



**HOUSING COMMISSION AGENDA**  
**Regular Meeting: September 14, 2011**

Time: 8:00 a.m.

HACA Board Room, 22941 Atherton Street, Hayward, CA 94541-6633

*The public is welcome at all Housing Commission meetings. If you wish to speak on a matter NOT on the Agenda, please file a Public Comment card with the Commission Clerk. Upon recognition by the Chairperson during Public Comment, state your name, comments and/or questions. Anyone wishing to address the Commission on an agenda item or on business introduced by the Housing Commission may do so when the Chairperson calls for comments on the agenda item. Please be brief and limit your comments to the specific subject under discussion. NOTE: Only matters within the Housing Commission's jurisdiction may be addressed.*

*To allow the opportunity for all to speak, a time limit of 3 minutes has been set for public speakers wishing to address the Housing Commission. The Chairperson has the discretion to further limit this time if warranted by the number of speakers.*

*The Housing Commission Secretary of the Housing Authority of the County of Alameda has, on Thursday, September 8, 2011, duly distributed this Agenda to the Clerk of the Board of Supervisors for posting in the office of the Alameda County Administration Building and has posted it on the bulletin board of the Housing Authority of the County of Alameda.*

**AMERICANS WITH DISABILITIES:** *In compliance with the Americans with Disabilities Act, if special assistance to participate in this meeting is needed, please contact the Housing Authority office at (510) 727-8511. Notification at least 48 hours prior to the meeting will enable the Housing Authority to make reasonable arrangements.*

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**MINUTES**  
**August 24, 2011**

## HOUSING COMMISSION MINUTES

SPECIAL MEETING: AUGUST 24, 2011  
HACA BOARD ROOM

### SUMMARY ACTION MINUTES

**1. CALL TO ORDER/ROLL CALL**

**Call to Order**

Chairperson Steiner called the meeting to order at 8:03 a.m.

**Roll Call**

Present: Cmr. Atkin, Biddle, Cashmere, Gacoscos, Gerry, Haddock, Iosefa, Medina, Peixoto, Reed, and Steiner

Absent: Cmr. Natarajan

**2. EXECUTIVE SESSION**

*Labor Negotiations Pursuant to Government Code 54957.6*

*Contract Negotiations with SEIU Local 1021 and the Housing Authority of the County of Alameda*

The Commission adjourned into an Executive Session at 8:04 a.m. The Commission reconvened in regular session at 8:28 a.m. and Chairperson Steiner reported that there were no reportable actions taken in the Executive Session.

**3. ACTION: APPROVAL OF THE MINUTES OF THE JULY 20, 2011 MEETING**

Recommendation: Approve the minutes as presented.

Motion/Second: Haddock/Reed.

Ayes: All Motion passed.

**APPROVED AS RECOMMENDED.**

**4. PUBLIC COMMENT** – On matters not on the agenda

None.

**5. NEW BUSINESS**

**5-1. ACTION: APPROVE MEMORANDUM OF UNDERSTANDING WITH SEIU LOCAL 1021**

Tom Makin, Deputy Director for Operations, presented the staff report. He reported that negotiations between HACA and SEIU Local 1021 (SEIU) concluded on August 10<sup>th</sup> and the Memorandum of Understanding (MOU) was ratified by members of SEIU at an election held on August 11<sup>th</sup>.

Recommendation: Approve an MOU with SEIU Local 1021.

Commission Discussion: Chairperson Steiner asked who served on the bargaining team and HACA employees Ronda Smith, Account Specialist, and Housing

Specialists Donna Payne and Jocelyn Tresler introduced themselves. Chairperson Steiner acknowledged that these negotiations were difficult given the drastic cuts to funding and thanked them for their work and cooperation. Mr. Makin also expressed his appreciation to the bargaining team, and thanked Margaret Cunningham, chief SEIU spokesperson, Jack Hughes, chief HACA negotiator from Liebert Cassidy Whitmore, and Charla Freckmann, Human Resources Analyst, for their diligence and commitment to working together towards an agreement.

Motion/Second: Reed/Biddle.

Ayes: All Motion passed.

**APPROVED AS RECOMMENDED.**

**5-2. ACTION: APPROVE CHANGES TO PERSONNEL RULES**

Tom Makin presented the staff report. Mr. Makin summarized the proposed changes and reported that the Personnel Committee met earlier in the morning and recommends that the Commission approved the proposed changes.

Recommendation: Approve changes to HACA's Personnel Rules.

Commission Discussion: None.

Motion/Second: Biddle/Gacoscos.

Ayes: All Motion passed.

**APPROVED AS RECOMMENDED.**

**5-3. RESOLUTION NO. 17-11: AUTHORIZING AN EARLY RETIREMENT BENEFIT**

Tom Makin presented the staff report. Mr. Makin described the early retirement benefit, the classifications that are eligible for the benefit, and how HACA will reduce costs by offering this benefit.

Recommendation: Adopt Resolution No. 17-11 authorizing an early retirement benefit for eligible HACA employees.

Commission Discussion: Cmr. Atkin noted that the classifications in the report are represented positions and asked if staff had considered offering this benefit to management employees.

Christine Gouig, Executive Director, explained that staff had requested ACERA perform an analysis of all eligible employees and that included some management employees. She stated that it was not viable to offer this benefit to the management employees since these particular employees hold one-person positions that are critical to the agency's operations.

Motion/Second: Biddle/Haddock.

Ayes: All Motion passed.

**APPROVED AS RECOMMENDED**

**5-4. RESOLUTION NO. 18-11: AUTHORIZING TIER 2 RETIREMENT BENEFIT**

Tom Makin presented the staff report. He described the difference between the Tier 1 and Tier 2 benefit formulas, explained how the Tier 2 benefit will be required for new employees and offered to current ones, and described how this benefit will help HACA to reduce costs.

Recommendation: Adopt Resolution No. 18-11 authorizing a second tier benefits schedule for calculating retirement benefits with ACERA.

Commission Discussion: Cmr. Peixoto asked why an employee currently participating under Tier 1 would want to convert to Tier 2. Mr. Makin explained that the employee contribution at Tier 2 is less than the employee contribution at Tier 1 and that some employees may prefer greater take-home pay at this point in their career.

Motion/Second: Gacoscos/Biddle.

Ayes: All Motion passed.

**APPROVED AS RECOMMENDED.**

**5-5. ACTION: APPROVE SALARY AND RULES CHANGES APPLIED TO MANAGEMENT EMPLOYEES**

Tom Makin presented the staff report. He described the cost cutting options negotiated in the MOU and recommended that the Commission apply the same salary and rules changes to the management employees. He also recommended that the Commission release the merit pay freeze for four management employees that are not at the control point for their salaries as salaries for current represented employees were not frozen.

Recommendation: Approve salary and rules changes as applied to management employees.

Commission Discussion: Chairperson Steiner recognized Mr. Makin for his work on the negotiations. Ms. Gouig also acknowledged Mr. Makin and stated that he did an extraordinary job in preparation of and during the negotiations process.

Motion/Second: Atkin Reed

Ayes: All Motion passed.

**APPROVED AS RECOMMENDED.**

**5-6. RESOLUTION NO. 19-11: APPROVING THE SECTION EIGHT MANAGEMENT ASSESSMENT PROGRAM (SEMAP) CERTIFICATION**

Christine Gouig presented the staff report. Ms. Gouig explained that SEMAP measures a housing authority's ability to complete various tasks correctly and within the required time period. She reported that HACA has achieved a "High Performer" ranking.

Commission Discussion: Chairperson Steiner asked if the scores for deconcentration were impacted by the increasing costs for rentals. Jennifer Cado, Senior Administrative Analyst, indicated that this and other various factors could potentially impact the score for this indicator. Ms. Gouig expressed her appreciation to staff for their hard work and commented that a "High Performer" ranking is not easy to achieve. She also expressed concern that the drastic cuts to funding will affect HACA's ability to achieve this ranking in the future.

**5-7. LETTER TO ELECTED OFFICIALS REGARDING BUDGET CUTBACKS**

Christine Gouig presented the staff report. Ms. Gouig reported that, in response to the Commission's request, she drafted a letter regarding the drastic cuts to funding and the impact these cuts will have on staff and HACA's programs. The Commission approved the letter and the letter was passed around for each Commissioner to sign.

Commission Discussion: Chairperson Steiner asked that staff send a copy of the letter to HUD Secretary Shaun Donovan. Ms. Gouig indicated the letter would be distributed to HACA staff as well.

**5-8. INFORMATION: PROGRAM ACTIVITY REPORT**

Report received. Sharon DeCray, HAFS Program Manager, reported on the successful Health and Resource Fair held in July and thanked Commissioners Biddle and Reed for their attendance.

