Notice PIH 2004-12.

Denial or Termination of Assistance

At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(9), 24 CFR 982.355(c)(10)].

In the case of a termination, the PHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than 10 business days following the effective date of the termination of the billing arrangement. [Notice PIH 2004-12]

PHA Policy

If the Osceola County Section 8 Housing Program elects to deny or terminate assistance for a portable family, the Osceola County Section 8 Housing Program will notify the initial PHA within 10 business days after the informal review or hearing if the denial or

termination is upheld. The Osceola County Section 8 Housing Program will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 17. The receiving agency (Osceola County Section 8 Housing Program) will furnish the initial with a copy of the review or hearing decision.

Absorbing a Portable Family

The receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that (a) the PHA has funding available under its annual contributions contract (ACC) and (b) absorbing the family will not result in overleasing [24 CFR 982.355(d)(1), Notice PIH 2004-12].

If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving PHA [24 CFR 982.201(b)(2)(vii)].

If the receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the initial PHA, HUD encourages the receiving PHA to provide adequate advance notice to the initial PHA to avoid having to return an overpayment. The receiving PHA must specify the effective date of the absorption of the family. [Notice PIH 2004-12]

PHA Policy

If the Osceola County Section 8 Housing Program decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the Osceola County Section 8 Housing Program will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If the Osceola County Section 8 Housing Program decides to absorb a family after that, it will provide the initial PHA with 30 days' advance notice.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA's voucher program [24 CFR 982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability.

CHAPTER 11: RE-EXAMINATIONS

INTRODUCTION

The PHA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result.

11-A. OVERVIEW OF RE-EXAMINATIONS

The PHA must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

11-B. SCHEDULING ANNUAL RE-EXAMINATIONS

The PHA must establish a policy to ensure that the annual reexamination for each family is completed *within* a 12-month period, and may require reexaminations more frequently [HCV GB p. 12-1].

PHA Policy

The Osceola County Section 8 Housing Program will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, the Osceola County Section 8 Housing Program will schedule annual reexamination effective dates to coincide with the family's anniversary date.

Anniversary date *is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).*

If the family moves to a new unit, the Osceola County Section 8 Housing Program will perform a new annual reexamination.

The Osceola County Section 8 Housing Program also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

The PHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA.

PHA Policy

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or co-head. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the Osceola County Section 8 Housing Program to request a reasonable accommodation (see Chapter 2).

Notification of annual reexamination interviews will be sent by mail or email and will contain the date, time and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact the Osceola County Section 8 Housing Program in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, the Osceola County Section 8 Housing Program will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without Osceola County Section 8 Housing Program approval, or if the notice is returned by the post office with no forwarding address or the email is not opened a notice of termination (see Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and the Osceola County Section 8 Housing Program must execute a certification attesting to the role and assistance of any such third party.

11-C. CONDUCTING ANNUAL RE-EXAMINATIONS

As part of the annual reexamination process, families are required to provide updated information to the PHA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

PHA Policy

Families will be asked to bring or mail all required information (as described in the reexamination notice) to the reexamination appointment. The required

information will include a Osceola County Section 8 Housing Program designated re-examination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the Housing Quality Standards (HQS) (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

11-D. EFFECTIVE DATES

The PHA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

PHA Policy

In general, an increase in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

If the Osceola County Section 8 Housing Program chooses to schedule an annual re-examination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the Osceola County Section 8 Housing Program, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual re-examination, increases *in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual re-examination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 17.*

In general, a decrease *in the family share of the rent that results from an annual re-examination will take effect on the family's anniversary date.*

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If the Osceola County Section 8 Housing Program chooses to schedule an annual re-examination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the Osceola County Section 8 Housing Program.

*If the family causes a delay in processing the annual re-examination, d*ecreases *in the family share of the rent will be applied prospectively, from the first day of the month following completion of the re-examination processing.*

Delays in re-examination processing are considered to be caused by the family if the family fails to provide information requested by the Osceola County Section 8

Housing Program by the date specified and this delay prevents the Osceola County Section 8 Housing Program from completing the re-examination as scheduled.

11-E. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to family obligations under the program, the PHA has limited discretion in this area.

PHA Policy

The Osceola County Section 8 Housing Program will conduct interim re-examinations to account for any changes in household composition that occur between annual re-examinations.

New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR 982.551(h)(2)].

PHA Policy

The family must inform the Osceola County Section 8 Housing Program in writing or by email of the birth, adoption or court-awarded custody of a child within 10 business days.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

When any new family member is added, the PHA must conduct a reexamination to determine any new income or deductions associated with the additional family member, and to make appropriate adjustments in the family share of the rent and the HAP payment [24 CFR 982.516(e)].

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

PHA Policy

Families must request Osceola County Section 8 Housing Program approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the

unit for more than 30 consecutive days, or 90 cumulative days, within a twelve month period, and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the Osceola County Section 8 Housing Program prior to the individual moving in the unit. Section 8 Program staff will request proof of family relationship for any request to add new family members. Proof may include but not limited to birth certificates and birth records to prove relationship, adoption papers, foster care documentation, school records, guardianship papers or other legal documentation that proves relationship.

The Osceola County Section 8 Housing Program will not approve the addition of a new family or household member unless the individual meets the Osceola County Section 8 Housing Program's eligibility criteria (see Chapter 3).

The Osceola County Section 8 Housing Program will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If the Osceola County Section 8 Housing Program determines an individual meets the Osceola County Section 8 Housing Program's eligibility criteria as defined in Chapter 3, the Osceola County Section 8 Housing Program will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued another voucher and will be required to move.

If the Osceola County Section 8 Housing Program determines that an individual does not meet the Osceola County Section 8 Housing Program's eligibility criteria as defined in Chapter 3, the Osceola County Section 8 Housing Program will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The Osceola County Section 8 Housing Program will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

Families must promptly notify the PHA if any family member no longer lives in the unit

[24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

PHA Policy

If a household member ceases to reside in the unit, the family must inform the Osceola County Section 8 Housing Program within 10 business days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the Osceola County Section 8 Housing Program within 10 business days.

11-F. CHANGES AFFECTING INCOME OR EXPENSES

Interim re-examinations can be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

PHA-Initiated Interim Re-examinations

PHA-initiated interim re-examinations are those that are scheduled based on circumstances or criteria defined by the PHA. They are not scheduled because of changes reported by the family.

PHA Policy

The Osceola County Section 8 Housing Program will conduct interim re-examinations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), the Osceola County Section 8 Housing Program will conduct an interim re-examination at the start and conclusion of the second 12-month exclusion period (50 percent phase-in period).

If the family has reported zero income, the family has 180 days to find employment or income or participation in the program will be terminated. Any family reporting $0 income will be required to submit documentation of all financial contributions to the

household. This will include cancelled checks, bank statements, money orders, etc. that documents how the participant is paying daily household expenses. This documentation must be included with any letters reporting $0 income.

If at the time of the annual re-examination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the Osceola County Section 8 Housing Program will schedule an interim re-examination to coincide with the end of the period for which it is feasible to project income.

If at the time of the annual re-examination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the Osceola County Section 8 Housing Program will conduct an interim re-examination.

The Osceola County Section 8 Housing Program may conduct an interim re-examination at any time in order to correct an error in a previous re-examination, or to investigate a tenant fraud complaint.

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)].

Required Reporting

HUD regulations give the PHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

PHA Policy

Families are required to report all increases in earned income, including new employment, within 10 business days of the date the change takes effect.

The Osceola County Section 8 Housing Program_will only conduct interim re-examinations for families that qualify for the earned income disallowance (EID), and only when the EID family's share of rent will change as a result of the increase. In all other cases, the Osceola County Section 8 Housing Program will note the information in the tenant file, but will not conduct an interim re-examination unless the increase in income would result in a TTP greater than $50/month.

Families are not required to report any other changes in income or expenses.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. The PHA must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

PHA Policy

If a family reports a change that it was not required to report and that would result in an increase in the family share of the rent, the Osceola County Section 8 Housing Program will note the information in the tenant file, but will not conduct an interim re-examination unless the increase in income would result in a TTP greater than $50/month.

If a family reports a change that it was not required to report and that would result in a decrease in the family share of rent, the Osceola County Section 8 Housing Program will conduct an interim re-examination.

Families may report changes in income or expenses at any time.

11-G. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

PHA Policy

The family may only notify the Osceola County Section 8 Housing Program of changes in writing (mail, email or fax).

Generally, the family will not be required to attend an interview for an interim re-examination. However, if the Osceola County Section 8 Housing Program determines that an interview is warranted, the family will be required to attend.

Based on the type of change reported, the Osceola County Section 8 Housing Program will determine the

documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from the Osceola County Section 8 Housing Program. This time frame may be extended for good cause with Osceola County Section 8 Housing Program approval. The Osceola County Section 8 Housing Program will accept required documentation by mail, email, fax, or in person.

Effective Dates

The PHA must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB, p. 12-10].

PHA Policy

If the family share of the rent is to *increase*:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 17.

If the family share of the rent is to *decrease*:

The decrease will be effective on the first day of the month following the month in which the change was reported and all required documentation was submitted. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

11-H. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the PHA's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

Payment Standards [24 CFR 982.505]

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located. See Chapter 6 for information on how to select the appropriate payment standard.

When the PHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If the PHA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
  - If the payment standard amount has i*ncreased*, the increased payment standard will be applied at the *first annual* reexamination following the effective date of the increase in the payment standard.
  - If the payment standard amount has *decreased*, the decreased payment standard will be applied at the *second annual* reexamination following the effective date of the decrease in the payment standard.

If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

Subsidy Standards [24 CFR 982.505(c)(4)]

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the PHA's subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family's *first annual* reexamination following the change in family unit size.

Utility Allowances [24 CFR 982.517(d)]

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the PHA's utility allowance schedule [HCV GB, p. 12-5]. Chapter 17 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the PHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the PHA must use the PHA current utility allowance schedule [24 CFR 982.517(d)(2)].

PHA Policy

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

11-I. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

The PHA must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information:

The amount and effective date of the new HAP payment

The amount and effective date of the new family share of the rent

The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding the PHA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 17).

PHA Policy

The notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment. The notice also will state the procedures for requesting an informal hearing.

11-J. DISCREPANCIES

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.

CHAPTER 12: TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify the reasons for which a PHA can terminate a family's assistance, and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family.

12-A. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the amount of PHA subsidy goes down. If the amount of HCV assistance provided by the PHA drops to zero and remains at zero for 180 consecutive calendar days the family's assistance terminates automatically.

PHA Policy

If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the family must notify the Osceola County Section 8 Housing Program of the changed circumstances and request an interim reexamination before the expiration of the 180-day period.

12-B. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that the PHA terminate the family's assistance at any time.

PHA Policy

The request to terminate assistance should be made in writing and signed by the head of household, spouse, or co-head. Before terminating the family's assistance, the Osceola County Section 8 Housing Program will follow the notice requirements in Section 12-II.E.

12-C. MANDATORY TERMINATION OF ASSISTANCE

HUD requires the PHA to terminate assistance in the following circumstances.

Eviction [24 CFR 982.552(b)(2)]

The PHA must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease.

PHA Policy

A family will be considered evicted *if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.*

If a family moves after the owner has given the family an eviction notice for serious or repeated lease

violations but before a legal eviction order has been issued, termination of assistance is not mandatory. However, the Osceola County Section 8 Housing Program will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used is whether the reason for the eviction was through no fault of the tenant or guests.

Failure to Provide Consent [24 CFR 982.552(b)(3)]

The PHA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a reexamination. See Chapter 7 for a complete discussion of consent requirements.

Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]

The PHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

Failure to Provide Social Security Documentation [24 CFR 5.218(c)]

The PHA must terminate assistance if a participant family fails to provide the documentation or certification required for any family member who obtains a social security number, joins the family, or reaches 6 years of age.

Methamphetamine Manufacture or Production [24 CFR 983.553(b)(1)(ii)]

The PHA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

12-D. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]

HUD requires the PHA to establish policies that permit the PHA to terminate assistance if the PHA determines that:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member has violated the family's obligation not to engage in any drug-related criminal activity
- Any household member has violated the family's obligation not to engage in violent criminal activity

Use of Illegal Drugs and Alcohol Abuse

PHA Policy

The Osceola County Section 8 Housing Program will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The Osceola County Section 8 Housing Program will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Currently engaged in *is defined as any use of illegal drugs during the previous 1 year.*

The Osceola County Section 8 Housing Program will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

In making its decision to terminate assistance, the Osceola County Section 8 Housing Program will consider options and other factors described below. Upon consideration of such options and factors, the Osceola County Section 8 Housing Program may, on a case-by-case basis, choose not to terminate assistance.

***Drug-Related and Violent Criminal Activity* [24 CFR 5.100]**

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

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

Violent criminal activity 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.

PHA Policy

The Osceola County Section 8 Housing Program will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

The Osceola County Section 8 Housing Program will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

In making its decision to terminate assistance, the Osceola County Section 8 Housing Program will consider options and other factors described below. Upon consideration of such options and factors, the Osceola County Section 8 Housing Program may, on a case-by-case basis, choose not to terminate assistance.

Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c)]

HUD permits the PHA to terminate assistance under a number of other circumstances. It is left to the discretion of the PHA whether such circumstances in general warrant consideration for the termination of assistance.

PHA Policy

*The Osceola County Section 8 Housing Program **will not** terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency or Welfare to Work voucher programs.*

*The Osceola County Section 8 Housing Program **will** terminate a family's assistance if:*

The family has failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related Osceola County Section 8 Housing Program policies.

Any family member has been evicted from federally-assisted housing in the last five years.

Any PHA has ever terminated assistance under the program for any member of the family.

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

The family currently owes rent or other amounts to any Osceola County Section 8 Housing Program in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs.

The family has not reimbursed any Osceola County Section 8 Housing Program for amounts the Osceola County Section 8 Housing Program paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

The family has breached the terms of a repayment agreement entered into with the Osceola County Section 8 Housing Program.

A family member has engaged in or threatened violent or abusive behavior toward Osceola County Section 8 Housing Program personnel.

Abusive or violent behavior towards Osceola County Section 8 Housing Program personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate assistance, the PHA will consider options and other factors described below. Upon consideration of such options and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

Family Absence from the Unit [24 CFR 982.312]

The family may be absent from the unit for brief periods. The PHA must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be

absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

PHA Policy

If the family is absent from the unit for more than 30 consecutive calendar days, the family's assistance will be terminated unless prior notification and permission was granted for an extended absence. All family's must notify the Housing Office if they will be away from their unit for more than 10 consecutive days. Notice of termination will be sent.

12-E. METHOD OF TERMINATION [24 CFR 982.552(A)(3)]

The way in which the PHA terminates assistance depends upon individual circumstances. HUD permits the PHA to terminate assistance by:

- Terminating housing assistance payments under a current HAP contract,
- Refusing to approve a request for tenancy or to enter into a new HAP contract, or
- Refusing to process a request for or to provide assistance under portability procedures.

12-F. ALTERNATIVES TO TERMINATION OF ASSISTANCE

Change in Household Composition

As a condition of continued assistance, the PHA may require that any household member who participated in or was responsible for an offense no longer reside in the unit [24 CFR 982.552(c)(2)(ii)].

PHA Policy

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon Osceola County Section 8 Housing Program request.

Repayment of Family Debts

PHA Policy

If a family owes amounts to the Osceola County Section 8 Housing Program, as a condition of continued assistance, the Osceola County Section 8 Housing Program will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the Osceola County

Section 8 Housing Program of the amount owed. See Chapter 17 for policies on repayment agreements.

12-G. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

Evidence

For criminal activity, HUD permits the PHA to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

PHA Policy

The Osceola County Section 8 Housing Program will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

Preponderance of the evidence *is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence*

Consideration of Circumstances [24 CFR 982.552(c)(2)(i)]

The PHA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

PHA Policy

The Osceola County Section 8 Housing Program will consider the following factors when making its decision to terminate assistance:

The seriousness of the case, especially with respect to how it would affect other residents

The effects that termination of assistance may have on other members of the family who were not involved in the action or failure

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities

The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future

In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

The Osceola County Section 8 Housing Program will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]

If the family includes a person with disabilities, the PHA's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

PHA Policy

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, the Osceola County Section 8 Housing Program will determine whether the behavior is related to the disability. If so, upon the family's request, the Osceola County Section 8 Housing Program will determine whether alternative measures are appropriate as a reasonable accommodation. The Osceola County Section 8 Housing Program will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. See Chapter 2 for a discussion of reasonable accommodation.

12-H. TERMINATION NOTICE

If a family's assistance is to be terminated, whether voluntarily or involuntarily, the PHA must give the family and the owner written notice that specifies:

- The reasons for which assistance has been terminated,
- The effective date of the termination,
- The family's right to an informal hearing as described in Chapter 17

If a criminal record is the basis of the termination, a copy of the record must accompany the notice. A copy of the criminal record also must be provided to the subject of the record [24 CFR 982.553(d)].

PHA Policy

When termination is initiated by the Osceola County Section 8 Housing Program, the notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination. However, if a family vacates the unit without informing the Osceola County Section 8 Housing Program , 30-days notice will not be given. In these cases, the notice to terminate will be sent at the time the Osceola County Section 8 Housing Program learns the family has vacated the unit.

When a family requests to be terminated from the program they must do so in writing to the Osceola County Section 8 Housing Program . The Osceola County Section 8 Housing Program will then send a confirmation notice to the family and the owner within 10 business days of the family's request, but no later than the termination effective date (as requested by the family).

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

The PHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or eligible immigration status; (2) evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a family; or (3) the PHA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3) above, such termination must be for a period of at least 24 months.

The notice of termination must advise the family of the reasons their assistance is being terminated, that they may be eligible for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, that they have the right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and that they have the right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Informal hearing procedures are contained in Chapter 17.

PHA Policy

The notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination.

12-I. HOW TERMINATION OF ASSISTANCE AFFECTS THE HAP CONTRACT AND LEASE

When the family's assistance is terminated, the lease and HAP contract terminate automatically [Form HUD-52641].

The owner may offer the family a separate unassisted lease [HCV GB, p. 15-8].

12-J. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310 AND FORM HUD-52641-A, TENANCY ADDENDUM]

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

Serious or Repeated Lease Violations

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease. This includes failure to pay rent or other amounts due under the lease. However, the PHA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

Criminal Activity or Alcohol Abuse

The owner may terminate tenancy during the term of the lease if any *covered person*, meaning any member of the household, a guest or another person under the tenant's control commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;
- Any violent criminal activity on or near the premises; or
- Any drug-related criminal activity on or near the premises.

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an 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.

The owner may terminate tenancy for criminal activity by a household member in accordance with this section if the owner determines that the household member has committed the criminal

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

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity, regardless of arrest or conviction and without satisfying the standard of proof used for a criminal conviction.

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

12-K. EVICTION [24 CFR 982.310(E) AND (F) AND FORM HUD-52641-A, TENANCY ADDENDUM]

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give the PHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the PHA a copy of any eviction notice (see Chapter 5).

PHA Policy

If the eviction action is finalized in court, the owner must provide the Osceola County Section 8 Housing Program with documentation related to the

eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

12-L. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(H)]

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- 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 (42 U.S.C. 13661). For this purpose, the owner may require the tenant 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 tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

12-M. EFFECT OF TERMINATION OF TENANCY ON THE FAMILY'S ASSISTANCE

If a termination is not due to a serious or repeated violation of the lease, and if the PHA has no other grounds for termination of assistance, the PHA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

Following is a listing of a participant family's obligations under the HCV program:

- The family must supply any information that the PHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.

- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

PHA Policy

Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit. But claims for such damages are the responsibility of the Owner not the Osceola County Section 8 Housing Program.

- The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.

PHA Policy

The Osceola County Section 8 Housing Program will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used is whether the reason for the eviction was through no fault of the tenant or guests.

- The family must notify the PHA and the owner before moving out of the unit or terminating the lease.