Commission Discussion: Cmr. Biddle commented that he was impressed with the number of agencies that participated in the fair and the many resources available for the attendees.

**6. COMMITTEE REPORTS**

None.

**7. COMMISSIONER REPORTS**

Chairperson Steiner, Cmr. Biddle and Cmr. Gerry reported on the ground breaking ceremony for the Emerald Vista project being developed on the former Arroyo Vista site. Chairperson Steiner reported on the Commission on Aging's Healthy Aging Fair held on August 10<sup>th</sup>.

**8. COMMUNICATIONS**

Christine Gouig announced that the upcoming NAHRO National Conference will be held on October 23-25, 2011 in St. Louis, Missouri. She indicated that Cmr. Gerry is next on the rotation list for commissioner travel.

**9. ADJOURNMENT**

There being no further business, Chairperson Steiner adjourned the meeting at 9:10 a.m.

Respectfully submitted,

Melissa Taesali  
Executive Assistant

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Christine Gouig  
Executive Director/Commission Secretary

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Christine Steiner  
Housing Commission Chairperson

**NEW BUSINESS**  
**September 14, 2011**



**HOUSING AUTHORITY OF ALAMEDA COUNTY**

**AGENDA STATEMENT**

Meeting: September 14, 2011

Subject: Recognition of City of Hayward Fire Station No. 1

Exhibits Attached: None

Recommendation: Approve Certificate of Appreciation

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**BACKGROUND**

The objective of the Family Self-Sufficiency (FSS) program is to reduce the dependency of low-income families on Section 8, welfare and other public assistance provided through Federal, State, or local programs.

FSS participants sign a 5-year Contract of Participation and HACA's FSS Coordinators use various public and private sector resources to provide education and job training opportunities to motivate FSS participants and help them achieve their goals of self-sufficiency.

Each year, the FSS Program hosts a Health and Resource Fair in the summer and a Holiday Gift Giving event in December for the FSS participants and their families. The Captains and Firefighters of Station No. 1, City of Hayward Fire Department, have partnered with the FSS Program on these events.

**DISCUSSION and ANALYSIS**

For the last four years, Station No. 1 has sent a truck or engine to the Health and Resource Fair. The Firefighters have engaged and excited the Fair's attendees. Their presence has promoted fire safety and created a positive connection to the children and parents of the FSS Program.

Station No. 1 also supports the FSS Holiday Gift Giving event. Each year, FSS has been one of the beneficiaries of the Firefighters' Toy Drive. The Firefighters' work and personal generosity has ensured that the children of FSS have a happy holiday.

Staff recommends that your Commission approve a Certificate of Appreciation for the City of Hayward Fire Station No. 1 and recognize the Station for its continued support of the FSS Program.

# HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

## AGENDA STATEMENT

Meeting: September 14, 2011

Subject: Operating Budgets for Fiscal Year Ending June 30, 2012

Exhibits Attached: - Resolution No. 20-11/PHA Board Resolution  
- Statement of Budgeted Revenues, Expenses and Changes in Net Assets FYE June 30, 2012  
- Attachment A: Supporting Schedules of Expenses

Recommendation: Adopt Resolution

Financial Statement: See below

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### BACKGROUND

HACA's current fiscal year started July 1, 2011 and will end June 30, 2012. Adoption of the fiscal year budget was deferred pending completion of labor negotiations. As negotiations are now complete and an MOU agreed to, staff has prepared a budget for your Commission's adoption.

A summary of five program budgets is presented--one each for the Housing Choice Voucher (HCV) Program, the Public Housing Program, Housing Development Fund, Park Terrace, and Ocean Avenue. An agency-wide summary of changes to net assets is provided as well.

### DISCUSSION and ANALYSIS

#### Overview

Due to reduced HUD funding, the disposition of public housing and the dissolution of the Dublin Housing Authority (DHA), total income is 10% less than the previous year. Similarly, total expenses are 6% lower. Some expenses are reallocated between programs and/or shifted to HACA's non-profit, Preserving Alameda County Housing, Inc. (PACH).

There were significant challenges in this budget year - the certainty of severely reduced funding coupled with rising costs of operations and the uncertainty of how much more funding will be reduced in 2012 and beyond.

HUD funding is provided on a calendar year basis, while HACA's fiscal year is July-June. This requires staff to estimate HUD funding for the second half of our fiscal year. As the federal appropriations process stalled due to negotiations over raising the debt limit

ceiling staff has little information to gauge what such second half funding might be. As a result, we budgeted HUD funding for the second half of our fiscal year (FY) 2012, for which there is no federal budget, at the same level as CY 2011.

The budget reflects the agreement with SEIU 1021 adopted by your Commission last month, with the exception that the early retirement savings are not included as eligible employees have until October 31 to decide whether to avail themselves of this option. Total income for all programs is anticipated to be \$9.7 million with total operating expenses expected to be \$10.0 million. Staff anticipates that the shortfalls in the Housing Choice Voucher and Public Housing programs (\$329,808) will be made up from early retirement and salary savings.

### **Program Budgets**

Key assumptions and facts are shown under each program below, in bulleted form. Income information for each program is presented first, followed by expense information.

### **INCOME**

#### HOUSING CHOICE VOUCHER (HCV) PROGRAM

The HCV program's budget projects a loss of \$248,528. The projected reserve balance at the fiscal year ending June 30, 2012 is \$2.6 million.

- Funding for 2011 Housing Assistance Payments (HAP) is about one percent higher than the 2010 level. At this time, the funding for 2012 is unknown. HAP funding cannot be used for operating costs and is restricted for rental subsidy payments. The current actual HAP per unit cost is \$1,100 and the proposed budget assumes an annual average 99% lease-up rate. The restricted HAP reserve at the fiscal year ending June 30, 2011 is \$6.4 million.
- Section 8 administrative fees are the main source of funding to cover operating costs and are paid on the basis of units leased as of the first day of each month. For CY 2011, administrative fees are funded at 83% of formula eligibility compared to 92% last year. As a result, the budgeted fees decreased by approximately \$790,000 (11%).
- The projection for our incoming portability reflects an average of 1,758 contracts that we will bill to other housing authorities (primarily Oakland). We earn only 80% of the prorated administrative fees for these contracts. The average fee used in the budget is \$65.74 per portability unit per month, which is \$13 less per unit than what we earn for our own voucher contracts. There are a few voucher holders (average of 55) of our own that move into other housing authorities' jurisdictions.

- Fraud recovery income (\$70,000) is based on an average monthly receipt per the outstanding repayment agreements. Per HUD regulations, HACA will retain 50% of fraud recoveries with the other 50% going to HUD.
- Other income: HUD grant funding for the FSS staff provided for an additional position this year (\$68,760).

#### PUBLIC HOUSING PROGRAM

There is a projected loss of \$81,280. The projected reserve balance at the fiscal year ending June 30, 2012 is \$1.2 million, most of which came from reserves transferred to the Public Housing program as a result of the consolidation of HACA and DHA.

HUD provides two basic forms of funding for Public Housing: an Operating Subsidy to offset the difference between tenant rents and the operating costs of the properties and a Capital Fund to do rehabilitation and significant capital repairs.

- HUD's 2011 funding for the Operating Subsidy decreased by 8% from the previous year. The proposed 2012 HUD budget is \$1 billion below the required amount for full funding of the nationwide Operating Subsidy. HUD has proposed sweeping funds from those housing authorities with significant reserves to make up this difference. It is not known whether this approach will be approved by Congress.
- The disposition of public housing units results in reduced Operating Subsidy and rental income. In lieu of Operating Subsidy for disposed of units, HUD provides an asset repositioning fee to supplement the costs associated with the administration and management of the disposition effort. When HACA and DHA merged in March, HUD assigned the last year of asset repositioning funds for the former Arroyo Vista project to HACA's Public Housing program. The budgeted funding is \$645,222. HACA's remaining public housing units will continue to be eligible for Operating Subsidy funding.
- HUD's 2011 funding for the Capital Fund program decreased by 13%.

## OTHER PROGRAMS

- Public Housing staff provides property management and administrative services to small, non-public housing projects and a fee for service charge from each project is included as miscellaneous income. These are:
  - 1) Nine non-public housing units in Hayward and six in Emeryville that are rented to low-income families. These projects use their own reserves for capital expenditures.
  - 2) We also own our former Mission Blvd. office building where staff plans to move during the remodeling project. The estimated net income from occupying the building is reflected in the budget.
  - 3) There are three houses owned by Union City that we manage for a fee.