PHA Policy

The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the Osceola County Section 8 Housing Program at the same time the owner is notified.

- The family must promptly give the PHA a copy of any owner eviction notice.

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

  PHA Policy

  The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The Osceola County Section 8 Housing Program will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify the PHA in writing if any family member no longer lives in the unit.
- If the PHA has given approval, a foster child or a live-in aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when PHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

  PHA Policy

  Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- The family must supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the PHA when the family is absent from the unit.

  PHA Policy

  Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the Osceola County Section 8 Housing Program at the start of the extended absence.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).

- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and PHA policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse.

    B. An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.

- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

CHAPTER 13: OWNERS

INTRODUCTION

Owners play a central role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term "owner" refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term "owner" includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations. However, this chapter is not meant to be an overview of all aspects of owner participation in the HCV program.

13-A. OWNER RECRUITMENT AND RETENTION [HCV GB, PP. 2-4 TO 2-6]

Recruitment

PHAs are responsible for ensuring that very low income families have access to all types and ranges of affordable housing in the PHA's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the PHA to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the PHA's jurisdiction, are willing to participate in the HCV program. There is a particular requirement that owners of properties in low poverty census tracts be encouraged to participate in the program.

To accomplish this objective, PHAs must identify and recruit new owners to participate in the program.

PHA Policy

The Osceola County Section 8 Housing Program will conduct owner outreach to ensure that owners are familiar with the program and its advantages. The Osceola County Section 8 Housing Program will actively recruit property owners with property located outside areas of poverty concentration. These outreach strategies will include:

Distributing printed material about the program to property owners and managers

Contacting property owners and managers by phone or in-person

Holding owner recruitment/information meetings at least once a year

Participating in community based organizations comprised of private property and apartment owners and managers

Developing working relationships with owners and real estate brokers associations

Outreach strategies will be monitored for effectiveness, and adapted accordingly.

Retention

In addition to recruiting owners to participate in the HCV program, the PHA must also provide the kind of customer service that will encourage participating owners to remain active in the program.

PHA Policy

All Osceola County Section 8 Housing Program activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

The Osceola County Section 8 Housing Program will provide owners with a handbook that explains the program, including HUD and Osceola County Section 8 Housing Program policies and procedures, in easy-to-understand language.

The Osceola County Section 8 Housing Program will give special attention to helping new owners succeed through activities such as:

Providing the owner with a designated Osceola County Section 8 Housing Program contact person.

Coordinating inspection and leasing activities between the Osceola County Section 8 Housing Program, the owner, and the family.

Initiating telephone contact with the owner to explain the inspection process, and providing an inspection booklet and other resource materials about HUD housing quality standards.

Providing other written information about how the program operates, including answers to frequently asked questions.

Additional services may be undertaken on an as-needed basis, and as resources permit.

13-B. BASIC HCV PROGRAM REQUIREMENTS

HUD requires the PHA to aid families in their housing search by providing the family with a list of landlords or other parties known to the PHA who may be willing to lease a unit to the family, or to help the family find a unit. Although the PHA cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the PHA their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24 CFR 982.301(b)(11)].

PHA Policy

Owners who wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify the Osceola County Section 8 Housing Program . The Osceola County Section 8 Housing Program will maintain a listing of such owners and provide this listing to the HCV family as part of the informational briefing packet

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential tenant. The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RTA, Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program's requirements. When submitted to the PHA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RTA is a copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate that an assisted tenancy can be approved only under certain conditions.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. In addition, the owner must document legal ownership of the specified unit. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. The PHA will inspect the owner's dwelling unit at various stages of HCV program participation, to ensure that the unit continues to meet HQS requirements. See chapter 8 for a discussion of the HQS standards, as well as the process for HQS inspections at initial lease-up and throughout the family's tenancy.

The PHA must determine that the cost of the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability and the rent reasonableness determination process.

At initial lease-up of a unit, the PHA must determine that the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]. See chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. However, the HCV program requires that the Tenancy Addendum, which helps standardize the tenancy requirements for all assisted families, be added word-for-word to that lease. See chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

The PHA and the owner enter into a formal contractual relationship by executing the Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See chapter 9 for a discussion of the HAP contract execution process. Specific HAP contract provisions and responsibilities are discussed later in this chapter 13.

13-C. OWNER RESPONSIBILITIES [24 CFR 982.452]

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Performing all of the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease
- 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
- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance
- Complying with equal opportunity requirements
- Preparing and furnishing to the PHA information required under the HAP contract
- Collecting from the family any security deposit, the tenant's contribution to rent (that part of rent to owner not covered by the housing assistance payment from the PHA), and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease
- Paying for utilities and services (unless paid by the family under the lease)
- Making modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]

13-D. OWNER QUALIFICATIONS

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on

past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

Owners Barred from Participation [24 CFR 982.306(a) and (b)]

The PHA must not approve the assisted tenancy if the PHA has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct the PHA not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2]

The PHA must not approve an RTA if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The PHA may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19]

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

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

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The PHA must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by the PHA must include:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, the PHA, or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;

- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by the PHA or assistance under the HCV program for an eligible PHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program;
- If the case involves an investment on the part of a member, officer, or employee of the PHA, description of the nature of the investment, including disclosure/divestiture plans.

Where the PHA has requested a conflict of interest waiver, the PHA may not execute the HAP contract until HUD has made a decision on the waiver request.

PHA Policy

In considering whether to request a conflict of interest waiver from HUD, the Osceola County Section 8 Housing Program will consider factors the reasons for waiving the requirement; consistency with state and local laws; the existence of alternative housing available to families; the individual circumstances of a particular family; the specific duties of individuals whose positions present a possible conflict of interest; the nature of any financial investment in the property and plans for disclosure/divestiture; and the possible appearance of impropriety.

Owner Actions Which May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]

HUD regulations permit the PHA, at the PHA's discretion, to refuse to approve a request for tenancy if the owner has committed any of a number of different actions.

If the PHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units.

PHA Policy

The Osceola County Section 8 Housing Program will refuse to approve a request for tenancy if any of the following are true:

The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);

The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

The owner has engaged in any drug-related criminal activity or any violent criminal activity;

The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;

The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents, of employees of the Osceola County Section 8 Housing Program , or of owner employees or other persons engaged in management of the housing; (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity

The owner has a history or practice of renting units that fail to meet state or local housing codes;

The owner has not paid state or local real estate taxes, fines, or assessment

In considering whether to disapprove owners for any of the discretionary reasons listed above, the Osceola County Section 8 Housing Program will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others.

Legal Ownership of Unit

The following represents PHA policy on legal ownership of a dwelling unit to be assisted under the HCV program.

PHA Policy

The Osceola County Section 8 Housing Program will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g., deed of trust, proof of taxes for most recent year).

13-E. NON-DISCRIMINATION [HAP CONTRACT – FORM HUD-52641]

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with the PHA.

The owner must cooperate with the PHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with the PHA.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

13-F. OVERVIEW OF HAP CONTRACT

The HAP contract represents a written agreement between the PHA and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner's responsibilities under the program, as well as the PHA's obligations. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit.

The HAP contract is used for all HCV program tenancies except for assistance under the Section 8 homeownership program, and assistance to families that own a manufactured home and lease the space. See chapter 15 for a discussion of any special housing types included in the PHA's HCV program.

If the PHA has given approval for the family of the assisted tenancy, the owner and the PHA execute the HAP contract. See chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.

13-G. HAP CONTRACT CONTENTS

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three parts.

Part A of the contract includes basic **contract information** about the name of the tenant family, address of the contract unit, names of all household members, first and last dates of initial lease

term, amount of initial monthly rent to owner, amount of initial housing assistance payment, utilities and appliances to be supplied by owner and tenant, signatures of PHA and owner.

In general, the HAP contract cannot be modified. However, PHAs do have the discretion to add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. PHA policy on the amount of security deposit an owner may collect is found in Chapter 9.

In addition, PHAs have the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the PHA is deemed received by the owner (e.g., upon mailing by the PHA or actual receipt by the owner).

PHA Policy

The Osceola County Section 8 Housing Program has not adopted a policy that defines when the housing assistance payment by the Osceola County Section 8 Housing Program is deemed received by the owner. Therefore, no modifications to the HAP contract will be necessary.

Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- PHA Payment to Owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- PHA and HUD Access to Premises and Owner's Records
- Exclusion of Third Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices
- Entire Agreement Interpretation

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the PHA. The owner must sign the HUD Tenancy Addendum with the prospective

tenant, and the tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

13-H. HAP CONTRACT PAYMENTS

General

During the term of the HAP contract, and subject to the provisions of the HAP contract, the PHA must make monthly HAP payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

The amount of the HAP payment is determined according to the policies described in Chapter 6, and is subject to change during the term of the HAP contract. The PHA must notify the owner and the family in writing of any changes in the HAP payment.

HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by the PHA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant, plus the PHA HAP payment, should be equal to the rent specified in the lease (the rent to owner).

The family is not responsible for payment of the HAP payment, and the PHA is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the total rent to the owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See Chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from the PHA, the excess amount must be returned immediately. If the PHA determines that the owner is not entitled to all or a portion of the HAP, the PHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. See Chapter 17 for additional detail on owner reimbursement of HAP overpayments.

Owner Certification of Compliance

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract – Form HUD-52641].

By endorsing the monthly check from the PHA, the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and premises in accordance with HQS; that the contract unit is leased to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the

premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

Late HAP Payments [24 CFR 982.451(a)(5)]

The PHA is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for penalties if the PHA fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants; 2) it is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted family for late payment of the family's share of the rent.

The PHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the PHA's control. In addition, late payment penalties are not required if the PHA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract.

Termination of HAP Payments

The PHA must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, the PHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

PHA Policy

The owner must inform the Osceola County Section 8 Housing Program when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform the Osceola County Section 8 Housing Program when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide the Osceola County Section 8 Housing Program with a copy of such judgment or determination.

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, the Osceola County Section 8 Housing Program will continue

to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform the Osceola County Section 8 Housing Program of the date when the family actually moves from the unit or the family is physically evicted from the unit.

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS
- If the owner has violated any obligation under any other HAP contract under Section 8
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulation ns for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan
- If the owner has engaged in drug-related criminal activity
- If the owner has committed any violent criminal activity

If the PHA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

The PHA rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment or termination the HAP contract. The PHA may also obtain additional relief by judicial order or action.

The PHA must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The PHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

PHA Policy

Before the Osceola County Section 8 Housing Program invokes a remedy against an owner, the Osceola County Section 8 Housing Program will evaluate all information and documents available to determine if the contract has been breached.

If relevant, the Osceola County Section 8 Housing Program will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, the Osceola County Section 8 Housing Program

will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

13-I. HAP CONTRACT TERM AND TERMINATIONS

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease;
- The lease expires;
- The PHA terminates the HAP contract;
- The PHA terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit.
- 180 calendar days have elapsed since the PHA made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by the PHA;
- The Annual Contributions Contract (ACC) between the PHA and HUD expires
- The PHA elects to terminate the HAP contract.

PHA Policy

The Osceola County Section 8 Housing Program may elect to terminate the HAP contract in each of the following situations:

Available program funding is not sufficient to support continued assistance for families in the program [24 CFR 982.454];

The unit does not meet HQS size requirements due to change in family composition [24 CFR 982.403] – see chapter 8;

The unit does not meet HQS [24 CFR 982.404] – see chapter 8;

The family breaks up [HUD Form 52641] – see chapter 3;

The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 13-II.D.

PHA Policy

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the Osceola County Section 8 Housing Program gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period, and must return to the Osceola County Section 8 Housing Program any housing assistance payment received after this period.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p. 11-17].

When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy [HCV GB, p. 8-22].

13-J. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]

The HAP contract cannot be assigned to a new owner without the prior written consent of the PHA.

An owner under a HAP contract must notify the PHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the PHA.

The assignment will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies outlined in this chapter.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the PHA finds acceptable. The new owner must provide the PHA with a copy of the executed agreement.

PHA Policy

The Osceola County Section 8 Housing Program must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

Within 10 business days of receiving the owner's request, the Osceola County Section 8 Housing Program

will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to the Osceola County Section 8 Housing Program that includes:

A copy of the escrow statement or other document showing the transfer of title and recorded deed;

A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;

The effective date of the HAP contract assignment;

A written agreement to comply with the terms of the HAP contract; and the new owner must execute a new HAP and lease; and

Confirmation that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, the PHA will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, the PHA will process the leasing in accordance with the policies in Chapter 9.

CHAPTER 14: PROGRAM INTEGRITY

INTRODUCTION

The PHA is committed to ensuring that subsidy funds made available to the PHA are spent in accordance with HUD requirements.

This chapter covers HUD and PHA policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

14-A. PREVENTING ERRORS AND PROGRAM ABUSE

PHA Policy

The Osceola County Section 8 Housing Program anticipates that the vast majority of families, owners, and Osceola County Section 8 Housing Program employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the Osceola County Section 8 Housing Program's is administered effectively and according to the highest ethical and legal standards, the Osceola County Section 8 Housing Program will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The Osceola County Section 8 Housing Program will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

The Osceola County Section 8 Housing Program Osceola County Section 8 Housing Program will provide each applicant and participant with the publication Things You Should Know (HUD-1140-OIG) that explains the types of actions a family must avoid and the penalties for program abuse.

The Osceola County Section 8 Housing Program will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key Osceola County Section 8 Housing Program forms and form letters that request information from a family or owner.

Osceola County Section 8 Housing Program staff will be required to review and explain the contents of all HUD- and Osceola County Section 8 Housing Program -

required forms prior to requesting family member signatures.

The Osceola County Section 8 Housing Program will require first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.

The Osceola County Section 8 Housing Program will provide each Osceola County Section 8 Housing Program employee with the necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter the term error refers to an unintentional error or omission. Program abuse or fraud refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

14-B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the PHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the PHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985]. (See Chapter 17 for additional information about SEMAP requirements).

PHA Policy

In addition to the SEMAP quality control requirements, the Osceola County Section 8 Housing Program will employ a variety of methods to detect errors and program abuse.

The Osceola County Section 8 Housing Program routinely will use available sources of up-front income verification to compare with family-provided information.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

The Osceola County Section 8 Housing Program will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all PHAs that expend $500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

PHA Policy

The Osceola County Section 8 Housing Program will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the Osceola County Section 8 Housing Program's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

PHA Policy

The Osceola County Section 8 Housing Program will encourage staff, program participants, and the public to report possible program abuse.

14-C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the PHA Will Investigate

PHA Policy

The Osceola County Section 8 Housing Program will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the Osceola County Section 8 Housing Program to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The Osceola County Section 8 Housing Program will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

Consent to Release of Information [24 CFR 982.516]

The PHA may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require HCV families to give consent to the release of additional information.

Analysis and Findings

PHA Policy

The Osceola County Section 8 Housing Program will base its evaluation on a preponderance of the evidence collected during its investigation.

Preponderance of the evidence *is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence*

For each investigation the Osceola County Section 8 Housing Program will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the Osceola County Section 8 Housing Program, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

PHA Policy

In the case of family-caused errors or program abuse, the Osceola County Section 8 Housing Program will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, the Osceola County Section 8 Housing Program will take into consideration (1) the seriousness of the offense,

(2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

PHA Policy

The Osceola County Section 8 Housing Program will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the Osceola County Section 8 Housing Program determined the error or program abuses, (3) the remedies to be employed, and (4) the families right to appeal the results through the informal review or hearing process, if applicable (see Chapter 17).

14-D. SUBSIDY UNDER- OR OVERPAYMENTS

A subsidy under- or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the PHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

PHA Policy

Increases in the family share will be implemented only after the family has received 30 day notice.

Any decreases in family share will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family or owner is required to reimburse the PHA or the PHA is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

14-E. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the PHA to use incorrect information provided by a third party.

Family Reimbursement to PHA [HCV GB pp. 22-12 to 22-13]

PHA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. The Osceola County Section 8 Housing Program may, but is not required to, offer the family a repayment agreement in accordance with Chapter 17. If the family fails to repay the excess subsidy, the Osceola County Section 8 Housing Program will terminate the family's assistance in accordance with the policies in Chapter 12.

PHA Reimbursement to Family

PHA Policy

The Osceola County Section 8 Housing Program will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

Prohibited Actions

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

PHA Policy

Any of the following will be considered evidence of family program abuse:

Payment to the owner in excess of amounts authorized by the Osceola County Section 8 Housing Program for rent, security deposit, and additional services

Offering bribes or illegal gratuities to the Osceola County Section 8 Housing Program Board of

Commissioners, employees, contractors, or other Osceola County Section 8 Housing Program representatives

Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the Osceola County Section 8 Housing Program on the family's behalf

Use of a false name or the use of falsified, forged, or altered documents

Intentional misreporting of family information or circumstances (e.g. income, family composition)

Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

Admission of program abuse by an adult family member

The Osceola County Section 8 Housing Program may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

- The PHA may require the family to repay excess subsidy amounts paid by the PHA, as described earlier in this section.
- The PHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants).
- The PHA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The PHA may refer the family for state or federal criminal prosecution as described in section 14-II.E.

14-F. OWNER-CAUSED ERROR OR PROGRAM ABUSE

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing

assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

Owner Reimbursement to the PHA

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the PHA any excess subsidy received. The PHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the PHA may allow the owner to pay in installments over a period of time.

PHA Policy

In cases where the owner has received excess subsidy, the Osceola County Section 8 Housing Program will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

PHA Policy

Any of the following will be considered evidence of owner program abuse:

Charging the family rent above or below the amount specified by the Osceola County Section 8 Housing Program

Charging a security deposit other than that specified in the family's lease

Charging the family for services that are provided to unassisted tenants at no extra charge

Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit

Knowingly accepting incorrect or excess housing assistance payments

Offering bribes or illegal gratuities to the Osceola County Section 8 Housing Program Board of Commissioners, employees, contractors, or other Osceola County Section 8 Housing Program representatives

Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the Osceola County Section 8 Housing Program

Residing in the unit with an assisted family

Remedies and Penalties

When the PHA determines that the owner has committed program abuse, the PHA may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 17.
- Terminate the HAP contract (See Chapter 13).
- Bar the owner from future participation in any PHA programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

14-G. PHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

Repayment to the PHA

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by PHA staff.

PHA Reimbursement to Family or Owner

The PHA must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from the PHA's administrative fee reserves.

Prohibited Activities

PHA Policy

Any of the following will be considered evidence of program abuse by Osceola County Section 8 Housing Program staff:

Failing to comply with any HCV program requirements for personal gain

Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner

Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the Osceola County Section 8 Housing Program

Disclosing confidential or proprietary information to outside parties

Gaining profit as a result of insider knowledge of Osceola County Section 8 Housing Program activities, policies, or practices

Misappropriating or misusing HCV funds

Destroying, concealing, removing, or inappropriately using any records related to the HCV program

Committing any other corrupt or criminal act in connection with any federal housing program

14-H. CRIMINAL PROSECUTION

PHA Policy

When the Osceola County Section 8 Housing Program determines that program abuse by an owner, family, or Osceola County Section 8 Housing Program staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the Osceola County Section 8 Housing Program will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds $2,500, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

14-I. FRAUD AND PROGRAM ABUSE RECOVERIES

The PHA may retain a portion of program fraud losses that the PHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

The PHA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits the PHA to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that the PHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of the PHA related to the collection, these costs must be deducted from the amount retained by the PHA.

CHAPTER 15: SPECIAL HOUSING TYPES

[24 CFR 982 Subpart M]

INTRODUCTION

The PHA may permit a family to use any of the special housing types discussed in this chapter. However, the PHA is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that PHAs must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. The PHA also may limit the number of families who receive HCV assistance in these housing types and cannot require families to use a particular housing type. No special funding is provided for special housing types.

PHA Policy

Families will not be permitted to use any special housing types, unless use is needed as a reasonable accommodation so that the program is readily accessible to a person with disabilities.