## EXPENSES

### HOUSING CHOICE VOUCHER PROGRAM

- Indirect costs associated with more than one program are allocated using the percentage of total program unit method.
- The budgeted salaries reflect no cost of living increase and include wage freezes for newly hired or promoted employees and 10 furlough days for all employees. Early retirement and salary savings are not included. The cost for all 17 eligible employees to take early retirement is shown at the bottom of the *Budgeted Statement of Revenues, Expenses and Changes in Net Assets*, although we expect only five to eight employees to take this option.
  - A vacant part-time Administrative Clerk position will not be filled.
  - A HUD grant-funded FSS Coordinator position is added.
- Employee benefits are budgeted at 50% of salaries. The anticipated savings from the suspension of the employee retirement pick-up benefit will be offset by the increases in employer retirement contribution rates and health and dental premium costs.
- Administrative expenses generally remained the same or were modestly inflated. Total administrative cost is 2% less than what was budgeted last fiscal year.

- Insurance costs increased by 5% primarily due to a higher worker's compensation insurance premium.

#### PUBLIC HOUSING PROGRAM

- Administrative costs increased due to relocation assistance and service contract costs for the disposed of public housing units.
- Maintenance and insurance costs were reduced because these costs for the disposed of units were shifted to PACH.

#### HOUSING DEVELOPMENT FUND, PARK TERRACE, AND OCEAN AVENUE

- HACA maintains a Housing Development (Local) Fund for low-income housing development and rehabilitation and management improvements. Its budget projects a loss of \$42,412 and has a projected operating reserve balance at the end of fiscal year 2012 of \$11.4 million.

Your Commission has previously approved the use of the Local Fund for the Office Remodel project and the replacement of the Housing Software. There is an unexpended amount of approximately \$4.2 million for these projects.

- Park Terrace consists of nine units in the City of Hayward that are non-HUD assisted and rented to low income families. Park Terrace's budget projects an income of \$28,590 and its projected operating reserve balance is \$940,753 for the fiscal year ending June 30, 2012.

Park Terrace's budget includes a request to purchase a maintenance van for approximately \$35,000.

- Ocean Avenue consists of six units in the City of Emeryville that are non-HUD assisted and rented to low income families. Ocean Avenue's budget projects an income of \$11,560 and its projected operating reserve balance is \$681,948 for the fiscal year ending June 30, 2012.

The proposed annual budget will more than likely require a revision during the fiscal year once major income and expense uncertainties become known, including savings from the early retirement offer. Staff recommends that your Commission adopt the proposed budget for the fiscal year ending June 30, 2012.

**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA**

**RESOLUTION NO. 20-11**

**RESOLUTION APPROVING THE OPERATING BUDGET FOR  
JULY 1, 2011 – JUNE 30, 2012 FISCAL YEAR**

**WHEREAS**, the Housing Authority of the County of Alameda operates on a July 1 – June 30 fiscal year and HUD funding is on a calendar year; and

**WHEREAS**, approval of operating budgets for the Housing Authority’s various programs was deferred pending completion of labor negotiations; and

**WHEREAS**, negotiations are now complete and operating budgets must be adopted for the fiscal year July 1, 2011 – June 30, 2012; and

**WHEREAS**, the fiscal year 2012 has considerable challenges including severely reduced funding, rising costs of operations and the uncertainty of future funding; and

**WHEREAS**, the budgets may require a revision once major income and expense uncertainties become known;

**NOW THEREFORE BE IT RESOLVED**, that the Housing Commission does hereby adopt the proposed budgets for the various programs as presented and approves the list of budgeted positions.

**PASSED, APPROVED AND ADOPTED** by the Housing Commission of the Housing Authority of the County of Alameda on this \_\_\_\_\_ day of \_\_\_\_\_ by the following vote:

**AYES:**

**NOES:**

**ABSTAIN:**

**EXCUSED:**

**ABSENT:**

**Attest:**

\_\_\_\_\_  
Christine Steiner  
Housing Commission Chairperson

\_\_\_\_\_  
Christine Gouig  
Executive Director/Housing Commission Secretary

**Adopted:** \_\_\_\_\_

**PHA Board Resolution**  
Approving Operating Budget

U.S. Department of Housing  
and Urban Development  
Office of Public and Indian Housing -  
Real Estate Assessment Center (PIH-REAC)

OMB No. 2577-0028  
(exp.12/31/2012)

Public reporting burden for this collection of information is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This information is required by Section 6(c)(4) of the U.S. Housing Act of 1937. The information is the operating budget for the low-income public housing program and provides a summary of the proposed/budgeted receipts and expenditures, approval of budgeted receipts and expenditures, and justification of certain specified amounts. HUD reviews the information to determine if the operating plan adopted by the public housing agency (PHA) and the amounts are reasonable, and that the PHA is in compliance with procedures prescribed by HUD. Responses are required to obtain benefits. This information does not lend itself to confidentiality.

PHA Name: Housing Authority of the County of Alameda PHA Code: CA067

PHA Fiscal Year Beginning: July 1, 2011 Board Resolution Number: 20-11

Acting on behalf of the Board of Commissioners of the above-named PHA as its Chairperson, I make the following certifications and agreement to the Department of Housing and Urban Development (HUD) regarding the Board's approval of (check one or more as applicable):

DATE

- Operating Budget approved by Board resolution on: 09/14/2011
- Operating Budget submitted to HUD, if applicable, on:
- Operating Budget revision approved by Board resolution on:
- Operating Budget revision submitted to HUD, if applicable, on:

I certify on behalf of the above-named PHA that:

1. All statutory and regulatory requirements have been met;
2. The PHA has sufficient operating reserves to meet the working capital needs of its developments;
3. Proposed budget expenditure are necessary in the efficient and economical operation of the housing for the purpose of serving low-income residents;
4. The budget indicates a source of funds adequate to cover all proposed expenditures;
5. The PHA will comply with the wage rate requirement under 24 CFR 968.110(c) and (f); and
6. The PHA will comply with the requirements for access to records and audits under 24 CFR 968.110(i).

I hereby certify that all the information stated within, as well as any information provided in the accompaniment herewith, if applicable, is true and accurate.

**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012.31, U.S.C. 3729 and 3802)

Print Board Chairperson's Name: Christine Steiner	Signature:	Date: 09/14/2011
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Previous editions are obsolete

form HUD-52574 (08/2005)



**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA**  
**BUDGET STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET ASSETS**  
**FOR THE FISCAL YEAR ENDING JUNE 30, 2012**

	Housing Choice Voucher		Low Rent Public Housing		Housing Development Fund		Park Terrace		Ocean Avenue		Totals	
	Approved 2011	Proposed 2012	Approved 2011	Proposed 2012	Approved 2011	Proposed 2012	Approved 2011	Proposed 2012	Approved 2011	Proposed 2012	Approved 2011	Proposed 2012
<b>Housing Assistance Payments (HAP)</b>												
HUD PHA grants-HAP	72,677,645	73,634,716									72,677,645	73,634,716
Net Restricted Asset balance at 6/30/11		6,443,762									-	6,443,762
<b>Operating Income</b>												
Rental revenue - tenants	-	-	1,030,260	804,948	245,276	143,000	116,754	118,698	67,437	64,009	1,459,727	1,130,655
Other revenue -tenants	-	-	10,000	5,000	-	-	300	300	500	500	10,800	5,800
HUD PHA grants	8,060,912	7,270,973	398,218	645,222	-	-	-	-	-	-	8,459,130	7,916,195
Capital Fund grants	-	-	231,178	169,275	-	-	-	-	-	-	231,178	169,275
Other revenue	358,200	345,040	71,956	68,891	42,000	5,000	-	-	500	500	472,656	419,431
Transfer of Equity to PH	-	-	76,800	11,217	(76,800)	(11,217)	-	-	-	-	-	-
Investment income	3,600	3,600	900	2,026	31,535	38,000	1,320	1,350	953	990	38,308	45,966
<b>Total</b>	8,422,712	7,619,613	1,819,312	1,706,579	242,011	174,783	118,374	120,348	69,390	65,999	10,671,799	9,687,322
<b>Operating Expenses</b>		-11%		-7%		-38%		2%		-5%		-10%
Administrative salaries	4,749,188	4,391,400	312,533	383,445	-	-	-	-	-	-	5,061,721	4,774,845
Administrative expenses	1,099,199	1,077,012	64,902	167,363	80,166	23,567	33,872	35,282	25,748	26,022	1,303,887	1,329,246
Tenant service	-	-	13,000	13,000	-	-	-	-	-	-	13,000	13,000
Utilities	-	-	143,199	143,199	49,318	54,660	500	500	6,100	6,367	199,117	204,726
Maintenance Salaries	-	-	189,144	139,820	-	-	-	-	-	-	189,144	139,820
Maintenance Services	-	-	666,751	530,512	107,332	134,273	60,101	53,776	22,500	21,050	856,684	739,611
General expenses	194,547	204,029	178,505	148,887	4,410	4,695	2,200	2,200	1,000	1,000	380,662	360,811
Employee Benefits	2,374,593	2,195,700	250,840	261,633	-	-	-	-	-	-	2,625,433	2,457,333
<b>Total</b>	8,417,527	7,868,141	1,818,874	1,787,859	241,226	217,195	96,673	91,758	55,348	54,439	10,629,648	10,019,392
<b>Budgeted Income (Loss)</b>	5,185	(248,528)	438	(81,280)	785	(42,412)	21,701	28,590	14,042	11,560	42,151	(332,070)
Unrestricted Net Assets - est. bal. 7/1/11		2,868,794		1,279,237		11,436,156		912,163		670,388		17,166,738
<b>Unrestricted Net Assets - budgeted bal. 6/30/12</b>		2,620,266		1,197,957		11,393,744		940,753		681,948		16,834,668
Capital Eqpt Purchase	-	-	-	-	-	-	-	35,000	-	-	-	35,000
<b>Unexpended previously approved use of reserves:</b>												
Est. Cost of Early Retirement		557,291		41,925								599,216
Office building remodel					17	4,063,563						4,063,563
Housing software						169,630						169,630