Special housing types include single room occupancy (SRO), congregate housing, group homes, shared housing, cooperative housing, manufactured homes where the family owns the home and leases the space, and homeownership [24 CFR 982.601].

15-A. OVERVIEW SINGLE ROOM OCCUPANCY [24 CFR 982.602 THROUGH 982.605]

A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. HCV regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances.

When providing HCV assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person, and the standard form of the HAP contract is used.

15-B. SRO PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for SRO housing is 75 percent of the 0-bedroom payment standard amount on the PHA's payment standard schedule.

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

15-C. SRO HOUSING QUALITY STANDARDS (HQS)

HQS requirements described in Chapter 8 apply to SRO housing except as modified below.

- *Access*: Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately

marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.

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

  Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards the requirements discussed below apply [24 CFR 982.605].

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

  Because no children live in SRO housing, the housing quality standards applicable to lead-based paint do not apply.

15-D. OVERVIEW CONGREGATE HOUSING [24 CFR 982.606 THROUGH 982.609]

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

If approved by the PHA, a family member or live-in aide may reside with the elderly person or person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

15-E. CONGREGATE PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

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

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

The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' costs for food service should not be included in the rent for a congregate housing unit.

15-F. CONGREGATE HOUSING QUALITY STANDARDS

HQS requirements as described in Chapter 8 apply to congregate housing except for the requirements stated below.

> Congregate housing must have (1) a refrigerator of appropriate size in the private living area of each resident; (2) a central kitchen and dining facilities located within the premises and accessible to the residents, and (3) food service for the residents, that is not provided by the residents themselves.
>
> The housing quality standards applicable to lead-based paint do not apply.

15-G. OVERVIEW GROUP HOME [24 CFR 982.610 THROUGH 982.614]

A group home is a state-licensed facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.

No more than 12 persons may reside in a group home including assisted and unassisted residents and any live-in aides.

If approved by the PHA, a live-in aide may live in the group home with a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family, and the standard form of the HAP contract is used.

15-H. GROUP HOME PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

Unless there is a live-in aide, the family unit size for an assisted occupant of a group home must be 0- or 1-bedroom, depending on the PHA's subsidy standard. If there is a live-in aide, the aide must be counted in determining the household's unit size.

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

The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted occupant in a group home is the prorata share of the utility allowance for the group home.

The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the prorata

portion of the reasonable rent for the group home. In determining reasonable rent, the PHA should consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

15-I. GROUP HOME HOUSING QUALITY STANDARDS

HQS requirements described in Chapter 8 apply to group homes except for the requirements stated below.

- *Sanitary Facilities*: A group home must have at least one bathroom in the facility, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold running water. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.
- *Food Preparation and Service*: Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.
- *Space and Security*: Group homes must contain at least one bedroom of appropriate size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.
- *Structure and Material*: To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.
- *Site and Neighborhood*: Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from hazards to the health, safety, and general welfare of the residents, and should not be subject to serious adverse conditions, such as:
  - Dangerous walks or steps
  - Instability
  - Flooding, poor drainage
  - Septic tank back-ups
  - Sewage hazards
  - Mud slides
  - Abnormal air pollution
  - Smoke or dust
  - Excessive noise
  - Vibrations or vehicular traffic
  - Excessive accumulations of trash
  - Vermin or rodent infestation, and

- Fire hazards.

The housing quality standards applicable to lead-based paint do not apply.

15-J. OVERVIEW SHARED HOUSING [24 CFR 982.615 THROUGH 982.618]

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

An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons. The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

If approved by the PHA, a live-in aide may reside with the family to care for a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

15-K. SHARED HOUSING PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size or the prorata share of the payment standard for the shared housing unit size.

The prorata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private space by the total number of bedrooms in the unit.

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

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

15-L. SHARED HOUSING HOUSING QUALITY STANDARDS

The PHA may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated below.

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

- *Space and Security*: The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size. A 0-bedroom or 1-bedroom unit may not be used for shared housing.

15-M. OVERVIEW COOPERATIVE HOUSING [24 CFR 982.619]

This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to assistance for a cooperative member who has purchased membership under the HCV homeownership option, or to rental assistance for a family that leases a cooperative housing unit from a cooperative member.

A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged "rent" a cooperative member is charged a "carrying charge."

When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used.

15-N. COOPERATIVE HOUSING PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard and utility allowance are determined according to regular HCV program requirements.

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

15-O. COOPERATIVE HOUSING HOUSING QUALITY STANDARDS

All standard HQS requirements apply to cooperative housing units. There are no additional HQS requirements.

15-P. OVERVIEW MANUFACTURED HOMES [24 CFR 982.620 THROUGH 982.624]

A manufactured home is a manufactured structure, transportable in one or more parts, that is built on a permanent chassis, and designed for use as a principal place of residence. HCV-assisted families may occupy manufactured homes in two different ways.

(1) A family can choose to rent a manufactured home already installed on a space and the PHA must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 15-VI.D below.

(2) HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space. PHAs may, but are not required to, provide assistance for such families.

15-Q. SPECIAL POLICIES FOR MANUFACTURED HOME OWNERS WHO LEASE A SPACE

Family Income

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

Lease and HAP Contract

There is a separate Tenancy Addendum (Form 52642-a) and separate HAP Contract (Form 52642) for this special housing type.

15-R. MANUFACTURED HOMES PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

Payment Standards

The FMR for a manufactured home space is generally 40 percent of the published FMR for a 2-bedroom unit or, where approved by HUD, the 40th percentile of the rental distribution of manufactured home spaces for the FMR area. The PHA may establish a payment standard for manufactured home spaces that is between 90-110 percent of the FMR for manufactured home spaces.

Utility Allowance

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

Space Rent

The space rent is the sum of the rent to the owner for the manufactured home space, any charges for maintenance and management provided by the owner, and the utility allowance for tenant-paid utilities.

Housing Assistance Payment

The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the (gross) manufactured home space rent minus the TTP.

Rent Reasonableness

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

15-S. MANUFACTURED HOMES HOUSING QUALITY STANDARDS

Under either type of occupancy described in 15-VI.A above, the manufactured home must meet all HQS performance requirements and acceptability criteria discussed in Chapter 8 of this plan. In addition, the following requirement applies:

Manufactured Home Tie-Down

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

CHAPTER 16: HOMEOWNERSHIP

16-A. OVERVIEW OF HCV HOMEOWNERSHIP PROGRAM [24 CFR 982.625 THROUGH 982.643] [24 CFR 982.625]

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option may be newly admitted or an existing participant in the HCV program. The PHA must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

There are two forms of homeownership assistance a PHA may offer under this option: monthly homeownership assistance payments, or a single down payment assistance grant. PHAs may choose to offer either or both forms of homeownership assistance, or choose not to offer either. If a PHA offers both forms of assistance, a family must choose which form of assistance to receive.

The PHA must offer either form of homeownership assistance if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. It is the sole responsibility of the PHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The PHA must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The PHA may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where the PHA has otherwise opted not to implement a homeownership program.

The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

The intent of the Plan is to develop specific local homeownership policies within program regulations designed to allow HCV program participants to become homeowners, while including adequate safeguards to protect program integrity, the Osceola County Housing Authority and program participants.

Osceola County feels it is important to note that it has been operating an on going Homeownership Program since 1994. The Program is operated under the State of Florida regulations and is open to qualified households. The Administrative Plan has been developed in compliance with all known HUD regulations and with knowledge gained from past experience derived from the County's on going Homeownership Programs.

16-B. HUD REQUIREMENTS

Program participants will be selected from the current base of HCV participants. Initially the Program size will be limited to a few families in order to test run all the critical components of the program. The Authority will choose candidates for the Program based on the length of time of participation in the HCV Rental Assistance Program. Additionally, if the agency chooses to operate a Family Self-Sufficiency Program (FSS), a preference for current participants of such an FSS Program will be granted. All participants must meet the following minimum requirements as mandated by HUD.

- Must be a first time homeowner as defined by HUD. Specifically, applicants cannot have owned a home within the past three years.
- Both the family and the adult members who will own the home must be able to document a minimum annual income (excluding welfare) of $10,300.
- One or more adult family members must be able to document that he or she has been continually employed (at least 30 hours per week) during the prior year. An interruption of 4 weeks or less is not considered a break in continuity. Considerations will be given for longer breaks in employment, **IF,** the adult family members were working an average of 20 hours per week and attending school or job training for 10 hours a week or more. Exemptions shall be granted to elderly and disabled participants.
- Must complete a HUD certified homeownership counseling program authorized or provided by the Osceola County Housing Authority.
- Must not have defaulted previously on HCV Homeownership Assistance.
- Program participant(s) must determine and document whether or not the unit is located in an airport runway clear zone or an airfield clear zone.
- Program participants must determine and document whether or not the unit is located in a flood hazard area. Units in flood hazard areas must retain flood insurance.

16-C. OSCEOLA COUNTY HOUSING AUTHORITY BRIEFING AND HOMEOWNERSHIP COUNSELING

While the Osceola County Housing Authority realizes that not all HCV tenants are ready, willing and able to purchase a home, once the program is officially adopted it plans to notify all current HCV program participants in writing, of the newly enacted Homeownership Option and provide a brief description of the program and its possible benefits**.**

If a participant responds to the initial letter, the participant will be mailed an application for entry into the Homeownership Option Program. Once the application has been completed and returned, the Osceola County Housing Authority will order and pay for a credit report in the name(s) of the applicant(s), perform an employment verification for all applicant(s) and determine the applicant's ability to qualify for financing and the amount of said financing. At this point, an individual briefing session will be scheduled.

At the Osceola County Housing Authority briefing session, the applicant(s) and at least one Osceola County Housing Authority staff person currently involved with the Authority's ongoing Homeownership Program will be in attendance. The Osceola County Housing Authority will provide the program participant(s) with information regarding geographic choice, portability and benefits of purchasing in low poverty areas. Additionally the participant's application, including their verified employment history and their current credit report, will be discussed and a determination of participant readiness to purchase will be made.