**HOUSING AUTHORITY OF ALAMEDA COUNTY**

**AGENDA STATEMENT**

Meeting: September 14, 2011

Subject: PACH-HACA Management Agreement

Exhibits Attached: Attachment B: Form of Agreement

Recommendation: Approve proposed Agreement

Financial Statement: None

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**BACKGROUND**

On February 9, 2011 your Commission approved the formation of Preserving Alameda County Housing, Inc. (PACH), a non-profit corporation, for the purpose of acquiring from the Housing Authority of the County of Alameda (HACA) and operating low-income public housing and other low-income housing. The units that HACA transfers to PACH will be managed by HACA under the terms of a property management agreement.

**DISCUSSION and ANALYSIS**

The enclosed property management agreement was, generally, patterned after the one developed and used by the Oakland Housing Authority (OHA) and Oakland Affordable Housing Preservation Initiatives, the non-profit corporation to which OHA disposed of over 1,500 low-income public housing units. It has been modified to reflect the particular circumstances of the HACA/PACH relationship.

In addition to setting forth the usual authorities and powers of a standard private-sector property management agreement, the enclosed agreement contains provisions such as budgeting and reporting requirements that are particular to the relationship between a public housing authority and its non-profit instrumentality.

Staff recommends that you approve the agreement in substantially final form and authorize the Executive Director to make any changes that may be required and to execute it on behalf of HACA.

**HOUSING AUTHORITY OF ALAMEDA COUNTY (HACA)**

**AGENDA STATEMENT**

Meeting: September 14, 2011

Subject: Administrative Plan Policy Revisions

Exhibits Attached: Attachment C: Redline summary of policy revisions

Recommendation: Approve proposed policy revisions

Financial Statement: None

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**BACKGROUND**

HACA’s Section 8 Housing Choice Voucher (HCV) Program Administrative Plan (Admin Plan) sets forth HACA’s policies for administering the Section 8 Program in a manner consistent with HUD requirements and HACA’s Agency Plan—its policies, programs, operations, and strategies for meeting local housing needs and goals. HACA’s Admin Plan is available for public review.

HACA’s Admin Plan is based on the Model Administrative Plan published by Nan McKay and Associates, Inc. (Nan McKay), one of the industry’s most highly regarded training, consulting, and publishing enterprises. At least annually, Nan McKay publishes updates to its Model Admin Plan that consolidate the HUD mandates issued since the last revision and make various editorial clarifications. The proposed policy revisions to HACA’s Admin Plan apply the relevant changes from the Nan McKay Model Administrative Plan. As discussed below, additional policy changes to HACA’s Admin Plan are also proposed.

**ANALYSIS and DISCUSSION**

Policy revisions are proposed to HACA Admin Plan Chapters 3, 5, 10, 12 and 16. A red-line version of the changes is enclosed. See Attachment C.

Except as otherwise described below, the policy revisions were necessitated by changes in HUD regulations, especially the Violence Against Women Act (VAWA) final rule.

**Chapter 3**

Text changes on pp. 3-3, 3-26 and throughout 3-III.G to reflect the VAWA final rule. Deletes subsection on definitions. Definitions are now located in Section 16-IX.

**Chapter 5**

Changes on pp. 5-5 and 5-7 to reflect the VAWA final rule.

## **Chapter 10**

Changes throughout to reflect the VAWA final rule. Changes to incorporate provisions of PIH 2011-3 regarding when housing authorities may deny portability or moves to higher cost areas.

## **Chapter 12**

Changes throughout to reflect the VAWA final rule.

## **Chapter 16**

Change to Section 16-III.C to increase from 10 business days to 20 business days the deadline by which the hearing officer must submit his/her decision to the Executive Director. For lengthy and complicated hearings, 10 business days has proven to be an inadequate period of time for the hearing officer to adequately document and analyze the issues, and render a decision in writing—all while carrying out his/her other assigned responsibilities.

Changes to Section 16-III.D to reflect revised hearing provisions for non-citizens.

Changes throughout Section 16-IX to reflect the VAWA final rule.

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Staff recommends that you approve the revisions to the Admin Plan. Once approved, staff training will be conducted and the revised Plan will be implemented.

## HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

### AGENDA STATEMENT

Meeting: September 14, 2011

Subject: Contract for HQS and UPCS Inspections

Exhibits Attached: None

Recommendation: Award Contract to the Sterling Company, Inc.,

Financial Statement: Estimated \$51,220 for first year, based on 2,230 inspections

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### BACKGROUND

In June 2011, staff issued a Request For Proposal (RFP) for UPCS and HQS inspection services. UPCS (Uniform Physical Condition Standards) is the inspection protocol used by HUD for Public Housing properties. HQS (Housing Quality Standards) is the inspection protocol used for Section 8 Housing Choice Voucher assisted properties. The protocols are very detailed and rigorous as to what constitutes a pass or fail item and they are distinct from one another.

Staff contracts for UPCS inspections every two years (and occasionally more often), in advance of the actual HUD UPCS inspections required by regulations. By inspecting in advance of the HUD inspectors, staff picks up unreported property issues that might create negative scoring and allows HACA maintenance staff time to make or contract for repairs to the properties.

HQS inspections are done prior to residences going under contract for Section 8 voucher assistance. After going under contract every unit is inspected annually and in special circumstances between annual inspections.

Staff solicited proposals to provide inspection services during staff absences, staff shortages and periods of peak workloads. While there are no guarantees contained in the RFP, staff estimated there would be 230 UPCS and 2,000 HQS inspections annually. The contract will be for one year, subject to three additional one year renewals at HACA's option.

### DISCUSSION and ANALYSIS

Staff solicited companies nationwide and advertised on the internet. Two proposals were received: one from Landmark Inspection Services, located in North Carolina and with an office in Nevada, and one from Sterling Company, Inc. located in Vallejo. While there are many companies nationwide that provide these inspection services, most do

so on a one-time basis and not on an “on call” basis as is the nature of this contract, so staff was not surprised to receive only two proposals.

Staff recommends that Sterling be selected for the following reasons:

- Sterling indicated it has administered over 800,000 HQS inspections while Landmark has done over 100,000.
- Landmark has no local presence in the Bay Area. Sterling has contracts with the Oakland Housing Authority, Sacramento Housing and Redevelopment Agency, Berkeley Housing Authority and the City of Alameda Housing Authority.
- Sterling has provided inspection services to HACA on and off over the past several years and is currently providing HQS inspection services during an employee’s absence for a Workers Compensation injury. Their service has been commendable here and also with the other housing authorities staff contacted for references.
- Sterling’s price for overall inspection services was approximately 27% less than Landmark’s. In conversations with Sterling, they indicated that they are able to discount prices by the volume of work they have under contract.

Staff recommends that your Commission award a contract for HQS and UPCS Inspection Services to Sterling Company, Inc. in accordance with the terms of the subject RFP.

## HOUSING AUTHORITY OF ALAMEDA COUNTY

### AGENDA STATEMENT

Meeting: September 14, 2011

Subject: Energy Audit for Public Housing

Exhibits Attached: None

Recommendation: Information only

Financial Statement: \$31,360

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#### BACKGROUND

The information below is provided in accordance with the Housing Authority's Procurement Policy, which requires that procurement actions valued between \$25,000 and \$100,000 be brought to your Housing Commission as an information item.

#### DISCUSSION and ANALYSIS

HUD requires that an energy audit of all public housing properties be done every five years. The results of the audit allow staff to integrate energy efficient concepts into the modernization and maintenance of public housing properties. The Housing Authority issued an RFP in May 2011 for these services and has awarded a contract to 2rw Consultants, Inc.

During the RFP process, staff was approached by staff of the Alameda County Community Development Department to see if we might be interested in receiving Department of Energy (DOE) ARRA funds. The focus of these funds had been on providing energy conservation improvements to single family properties but was expanded to include multi-family properties. The Housing Authority's public housing properties in Union City would be eligible for these funds because they meet the income criteria established by DOE. Our Emeryville public housing is not included in the County's DOE service area.

One requirement to participate in the DOE program is the completion of an energy audit. Unfortunately, the audit required by DOE uses a different protocol and criteria than the HUD energy audit. Staff contacted 2rw Consultants and asked if they could perform the DOE audit on the two senior properties and the Mission View property in Union City and they agreed. The audit will start next week. If a project is proposed, funded and completed under ARRA, the Housing Authority can be reimbursed for the cost of the DOE audit. The cost of the two audits is \$31,360 and will be funded from Public Housing reserves.

**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA**

**AGENDA STATEMENT**

Meeting: September 14, 2011

Subject: Quarterly Investment Portfolio Report

Exhibits Attached: Investment Portfolio Report for Quarter ended June 30, 2011

Recommendation: Receive Report

Financial Statement: \$25,296,015 invested at an Average Monthly Yield ranging from 0.25% to 0.45% (excluding FSS Escrow Participant Accounts)

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**BACKGROUND**

Public Agencies are required to file an annual investment policy with their governing boards and to provide quarterly financial reports on the status of the Agency's investments and to certify to their compliance with the approved investment policy.

**DISCUSSION and ANALYSIS**

The investment portfolio report that is attached reflects the investments at June 30, 2011 for each program that HACA administers.

The Housing Choice Voucher program has a total investment of \$4,997,674, which is 20% of the total investment portfolio.

The Housing Development Fund has a total investment of \$9,740,048, which is 39% of the total investment portfolio. Approximately 53% of its portfolio is in the State of California Local Agency Investment Fund (LAIF).

The Public Housing program has a total investment of \$8,996,645, which is 36% of the total investment portfolio. Of this amount, \$7,520,989 is the available loan balance for Eden Housing.

Ocean Avenue and Park Terrace investments are 2% and 3% of the total investment, respectively.

The FSS Participant Escrow Accounts are maintained in a savings account, in accordance with HUD regulations, at Union Bank.



**Housing Authority of Alameda County  
Investment Portfolio  
For the Quarter ended June 30, 2011**

PROGRAM NAME	TYPE OF ACCOUNT	AMOUNT	INTEREST RATE	MATURITY DATE
Section 8	INTESA FUNDING LLC COMML PAPER	\$ 4,997,673.61	0.25012%	8/1/11
Ocean Avenue	INTESA FUNDING LLC COMML PAPER	\$ 659,477.50	0.30020%	7/25/11
Park Terrace	INTESA FUNDING LLC COMML PAPER	\$ 899,287.50	0.30020%	7/25/11
Housing Dev Fund	INTESA FUNDING LLC COMML PAPER	\$ 5,097,627.08	0.25012%	8/1/11
	State of CA - Local Agency Investment Fund	\$ 4,642,421.14	0.448%	LAIF Avg Eff Yield 06/30/11
Public Housing	INTESA FUNDING LLC COMML PAPER	\$ 699,674.31	0.25012%	8/1/11
Arroyo Vista	INTESA FUNDING LLC COMML PAPER	\$ 1,199,441.67	0.25012%	8/1/11
	ABBAY NATL N AMERICA LLC COMML PAPER	\$ 6,593,942.67	0.28026%	9/1/11
	State of California	\$ 503,586.67	0.448%	LAIF Avg Eff Yield 06/30/11
Local Fund (Dublin)	Local Agency Investment Fund	\$ 2,882.88	0.448%	LAIF Avg Eff Yield 06/30/11
<b>TOTAL</b>		<b>\$ 25,296,015.03</b>		

The above investment portfolio is in compliance with the policy approved by the Housing Commission.

  
 \_\_\_\_\_  
 Christine Couig  
 Executive Director

9-6-11  
 Date

**QUARTERLY**  
**BUDGET STATUS REPORT**  
**Quarter Ending June 30, 2011**

HOUSING AUTHORITY OF ALAMEDA COUNTY  
Financial Status Report for the Quarter Ending June 30, 2011

	Low Rent Public Housing	Housing Choice Vouchers	Housing Development Fund	Park Terrace	Ocean Avenue	Totals
<u>Operating revenues</u>						
Rental revenue - tenants	\$ 1,007,269	\$	\$ 143,000	\$ 111,975	\$ 57,988	\$ 1,320,232
Other revenue	10,906			133	2,346	13,385
Total operating revenues	<u>1,018,175</u>		<u>143,000</u>	<u>112,108</u>	<u>60,334</u>	<u>1,333,617</u>
<u>Operating expenses</u>						
Administration	529,817	7,746,872	19,415	33,569	23,365	8,353,038
Tenant service	9,929		0	0	0	9,929
Utilities	155,042		52,819	99	5,888	213,848
Ordinary maintenance and operations	735,984		150,430	46,773	26,685	959,872
General expenses	167,886	177,526	7,084	852	2,741	356,089
Capital Eqpt Purchase	0	0	0	0	0	0
Transfer of Equity to PH	0		0			0
Total operating expenses	<u>1,598,658</u>	<u>7,924,398</u>	<u>229,748</u>	<u>81,293</u>	<u>58,679</u>	<u>9,892,776</u>
Operating (loss)	<u>(580,483)</u>	<u>(7,924,398)</u>	<u>(86,748)</u>	<u>30,815</u>	<u>1,655</u>	<u>(8,559,159)</u>
<u>Non-operating revenues</u>						
HUD PHA grants	386,045	7,456,955		0	0	7,843,000
Capital grants	74,495			0	0	74,495
Other revenue	100,190	412,374	3,005,000	0	941	3,518,505
Investment income	1,527	4,274	38,793	2,539	1,886	49,019
Total non-operating revenues	<u>562,257</u>	<u>7,873,603</u>	<u>3,043,793</u>	<u>2,539</u>	<u>2,827</u>	<u>11,485,019</u>
<b>Income/(loss)</b>	<b>\$ (18,226)</b>	<b>\$ (50,795)</b>	<b>\$ 2,957,045</b>	<b>\$ 33,354</b>	<b>\$ 4,482</b>	<b>\$ 2,925,860</b>
Unrestricted Net Assets balance 7/1/11	\$ 1,279,237	\$ 2,868,794	\$ 11,436,156	\$ 912,163	\$ 670,388	\$ 17,166,738

# **PROGRAM** **ACTIVITY REPORT**

**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA**

**AGENDA STATEMENT**

Meeting: September 14, 2011

Subject: Programs Activity Report

Exhibits Attached: Section 8 Contract Report; Landlord Rental Listing Report; FSS Program Monthly Report

Recommendation: Receive Report

Financial Statement: None

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**SECTION 8 HOUSING CHOICE VOUCHERS**

- **Lease-Up:** As of September 1, 2011 the Section 8 Housing Choice Voucher program had 5,655 units under contract. The fiscal year-to-date lease-up average is 98.20% units. The budget authority use average through July 2011 is 98%.
  - **Program Utilization:** As of September 1, 2011 the average HAP subsidy is \$1,047 and the average tenant-paid rent portion is \$393 for an average Contract Rent of \$1,440.
    - ❖ As of September 1, 2011 HACA had 52 outgoing billed portability contracts (i.e., HACA voucher holders who are housed in another housing authority's jurisdiction).
    - ❖ As of September 1, 2011 HACA billed other housing authorities, primarily the Oakland Housing Authority, for 1,565 incoming portability contracts. HACA receives only 80% of the HUD-authorized Administrative Fee for billed incoming portability contracts.
  - **Section 8 Contract Report:** A copy of the Contract Report is attached.
- Fraud / Debt Recovery:** Information was not available at the time this report was prepared. Staff will provide the information at the October Commission meeting.
- **Landlord Rental Listings:** As of September 1, 2011 there were 1,494 landlords with properties in HACA's jurisdiction utilizing the *GoSection8* rental listing service. There were three new landlords to the Section 8 program this month. There were 95 active properties listed.

### **FAMILY SELF SUFFICIENCY (FSS)**

The FSS Department used the excitement generated at its Annual Health and Resource Fair to fuel planning for the “It’s Your Time to Shine” event in November. The FSS Coordinators gather information throughout the year about successes and accomplishments of participants. At this event, recognition is given to participants and their families for achievements in employment, education, and contributions to the FSS community. Volunteers are recognized. The Poster Contest winners and all of the young artists are recognized with certificates and small gifts. Donors are being sought to help defray the cost. While this is the current focus, plans are also being made for the December Holiday Gift Drive. These events benefit participants but more importantly they help to build a community of positive people who share the goal of better and more self-sufficient futures.