Having an active ongoing Homeownership Program, Osceola County Housing Authority staff has worked closely with local banks and are familiar with qualifying ratios and bank formulas used for evaluating home loan applications. Using income information supplied and verified by the applicant(s) employer and credit information taken from the applicant(s) credit report, Osceola County Housing Authority staff will determine if the applicant(s) income, credit history and current monthly installment debt are such that said applicant(s) is likely to qualify for a home loan and, if so, the approximate amount of the loan.

Assuming the applicant(s) is likely to qualify for a home loan in an amount sufficient to purchase a suitable home, the Osceola County Housing Authority will proceed to enroll the applicant in any HUD certified and approved homebuyer counseling program.

Homebuyer counseling will include the following elements:

1. Home maintenance
2. Budgeting and money management
3. Credit Counseling
4. Negotiate purchase price
5. Financing
6. Home search
7. Advantages of purchasing in areas that do not have high concentrations of low income families
8. Information regarding fair housing
9. Information relative to settlement procedures, truth in lending laws and loan terms

The Osceola County Housing Authority will strongly consider local circumstances and the needs of individual families when providing briefing and counseling**.** The Osceola County Housing Authority plans to require that program participants enroll in and complete post purchase counseling for a period of one year. The one-year local requirement may be extended at the discretion of the Osceola County Housing Authority**.**

16-D. SEARCH TIME / OPTIONS FOR HOUSEHOLDS UNABLE TO BUY

The Osceola County Housing Authority has chosen not to establish a minimum/maximum search time for program participants to select and purchase a home. Also, the Osceola County Housing Authority will not require program participants to provide periodic reports regarding the home search process.

16-E. UNIT ELIGIBILITY / INSPECTION REQUIREMENTS

In terms of unit eligibility, the Osceola County Housing Authority is required to enforce specific unit eligibility standards. One such standard is the type of unit a program participant may purchase. Under program guidelines, participants are restricted to purchasing existing or new single-family homes, condominiums and cooperatives units. The purchase of multi unit structures, including two family dwellings, is prohibited.

In terms of unit inspections, the Homeownership Option requires two pre-purchase inspections. One will be performed by a qualified Osceola County Housing Authority employee, while the second inspection is to be performed by a privately employed qualified professional Home Inspector. There will be no fee associated with the Osceola County Housing Authority inspection. However, the program participant must pay for the cost of the inspection done by a professional Home Inspector. The Osceola County Housing Authority will review the inspection performed by the professional Home Inspector and determine if the dwelling is suitable for purchase and eligible for sale to a program participant. The Osceola County Housing Authority may disapprove a unit based on information provided in the Inspection Reports.

The Osceola County Housing Authority plans to utilize the same procedure for unit inspection as it now uses for HCV rental units. Currently, the Osceola County Housing Authority has qualified staff persons designated to perform unit inspections prior to occupancy. The inspection conducted by the Authority will be used to determine compliance with Housing Quality Standards.

When a HCV unit is ready for inspection, the Osceola County Housing Authority inspector will gain access to the unit by coordinating with the property owner. The Osceola County Housing Authority inspector then conducts a thorough room-by-room inspection of the premises, including the basement and any and all mechanical systems, all common areas and the exterior. The inspection results are written on the Osceola County Housing Authority standard unit inspection form and maintained on file. The unit must meet the inspection criteria of Housing Quality Standards in order to qualify for the Homeownership Program.

If the unit fails the inspection, the owner of the property will be required to make needed repairs in order to bring the unit into compliance with Housing Quality Standards.

As part of its existing homebuyer program, the Osceola County Housing Authority requires a home inspection by a qualified home inspector. In an effort to provide the potential HCV buyers with a choice of qualified home inspectors, the Osceola County Housing Authority has developed a list of qualified home inspectors in the Greater-Osceola County area. Each applicant will be given a copy of the list and the potential homebuyer(s) may select whomever they want. It should also be mentioned that prior to placing a home inspector's name on the list, the Osceola County Housing Authority requires said home inspector provide the Osceola County Housing Authority with their qualifications.

If the applicant wishes to utilize a home inspector who is not on the list the Osceola County Housing Authority will permit the applicant to do so. However, the Osceola County Housing Authority will require that the selected home inspector provide the Osceola County Housing Authority and the applicant with qualifications that are acceptable to the Osceola County Housing Authority.

16-F. CONTRACT OF SALE / BUYER PROTECTION

In terms of the contract for sale, the Osceola County Housing Authority plans to utilize the same contract for sale as it now uses for its ongoing homebuyer program.

The contract for sale will contain an additional list of provisions including the following:

- The price and other terms of sale.
- The purchaser will arrange for a pre-purchase inspection to be performed by an independent inspector selected and paid for by the purchaser.
- The purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser and the Osceola County Housing Authority.
- The purchaser is not obligated to pay for any repairs.
- The seller certifies that he or she has not been debarred, suspended, or subject to a limited denial of participation under part 24 of this title.

16-G. FINANCING

The Osceola County Housing Authority plans to develop financing programs appropriate to the program.

The financing package is as follows:

First mortgage	---	Balance of purchase price after items 2,3,4 and 5
Second mortgage	---	As determined by the HAP payment purchase price
Third mortgage	---	(only if public subsidy is involved)
Subordinate mortgage	---	As may be appropriate
Buyer cash	---	Minimum 3% of purchase price

The Osceola County Housing Authority plans to utilize a "Soft Second" Mortgage financing program funded through a non-profit Housing Trust. Basically, the "Soft Second" Program offers borrowers a two to three percent rate of interest over a 15-year period, without charging points and uses the HAP payment to service the debt. HCV Homeownership Program participants will apply for both first and second mortgages as desired. If there is another public subsidy involved, a third mortgage will be required. Osceola County may provide subordinate mortgage financing to secure its down payment assistance and closing costs loans.

The aforementioned financing package has several positive aspects, which work to the advantage of the purchaser including the following:

1. Minimum buyer cash down (3%)
2. Second mortgage requires no payments from the HCV participant
3. Purchaser not required to pay private mortgage insurance

The program participant will be required to have adequate funds (buyer cash) to meet the 3% down payment amount. Through its Downpayment Assistance Program, Osceola County will provide financing for all or a portion of the closing costs. Assessments of costs involved will be completed on a case-by-case basis.

In addition to the financing package previously described, the Osceola County Housing Authority plans to implement the following requirements as per HUD regulations:

1. Prohibit balloon payments
2. Osceola County Housing Authority reserves the right to approve or reject financing terms and conditions
3. Allow seller financing on a case by case basis
4. Purchasers may not exceed qualifying ratios and must meet all other financing requirements established by the first mortgage lender.

16-H. AMOUNT OF ASSISTANCE

The amount of the Homeownership Assistance Payment shall be a sum equal to the lower of:

1. The payment standard minus the total tenant payment
2. The family's monthly homeownership expenses minus the total tenant payment

The payment standard for a family is the lower of:

1. The payment standard for the family unit size
2. The payment standard for the size of the home

The Osceola County Housing Authority will use the same payment schedule, payment standard amounts and subsidy standards for the Homeownership Option as for the Rental Voucher Program. The Osceola County Housing Authority will conduct an annual reexamination of program participants in order to update income, family size and other relevant data and adjust the payment standard accordingly.

The Osceola County Housing Authority will adopt for each participant an estimate of homeownership expenses in accordance with HUD requirements:

1. Principal and interest on initial mortgage(s) debt including refinancing if any
2. Real estate taxes
3. Sewer and water fees
4. Trash pick up and disposal fees
5. Homeowners insurance costs
6. Allowance for maintenance expenses
7. Allowance for costs of major repairs and replacements
8. Utility allowance
9. Principal and interest on debt incurred to finance major repairs or handicap accessible

If the home is a cooperative or condominium unit, homeownership expenses will include maintenance fees assessed by the condominium or cooperative homeowner association fees. Additionally, if a Housing Trust is established to provide second mortgages for homebuyers, the Osceola County Housing Authority will make its HAP payment directly to the second mortgage lender. If the HAP exceeds the amount due the second mortgage lender, the Osceola County Housing Authority will pay the difference directly to the homeowner. If the HAP is less than the second mortgage payment, the homeowner will pay the difference to the second mortgage lender from its own funds. If the Housing Trust is not established or designated by the Housing Authority, the preferred payment approach will be to make the HAP directly to the first mortgage lender on behalf of the homeowner.

The term of homeowner assistance (HAP) shall be fifteen (15) years if the term of the first mortgage is twenty (20) years or longer, except in the case of elderly and disabled program participants where the maximum term of fifteen (15) years does not apply. In all other cases, the term shall be ten (10) years.

16-I. POST PURCHASE REQUIREMENTS FOR FAMILIES

The family must sign a statement of homeowner obligations before the start of homeownership assistance agreeing to comply with all obligations under the program.

In keeping with HUD regulations, the Osceola County Housing Authority has imposed the following post purchase requirements:

- The family must reside in the home. If the family moves out of the home, the Osceola County Housing Authority will not continue homeownership assistance payments after the month when the family moves out.

- The Osceola County Housing Authority will require each family receiving homeownership assistance to attend and participate in post purchase counseling. The counseling sessions will be administered by either Osceola County Housing Authority staff or a certified post purchase counseling agent and will focus on home maintenance issues, family finances and budgeting and maintaining good credit by ensuring that the family is paying off its credit card and other monthly debt in a timely fashion.
- The family must comply with the terms of all mortgage(s) securing debt incurred to purchase the home and any refinancing debt, if applicable.
- The family must not convey or transfer ownership of the home while receiving homeownership assistance.
- The family may grant a mortgage on the home for debt incurred to finance the purchase of the home or any refinancing of such debt.
- After the death of a family member who holds title to the home, homeownership assistance will continue pending settlement of the estate provided that the family continues to occupy the home.
- The family must comply with all requirements of the Homeownership Program or be subject to termination of assistance.
- The family must allow the Osceola County Housing Authority access to the home for the purpose of performing an inspection, if it is so required.