### **PUBLIC HOUSING**

- **Occupancy:** As of September 1, 2011 the Public Housing program had 225 of 230 units leased and has a 97.83% fiscal year-to-date lease up rate.

HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

**Section 8 Contract and HAP Report for the Month of: August 2011**

City	Certificates		Vouchers		August 2011 TOTAL		August 2010	August 2009
	Number	HAP*	Number	HAP**	Number	HAP		
Albany	-	\$ -	43	\$ 44,978	43	\$ 44,978	44	44
Castro Valley	13	\$ 11,453	242	\$ 253,132	255	\$ 264,585	254	246
Dublin	1	\$ 881	298	\$ 311,708	299	\$ 312,589	269	218
Emeryville	5	\$ 4,405	103	\$ 107,738	108	\$ 112,143	89	96
Fremont	32	\$ 28,192	1,372	\$ 1,435,112	1,404	\$ 1,463,304	1,407	1,404
Hayward	108	\$ 95,148	2,404	\$ 2,514,584	2,512	\$ 2,609,732	2,436	2,373
Newark	2	\$ 1,762	288	\$ 301,248	290	\$ 303,010	297	286
Pleasanton	4	\$ 3,524	161	\$ 168,406	165	\$ 171,930	160	143
San Leandro	16	\$ 14,096	1,394	\$ 1,458,124	1,410	\$ 1,472,220	1,342	1,334
San Lorenzo	2	\$ 1,762	206	\$ 215,476	208	\$ 217,238	196	189
Union City	4	\$ 3,524	725	\$ 758,350	729	\$ 761,874	715	697
<b>TOTALS</b>	<b>187</b>	<b>\$164,747.00</b>	<b>7,236</b>	<b>\$7,568,856.00</b>	<b>7,423</b>	<b>\$7,733,603.00</b>	<b>7,209</b>	<b>7,030</b>

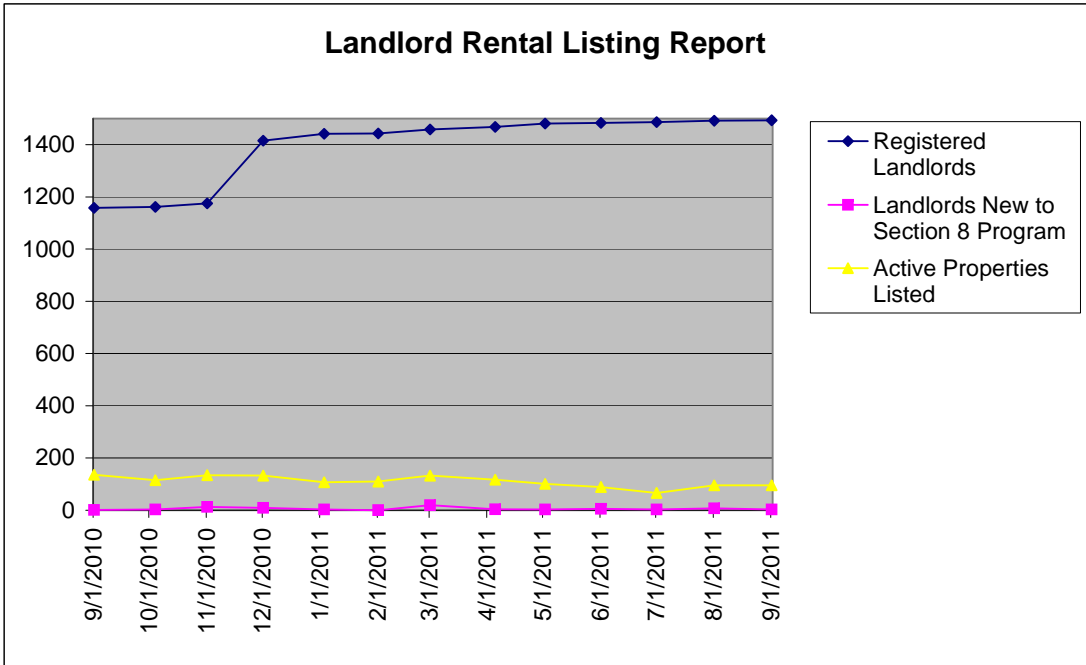
*\*Based on an average August Housing Assistance Payment (HAP) of \$881 per certificate*

*\*\*Based on an average August Housing Assistance Payment (HAP) of \$1046 per voucher contract*

# Landlord Rental Listing Report

## Monthly

	9/1/2010	10/4/2010	11/1/2010	12/1/2010	1/3/2011	2/1/2011	3/1/2011	4/5/2011	5/2/2011	6/1/2011	7/1/2011	8/1/2011	9/1/2011
Registered Landlords	1158	1162	1175	1416	1442	1443	1458	1468	1481	1484	1486	1492	1494
Landlords New to Section 8 Program	1	3	13	9	3	0	19	4	3	5	3	7	3
Active Properties Listed	136	115	134	132	107	110	132	117	101	89	66	95	95







To: Christine Gouig, Executive Director  
From: Sharon DeCray, HAFS Manager  
Re: FSS Program Summary  
CC: Ron Dion, Linda Evans, Phyllis Harrison, Mary Sturges  
Date: September 1, 2011

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<b>Program Summary</b>	<b>August 2011</b>
Total Clients Under Contract:	191
Graduates:	1
Escrow Disbursed:	\$5,821.81
Ports In:	0
Ports Out:	0
Terminations:	4
New Contracts:	5

#### **FSS PROGRAM NEWS:**

##### **Health and Resource Fair**

FSS held a debriefing session following the July 20<sup>th</sup> Health and Resource Fair. The vendors were impressed with the event and turn out. There were a number of HACA staff who attended and reported that they found the event inspiring and helpful. The children truly enjoyed the poster contest event and the presence of two fire engines from the Hayward Fire Department.

Here is a quote from a participant who attended the fair, "I am so glad my daughter and I came out to the fair. If I had known how great the information and resources were we would have come last year. My daughter really had fun participating in the poster contest and is enjoying her backpack and school supplies." Another participant said, "I ported from another Housing Authority and we never had activities like this in our FSS program."

Chris Gouig, HACA Executive Director, and Debra King, HACA Administrative Clerk, judged the posters, which were divided into three categories based on the child's grade level. A total of six were chosen, two from each category. Each local winning poster will be sent to our state NAHRO chapter for state judging. If a winner is chosen at the state level, it will be sent to Washington D.C. for judging in the national NAHRO contest.

In addition, HACA has established a new poster category for recognition as the result of a suggestion by a HACA employee, Michael Hodges, who attended the fair. Many children wrote stories on their posters and Michael was impressed with what they had to say. In response, FSS created a special recognition award for the poster participant who included the most creative written addition to their art work. Beverly Brewer, HACA Procurement Analyst, and Roger Escobar, Administrative Clerk, selected a winner for this year.

Each poster participant will be recognized at FSS' annual "It's Your Time to Shine" celebration on November 10, 2011.

### **FSS Orientation**

FSS held five (5) orientations for new enrollees. One hundred forty-two (142) attended and 61 have already submitted their intake packets for entry into the program.

### **Upcoming Events**

FSS is preparing for our annual "It's Your Time to Shine" celebration. The event will be held at the San Leandro Main Library, Thursday, November 10, 2011, from 6 p.m. – 8 p.m. During this event, FSS will celebrate the accomplishments of participants during the past 12 months. Recognition categories include new employment, promotion at current employment, graduation from higher education, and completion of a training or certificate program. We are soliciting donations from vendors in the community to help fund the cost.

### **Referrals: Case Management = 68**

1 mass mailing to each participant:

- Diversity Employment Day-Career Fair 8/31/11 at Alameda County Training & Education Center
- Operation Hope-- Small Business Start-Up Resources
- Alameda County Juvenile Institutional Officer-- 1 job opening
- It's Your Time to Shine Survey

# **ATTACHMENT**

## **A**

**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA**  
**Schedule of Administrative Expenses**  
**FOR THE FISCAL YEAR ENDING JUNE 30, 2012**