The family must supply the Osceola County Housing Authority with the following information upon request:

- Information relative to any mortgage(s) secured by the property.
- Any sale or transfer of any interest in the home.
- The family must provide the Osceola County Housing Authority with its homeownership expenses.
- The family must notify the Osceola County Housing Authority before moving out of the home.
- The family must notify the Osceola County Housing Authority if it defaults on any mortgage securing debt incurred to purchase the home. If the family defaults on the mortgage, the Osceola County Housing Authority may choose to issue a Voucher to the family to facilitate a move to a rental unit and continue rental assistance. However, the determination will be at the Osceola County Housing Authority's discretion, based on the good faith efforts of the family to meet its obligations and prevent default.
- Proof that no family member has an ownership interest in other real estate while receiving homeownership assistance.

16-J. PORTABILITY

The Osceola County Housing Authority will accept portable voucher holders into the program, as required by HUD. If a family currently participating in the Osceola County Housing Authority's HCV Rental Voucher Program wants to purchase a home outside of the Osceola County Housing Authority's jurisdiction under the Homeownership Option it may do so provided that the receiving PHA is accepting new homeownership families and provided that the family meets all the requirements of the receiving PHA.

16-K. RECAPTURE OF HOMEOWNERSHIP ASSISTANCE

Program recipients participating in the Homeownership Option are subject to recapture provisions if the homebuyer uses funds which have recapture or resale restrictions.

At the time of purchase, the Osceola County Housing Authority will place a lien on the property in accordance with the regulations from the financing source requiring restrictions. The lien will be drawn up in such a way that it is consistent with State and local law. However, as HUD does not permit recapture restrictions on HAP subsidies, any recapture provisions apply only to other sources of assistance. At this time, the application of recapture of homeownership assistance provided by Osceola County (other than HAP payments), subject to recapture will automatically be reduced over a five-year period, beginning from the purchase date, in annual increments of twenty percent. At the end of the five-year period, the amount of homeownership assistance subject to recapture will be zero.

In the case of a refinancing of the home, this recapture procedure will also apply.

16-L. ELIGIBLE UNITS

The units which can be purchased under this program can be a single family house (attached or detached), a condominium unit or a cooperative share. A manufactured home is also eligible under certain conditions.

16-M. OTHER PROVISIONS

A family receiving homeownership assistance can move to a new unit with homeownership assistance, as long as it is in compliance with program requirements, no family member has any ownership interest in the prior unit, and the Osceola County Housing Authority has sufficient funds. To move with continued homeowner assistance, families must again meet all eligibility requirements. A family may not move more than one time per year.

CHAPTER 17: PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan.

17-A. ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

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

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

HUD requires the PHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the administrative fee reserve without specific approval.

PHA Policy

Expenditures from the administrative fee reserves will be made in accordance with all applicable Federal requirements. Expenditures will not exceed $10,000 per occurrence without the prior approval of the Osceola County Section 8 Housing Program's Board of Commissioners.

17-B. PROGRAM STANDARDS AND SCHEDULES

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

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

PHA Policy

Copies of the payment standard and utility allowance schedules are available for review in the Osceola

County Section 8 Housing Program's offices during normal business hours.

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

The Osceola County Section 8 Housing Program will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

17-C. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, CHAPTER 7]

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

The PHA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the PHA's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the PHA may establish a single payment standard amount for the whole FMR area, or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, the PHA is required to establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

PHA Policy

The Osceola County Section 8 Housing Program payment standard is 95% of FMRs.

Updating Payment Standards

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

PHA Policy

The Osceola County Section 8 Housing Program will review the appropriateness of the payment standards on an annual basis when the new FMR is published. In addition to ensuring the payment standards are always within the "basic range" the Osceola County Section 8 Housing Program will consider the following factors

when determining whether an adjustment should be made to the payment standard schedule:

Funding Availability: *The Osceola County Section 8 Housing Program will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. The Osceola County Section 8 Housing Program will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.*

Rent Burden of Participating Families: *Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the Osceola County Section 8 Housing Program will consider increasing the payment standard. In evaluating rent burdens, the Osceola County Section 8 Housing Program will not include families renting a larger unit than their family unit size.*

Quality of Units Selected: *The Osceola County Section 8 Housing Program will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.*

Changes in Rent to Owner: *The Osceola County Section 8 Housing Program may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.*

Unit Availability: *The Osceola County Section 8 Housing Program will review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.*

Lease-up Time and Success Rate: *The Osceola County Section 8 Housing Program will consider the percentage of families that are unable to locate suitable housing*

before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Changes to payment standard amounts will be effective on December 1st of every year unless, based on the proposed FMRs, it appears that one or more of the Osceola County Section 8 Housing Program's current payment standard amounts will be outside the basic range when the final FMRs are published. In that case, the Osceola County Section 8 Housing Program's payment standards will be effective October 1st instead of December 1st.

If the Osceola County Section 8 Housing Program has already processed reexaminations that will be effective on or after October 1st, and the effective date of the payment standards is October 1st, the Osceola County Section 8 Housing Program will make retroactive adjustments to any such reexaminations if the new payment standard amount is higher than the one used by the Osceola County Section 8 Housing Program at the time the reexamination was originally processed.

Exception Payment Standards [982.503(c)]

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

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

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

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

PHA Policy

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, the Osceola County Section 8 Housing Program must determine that:

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

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

The rent for the unit is reasonable.

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

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

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

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

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

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

17-D. UTILITY ALLOWANCES [24 CFR 982.517]

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

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

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

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

The cost of each utility and housing service must be stated separately by unit size and type. Chapter 17 of the *HCV Guidebook* provides detailed guidance to the PHA about establishing utility allowance schedules.

Air Conditioning

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

PHA Policy

The Osceola County Section 8 Housing Program has included an allowance for air-conditioning in its schedule. Central air-conditioning or a portable air conditioner must be present in a unit before the Osceola County Section 8 Housing Program will apply this allowance to a family's rent and subsidy calculations.

Reasonable Accommodation

HCV program regulations require a PHA to approve a utility allowance amount higher than shown on the PHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air-conditioning, even if the PHA has determined that an allowance for air-conditioning generally is not needed (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

Utility Allowance Revisions

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

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

17-E. OVERVIEW FOR INFORMAL REVIEWS AND HEARINGS

When the PHA makes a decision that has a negative impact on a family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal review; for participants, or for applicants denied admission because of citizenship issues, the appeal takes the form of an informal hearing.

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

17-F. INFORMAL REVIEWS

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

Decisions Subject to Informal Review

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

- Denying listing on the PHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures

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

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- A determination of the family unit size under the PHA subsidy standards
- A PHA determination not to grant approval of the tenancy
- A PHA determination that the unit is not in compliance with the HQS
- A PHA determination that the unit is not in accordance with the HQS due to family size or composition

PHA Policy

The Osceola County Section 8 Housing Program will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the Osceola County Section 8 Housing Program waiting list; denying or withdrawing a voucher; refusing to enter into a HAP

contract or approve a lease; refusing to process or provide assistance under portability procedures.

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

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

Scheduling an Informal Review

PHA Policy

A request for an informal review must be made in writing and delivered to the Osceola County Section 8 Housing Program either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the Osceola County Section 8 Housing Program's denial of assistance.

The Osceola County Section 8 Housing Program must schedule and send written notice of the informal review within 10 business days of the family's request.

Informal Review Procedures [24 CFR 982.554(b)]

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

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

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

Informal Review Decision [24 CFR 982.554(b)]

The PHA must notify the applicant of the PHA's final decision, including a brief statement of the reasons for the final decision.

PHA Policy

In rendering a decision, the Osceola County Section 8 Housing Program will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the Notice.

The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.

The validity of the evidence. The Osceola County Section 8 Housing Program will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the Osceola County Section 8 Housing Program will uphold the decision to deny assistance.

If the facts prove the grounds for denial, and the denial is discretionary, the Osceola County Section 8 Housing Program will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The Osceola County Section 8 Housing Program will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

17-G. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the PHA's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the PHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and PHA policies.

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

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

Decisions Subject to Informal Hearing

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

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule
- A determination of the family unit size under the PHA's subsidy standards

- A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the PHA's subsidy standards, or the PHA determination to deny the family's request for exception from the standards
- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]

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

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

PHA Policy

The Osceola County Section 8 Housing Program will only offer participants the opportunity for an informal hearing when required to by the regulations or as determined by the Housing Manager.

Informal Hearing Procedures

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

When the PHA makes a decision that is subject to informal hearing procedures, the PHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

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

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to the PHA's subsidy standards, the notice must contain a brief

statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

PHA Policy

In cases where the Osceola County Section 8 Housing Program makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

The proposed action or decision of the Osceola County Section 8 Housing Program.

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

The date the proposed action will take place.

A statement of the family's right to an explanation of the basis for the Osceola County Section 8 Housing Program's decision.

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

A deadline for the family to request the informal hearing.

To whom the hearing request should be addressed.

A copy of the Osceola County Section 8 Housing Program's hearing procedures.

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

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

PHA Policy

A request for an informal hearing must be made in writing and delivered to the Osceola County Section 8 Housing Program either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the Osceola County Section 8 Housing Program's decision or notice to terminate assistance.

The Osceola County Section 8 Housing Program must schedule and send written notice of the informal

hearing to the family within 10 business days of the family's request.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the Osceola County Section 8 Housing Program may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the Osceola County Section 8 Housing Program within 24 hours of the scheduled hearing date, excluding weekends and holidays. The Osceola County Section 8 Housing Program will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

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

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

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

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

PHA Policy

The family will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of Osceola County Section 8 Housing Program documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date

The Osceola County Section 8 Housing Program must be given an opportunity to examine at the Osceola County Section 8 Housing Program offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, the Osceola County Section 8 Housing Program will automatically mail or present in person a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than 12:00pm on the business day prior to the scheduled hearing date.

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

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

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

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

PHA Policy

The Osceola County Section 8 Housing Program has designated the following to serve as hearing officers:

Human Services Manager, Director of Extension Services or someone designated by the Human Services Manager.