Administrative Expenses	Housing Choice Voucher		Low Rent Public Housing		Housing Development Fund		Park Terrace		Ocean Avenue		Totals	
	Approved 2011	Proposed 2012	Approved 2011	Proposed 2012	Approved 2011	Proposed 2012	Approved 2011	Proposed 2012	Approved 2011	Proposed 2012	Approved 2011	Proposed 2012
Legal Fees	60,000	<b>60,000</b>	7,482	<b>13,000</b>					2,000	<b>2,000</b>	69,482	<b>75,000</b>
Staff Training	34,600	<b>19,600</b>	912	<b>1,500</b>							35,512	<b>21,100</b>
Mileage Payments	20,000	<b>12,000</b>	3,808	<b>2,000</b>							23,808	<b>14,000</b>
Conference Travel	22,455	<b>16,289</b>									22,455	<b>16,289</b>
Auditing Fees	17,500	<b>21,000</b>	8,634	<b>10,073</b>							26,134	<b>31,073</b>
Office Bldg. Expenses	143,000	<b>143,000</b>									143,000	<b>143,000</b>
Office Supplies	67,395	<b>70,000</b>	1,948	<b>2,000</b>							69,343	<b>72,000</b>
Copier expense	17,277	<b>16,000</b>									17,277	<b>16,000</b>
Non-Cap Furn & Eqpt	5,000	<b>3,000</b>	899	<b>1,000</b>							5,899	<b>4,000</b>
Admin. Vehicles	15,000	<b>15,000</b>									15,000	<b>15,000</b>
Publications-	18,000	<b>15,000</b>	81	<b>1,000</b>							18,081	<b>16,000</b>
Recruitment exp	5,000	<b>5,000</b>									5,000	<b>5,000</b>
Membership Dues	27,000	<b>27,000</b>	55	-							27,055	<b>27,000</b>
Telephone	50,000	<b>60,000</b>	3,591	<b>5,000</b>							53,591	<b>65,000</b>
Contract/Consultant Svcs	261,045	<b>202,815</b>	8,213	<b>1,595</b>			500	<b>1,000</b>			269,758	<b>205,410</b>
Computer Software Svcs	119,517	<b>127,361</b>	4,684	<b>4,000</b>							124,201	<b>131,361</b>
Computer svcs-disaster	5,256	<b>20,256</b>									5,256	<b>20,256</b>
Non-Cap Furn & Eqpt-MIS	14,897	<b>44,705</b>									14,897	<b>44,705</b>
Leases or Rentals	2,070	<b>20,800</b>	586	<b>1,500</b>							2,656	<b>22,300</b>
Equipment Maintenance	9,087	<b>3,087</b>									9,087	<b>3,087</b>
Postage	106,022	<b>106,022</b>	-	<b>1,000</b>							106,022	<b>107,022</b>
Printing	57,477	<b>57,477</b>	505	<b>1,500</b>							57,982	<b>58,977</b>
Commission Meetings	6,600	<b>6,600</b>	630	<b>1,200</b>							7,230	<b>7,800</b>
Miscellaneous	15,000	<b>5,000</b>	22,874	<b>20,000</b>	60,000	<b>5,000</b>	-	<b>500</b>	1,500	<b>1,500</b>	99,374	<b>32,000</b>
Relocation Costs			-	<b>50,995</b>							-	<b>50,995</b>
Relocation Contract Cost			-	<b>50,000</b>							-	<b>50,000</b>
Scholarship expense					12,750	<b>12,750</b>					12,750	<b>12,750</b>
Fee for service					7,416	<b>5,817</b>	33,372	<b>33,782</b>	22,248	<b>22,522</b>	63,036	<b>62,121</b>
<b>TOTAL</b>	<b>1,099,199</b>	<b>1,077,012</b>	<b>64,902</b>	<b>167,363</b>	<b>80,166</b>	<b>23,567</b>	<b>33,872</b>	<b>35,282</b>	<b>25,748</b>	<b>26,022</b>	<b>1,303,887</b>	<b>1,329,246</b>
		<b>-2%</b>		<b>61%</b>		<b>-240%</b>		<b>4%</b>		<b>1%</b>		<b>2%</b>

**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA**  
**Schedule of Maintenance Expenses**  
**FOR THE FISCAL YEAR ENDING JUNE 30, 2012**

Maintenance Expenses	Housing Choice Voucher		Low Rent Public Housing		Housing Development Fund		Park Terrace		Ocean Avenue		Totals	
	Approved 2011	Proposed 2012	Approved 2011	Proposed 2012	Approved 2011	Proposed 2012	Approved 2011	Proposed 2012	Approved 2011	Proposed 2012	Approved 2011	Proposed 2012
<b>Materials</b>												
Grounds & Gardening			-	-							-	-
Paint & Supplies			3,600	2,740							3,600	2,740
Repair Parts			50,200	38,468			1,000	1,000	500	500	51,700	39,968
Appliances & Fixtures			23,800	19,679			3,501	2,000	1,500	1,500	28,801	23,179
Locks and Keys			1,000	1,293							1,000	1,293
Miscellaneous			2,000	1,778							2,000	1,778
<b>Maintenance &amp; Contracts</b>												
Vehicles			4,500	15,000							4,500	15,000
Garbage Service			71,000	63,263	11,718	13,261			1,000	1,050	83,718	77,574
Repair Contractors			331,851	244,374	37,164	63,860	23,000	14,328	10,000	15,000	402,015	337,562
Communications			-	500							-	500
Equipment Repair/Rental			800	477							800	477
Window Coverings			6,200	4,096			600	1,200	1,000	1,000	7,800	6,296
Condo Fees			74,800	17,337			32,000	35,248			106,800	52,585
Landscape Services			86,000	76,507	8,307	10,873			7,500	1,000	101,807	88,380
Maintenance Shop			11,000	10,000							11,000	10,000
Miscellaneous			-	35,000	50,143	46,279			1,000	1,000	51,143	82,279
<b>TOTAL</b>	-	-	666,751	530,512	107,332	134,273	60,101	53,776	22,500	21,050	856,684	739,611
				-26%		20%		-12%		-7%		-16%

**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA**  
**Schedule of General Expenses**  
**FOR THE FISCAL YEAR ENDING JUNE 30, 2012**

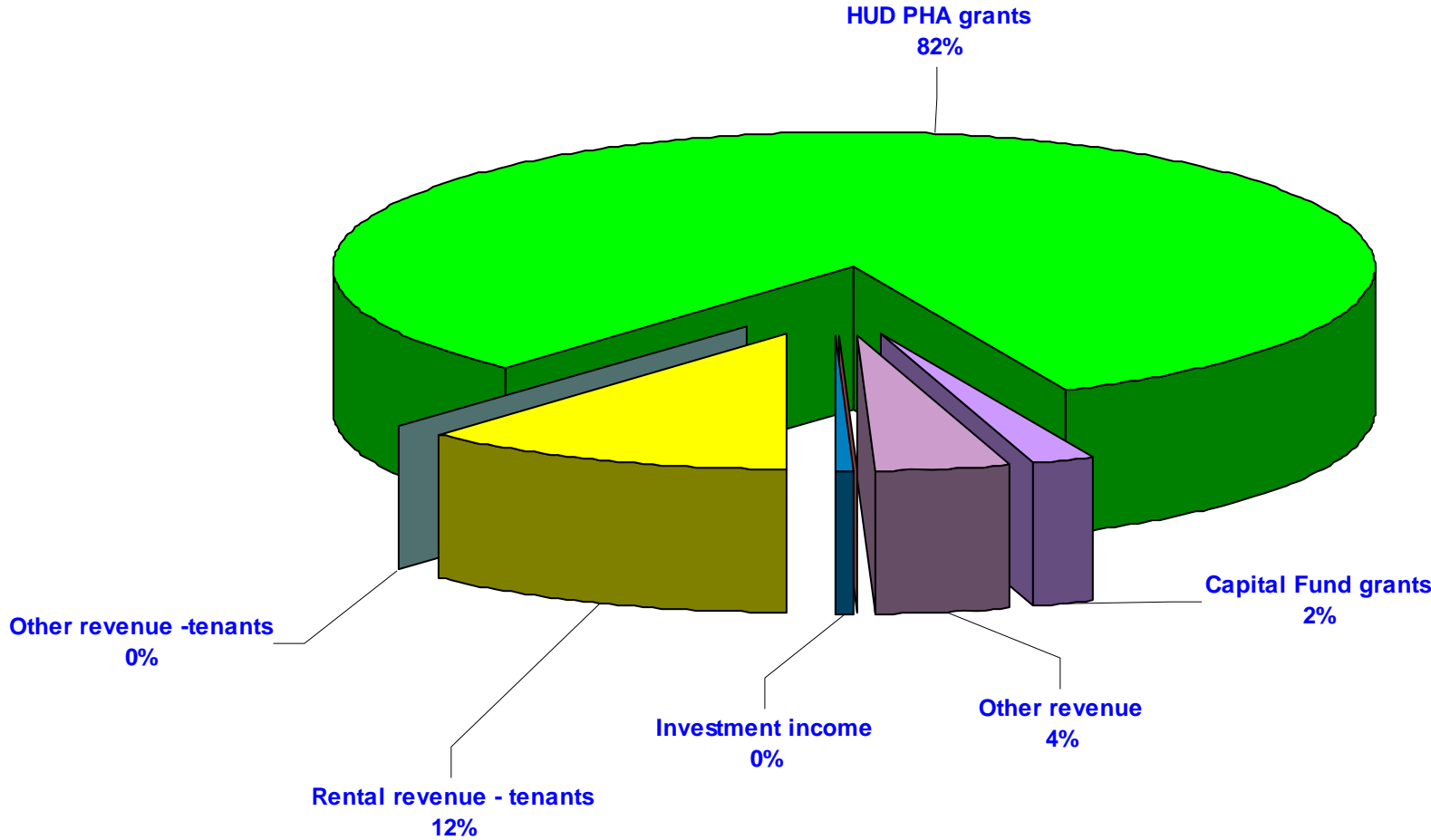
General Expenses	Housing Choice Voucher		Low Rent Public Housing		Housing Development Fund		Park Terrace		Ocean Avenue		Totals	
	Approved 2011	Proposed 2012	Approved 2011	Proposed 2012	Approved 2011	Proposed 2012	Approved 2011	Proposed 2012	Approved 2011	Proposed 2012	Approved 2011	Proposed 2012
General Liability Insurance	26,000	<b>30,000</b>	4,000	<b>2,500</b>							30,000	<b>32,500</b>
Auto Insurance	6,500	<b>5,000</b>	2,500	<b>2,500</b>			-	<b>200</b>			9,000	<b>7,700</b>
Worker's Compensation	135,047	<b>142,029</b>	60,027	<b>52,712</b>							195,074	<b>194,741</b>
Unemployment	27,000	<b>27,000</b>	2,107	<b>2,000</b>							29,107	<b>29,000</b>
Property Insurance	-	-	19,166	<b>21,000</b>	2,500	<b>2,522</b>	1,200	<b>1,000</b>	1,000	<b>1,000</b>	23,866	<b>25,522</b>
Payment in Lieu of Taxes			88,706	<b>66,175</b>							88,706	<b>66,175</b>
Collection Loss			1,000	<b>1,000</b>							1,000	<b>1,000</b>
Miscellaneous			1,000	<b>1,000</b>	1,910	<b>2,173</b>	1,000	<b>1,000</b>			3,910	<b>4,173</b>
Property Mgmt Fee												
TOTAL	194,547	<b>204,029</b>	178,506	<b>148,887</b>	4,410	<b>4,695</b>	2,200	<b>2,200</b>	1,000	<b>1,000</b>	380,663	<b>360,811</b>
		5%		-20%		6%		0%		0%		-6%