Attendance at the Informal Hearing

PHA Policy

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

A Osceola County Section 8 Housing Program representative and any witnesses for the Osceola County Section 8 Housing Program

The participant and any witnesses for the participant

The participant's counsel or other representative

Any other person approved by the Osceola County Section 8 Housing Program as a reasonable accommodation for a person with a disability

Conduct at Hearings

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA's hearing procedures [24 CFR 982.555(4)(ii)].

PHA Policy

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

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

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

PHA Policy

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

***Oral evidence**: the testimony of witnesses*

***Documentary evidence**: a writing which is relevant to the case, for example, a letter written to the Osceola County Section 8 Housing Program. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.*

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

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

Hearsay Evidence *is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be*

used as the sole basis for the hearing officer's decision.

If either the Osceola County Section 8 Housing Program or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

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

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

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

PHA Policy

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

Osceola County Section 8 Housing Program Notice to the Family: *The hearing officer will determine if the reasons for the Osceola County Section 8 Housing Program's decision are factually stated in the Notice.*

Discovery: *The hearing officer will determine if the Osceola County Section 8 Housing Program and the family were given the opportunity to examine any relevant documents in accordance with PHA policy.*

PHA Evidence to Support the Osceola County Section 8 Housing Program Decision: *The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the Osceola County Section 8 Housing Program's conclusion.*

Validity of Grounds for Termination of Assistance (when applicable): *The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and Osceola County Section 8 Housing Program policies. If the grounds for termination are not specified in the regulations or in compliance with Osceola County Section 8 Housing Program policies, then the decision of the Osceola County Section 8 Housing Program will be overturned.*

The hearing officer will issue a written decision to the family and the Osceola County Section 8 Housing Program no later than 10 business days after the hearing. The report will contain the following information:

Hearing information:

Name of the participant;

Date, time and place of the hearing;

Name of the hearing officer;

Name of the Osceola County Section 8 Housing Program representative; and

Name of family representative (if any).

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

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

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

Conclusions: *The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the Osceola County Section 8 Housing Program's decision.*

Order: *The hearing report will include a statement of whether the Osceola County Section 8 Housing Program's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the Osceola County Section 8 Housing Program to change the decision in accordance with the hearing officer's determination.*

In the case of termination of assistance, the hearing officer will instruct the Osceola County Section 8 Housing Program to restore the participant's program status.

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

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

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

PHA Policy

The Osceola County Section 8 Housing Program will mail a "Notice of Final Decision" including the hearing officer's report, to the participant and their representative. This Notice will be sent by first-class mail, postage pre-paid with an affidavit of mailing enclosed. The participant will be mailed the original "Notice of Final Decision" and a copy of the proof of mailing. A copy of the "Notice of Final Decision" along with the original proof mailing will be maintained in the Osceola County Section 8 Housing Program's file.

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

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

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

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

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

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.

- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief und the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

USCIS Appeal Process [24 CFR 5.514(e)]

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

PHA Policy

The Osceola County Section 8 Housing Program will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide the Osceola County Section 8 Housing Program with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

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

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

PHA Policy

The Osceola County Section 8 Housing Program will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

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

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

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

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

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

Evidence

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

PHA Policy

The family will be allowed to copy any documents related to the hearing at a cost of $.25 per page copy. The family must request discovery of Osceola County Section 8 Housing Program documents no later than 12:00 p.m. on the business day prior to the hearing.

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

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

Representation and Interpretive Services

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

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

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required to provide a transcript of the hearing.

PHA Policy

The Osceola County Section 8 Housing Program will not provide a transcript of an audio taped hearing.

Hearing Decision

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

Retention of Documents [24 CFR 5.514(h)]

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

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

17-H. OVERVIEW OF OWNER OR FAMILY DEBTS TO THE PHA

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

PHA Policy

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the PHA holds the owner or participant liable to return any overpayments to the Osceola County Section 8 Housing Program.

The Osceola County Section 8 Housing Program will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

When an owner or participant refuses to repay monies owed to the Osceola County Section 8 Housing Program,

the Osceola County Section 8 Housing Program will utilize other available collection alternatives including, but not limited to, the following:

Collection agencies

Small claims court

Civil law suit

State income tax set-off program

17-I. REPAYMENT POLICY

Owner Debts to the PHA

PHA Policy

Any amount due to the Osceola County Section 8 Housing Program by an owner must be repaid by the owner within 30 days of the Osceola County Section 8 Housing Program determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the Osceola County Section 8 Housing Program will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments the Osceola County Section 8 Housing Program will offer to enter into a repayment agreement in accordance with the policies below.

If the owner refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the Osceola County Section 8 Housing Program will ban the owner from future participation in the program and pursue other modes of collection.

Family Debts to the PHA

PHA Policy

Any amount due to the Osceola County Section 8 Housing Program by an HCV participant must be repaid by the family. If the family is unable to repay the debt within 30 days, the Osceola County Section 8 Housing Program will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment

agreement, the PHA will terminate the assistance upon notification to the family and pursue other modes of collection.

Repayment Agreement [24 CFR 792.103]

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

Repayment Agreement Guidelines

Down Payment Requirement

PHA Policy

Prior to the execution of a repayment agreement, the owner or family must pay 10 percent of the balance owed to the Osceola County Section 8 Housing Program.

Payment Thresholds

PHA Policy

Amounts between $3,000 and the Federal or State threshold for criminal prosecution must be repaid within 36 months.

Amounts between $2,000 and $2,999 must be repaid within 30 months.

Amounts between $1,000 and $1,999 must be repaid within 24 months.

Amounts under $1,000 must be repaid within 12 months.

Execution of the Agreement

PHA Policy

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

Due Dates

PHA Policy

All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

Non-Payment

PHA Policy

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the Osceola County Section 8 Housing Program, the Osceola County Section 8 Housing Program will send the family a delinquency notice giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the PHA will terminate assistance upon written notification to the family.

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

No Offer of Repayment Agreement

PHA Policy

The Osceola County Section 8 Housing Program will not enter into a repayment agreement if there is already a repayment agreement in place with the family or owner, or the amounts owed by the family or owner exceed the Federal or State threshold for criminal prosecution.

17-J. OVERVIEW SEMAP

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

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

- HUD may determine that a PHA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

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

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

Failure of a PHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of "troubled."

A PHA's SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

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

HUD Verification Method

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

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

17-K. SEMAP INDICATORS [24 CFR 985.3 AND FORM HUD-52648]

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

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

SEMAP Indicators
Indicator 1: Selection from the waiting list **Maximum Score: 15** • This indicator shows whether the PHA has written policies in its administrative plan for selecting applicants from the waiting list and whether the PHA follows these policies

when selecting applicants for admission from the waiting list.

- Points are based on the percent of families that are selected from the waiting list in accordance with the PHA's written policies, according to the PHA's quality control sample.

Indicator 2: Rent reasonableness

Maximum Score: 20

- This indicator shows whether the PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units
- Points are based on the percent of units for which the PHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the PHA's quality control sample.

Indicator 3: Determination of adjusted income

Maximum Score: 20

- This indicator measures whether the PHA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent.
- Points are based on the percent of files that are calculated and verified correctly, according to the PHA's quality control sample.

Indicator 4: Utility allowance schedule

Maximum Score: 5

- This indicator shows whether the PHA maintains an up-to-date utility allowance schedule.
- Points are based on whether the PHA has reviewed the utility allowance schedule and adjusted it when required, according to the PHA's certification.

Indicator 5: HQS quality control inspections

Maximum Score: 5

- This indicator shows whether a PHA supervisor reinspects a sample of units under contract during the PHA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.
- Points are based on whether the required quality control re-inspections were completed, according to the PHA's certification.

Indicator 6: HQS enforcement

Maximum Score: 10

- This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no

more than 30 calendar days from the inspection or any PHA-approved extension.

- Points are based on whether the PHA corrects all HQS deficiencies in accordance with required time frames, according to the PHA's certification.

Indicator 7: Expanding housing opportunities

Maximum Points: 5

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

Indicator 8: FMR limit and payment standards

Maximum Points: 5 points

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

Indicator 9: Annual reexaminations

Maximum Points: 10

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

Indicator 10: Correct tenant rent calculations

Maximum Points: 5

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

Indicator 11: Pre-contract HQS inspections

Maximum Points: 5

- This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.

- Points are based on the percent of newly leased units that passed HQS inspection prior to the effective date of the lease and HAP contract, according to data from PIC.
-

Indicator 12: Annual HQS inspections

Maximum Points: 10

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

Indicator 13: Lease-up

Maximum Points: 20 points

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

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

Maximum Points: 10

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

Success Rate of Voucher Holders
Maximum Points: 5

- Only applies to PHAs that have received approval to establish success rate payment standard amounts, and isn't effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.
- This indicator shows whether voucher holders were successful in leasing units with voucher assistance.
- Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.

Deconcentration Bonus Indicator
Maximum Points: 5

- Submission of data for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50 percentile rent, starting with the second full PHA fiscal year following initial use of

payment standard amounts based on the FMRs set at the 50th percentile.

- Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.
- Points are based on whether the data that is submitted meets the requirements for bonus points.

***17-L. OVERVIEW OF* RECORD KEEPING**

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

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

17-M. RECORD RETENTION [24 CFR 982.158]

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

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

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

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

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

17-N. RECORDS MANAGEMENT

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

PHA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized Osceola County Section 8 Housing Program staff.

Osceola County Section 8 Housing Program staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

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

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

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

Upfront Income Verification (UIV) Records

PHAs that access UIV data through HUD's UIV System are required to adopt and follow specific security procedures to ensure that all UIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in *Upfront Income Verification (UIV) System PHA Security Procedures*, Version 1.1, issued April 4, 2004.

PHA Policy

Prior to utilizing HUD's EIV system, the Osceola County Section 8 Housing Program will adopt and implement EIV security procedures required by HUD.

Criminal Records

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

The PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for

filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

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

Medical/Disability Records

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

17-O. OVERVIEW REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

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

17-P. REPORTING REQUIREMENT [24 CFR 35.1225(E)]

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

PHA Policy

The Osceola County Section 8 Housing Program will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

17-Q. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(F)]

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

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

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

PHA Policy

*The public health department(s) has stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, the Osceola County Section 8 Housing Program is not providing such a report.*