**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA  
BUDGETED POSITIONS FOR THE FISCAL YEAR ENDING JUNE 30, 2012**

Classification	Full-Time Equivalent (FTE)	Monthly Salary Range	
		Minimum	Maximum/Control
Account Specialist	7	\$3,610	\$4,291
Accountant	1	\$5,342	\$7,209
Administrative Clerk	11	\$3,452	\$4,089
Deputy Director for Operations	1	\$8,538	\$11,525
Deputy Director for Programs	1	\$8,538	\$11,525
Eligibility Leadworker	2	\$4,253	\$5,106
Eligibility Technician	15	\$3,828	\$4,549
Executive Assistant	1	\$4,384	\$5,918
Executive Director	1	\$10,399	\$14,042
Finance Director	1	\$8,126	\$10,970
FSS Coordinator	3	\$4,072	\$4,884
FSS Leadworker (HO/FSS)	1	\$4,480	\$5,372
Housing Assistance & Family Services Manager	1	\$7,007	\$9,460
Housing Assistance & Housing Management Manager	1	\$7,007	\$9,460
Housing Inspector	4	\$3,943	\$4,729
Housing Management Assistant	1	\$4,072	\$4,884
Housing Management Leadworker	1	\$5,208	\$6,394
Housing Specialist	12	\$4,524	\$5,428
Human Resources Analyst	1	\$5,473	\$7,390
Information Technology Manager	1	\$7,734	\$10,440
Leasing Services Leadworker	2	\$4,880	\$5,925
Maintenance & Modernization Manager	1	\$6,190	\$8,358
Maintenance Worker II	3	\$5,254	\$5,254
Network Administrator	1	\$5,610	\$7,574
Procurement Analyst	1	\$4,957	\$6,692
Program Integrity Officer	1	**	
Secretary	1	\$3,535	\$4,306
Senior Administrative Analyst	1	\$6,040	\$8,158
<b>Total</b>	<b>78</b>		

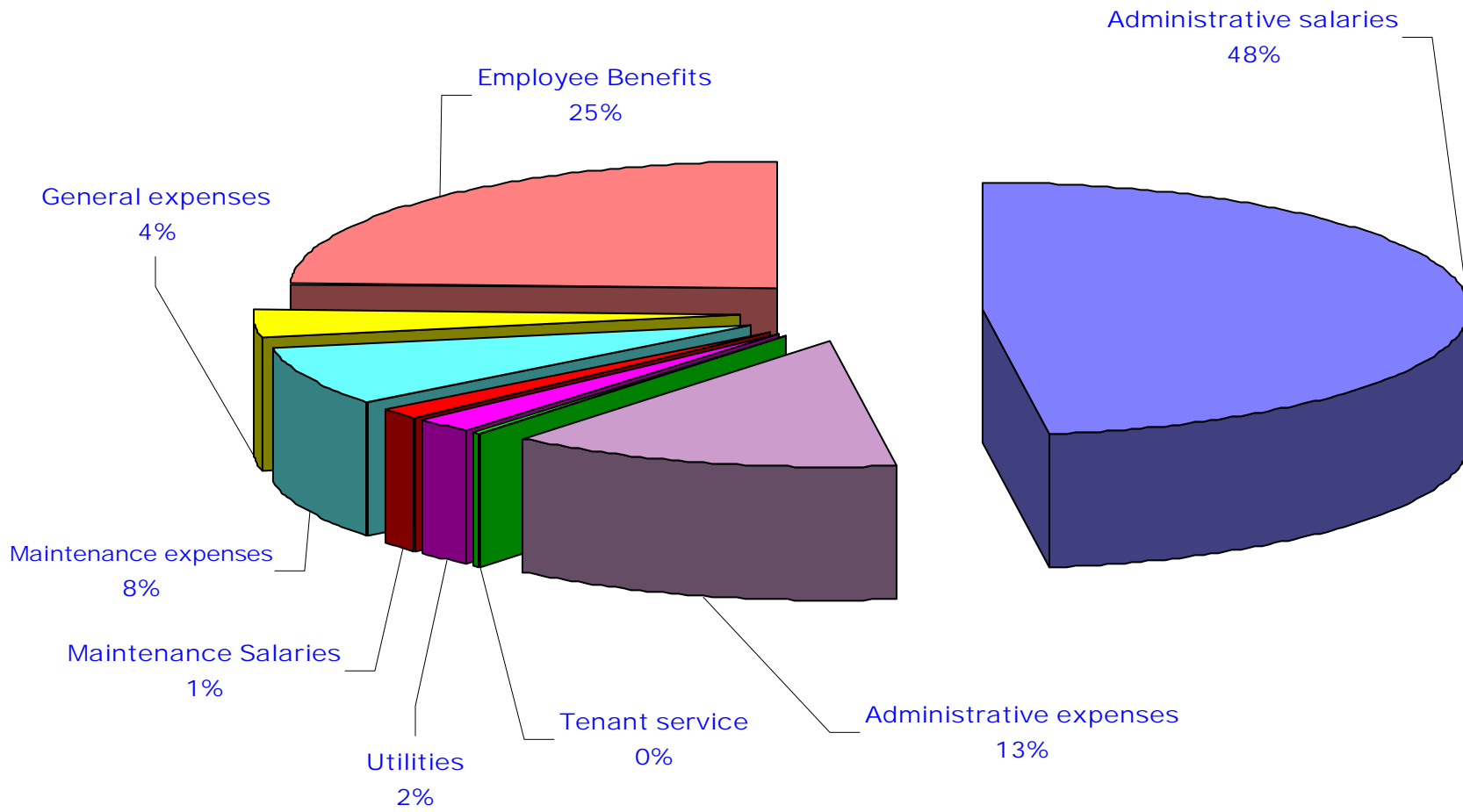
\*\*Service contract with the Alameda County District Attorney's office.

Operating Income





# Operating Expenses



# **ATTACHMENT B**

**Property Management Agreement  
Between  
Preserving Alameda County Housing, Inc.  
And The  
Housing Authority Of The County Of Alameda**

This Property Management Agreement ("Agreement") is made effective as of September 1, 2011, by and between Preserving Alameda County Housing, Inc. (PACH), a California nonprofit public benefit corporation ("Owner") and the Housing Authority of the County of Alameda (HACA), a public body, corporate and politic ("Agent").

**1. APPOINTMENT AND ACCEPTANCE.** The Owner appoints the Agent as exclusive agent for the management of the property described in Section 2 of this Agreement, and the Agent accepts the appointment, subject to the terms and conditions set forth in this Agreement. Agent hereby agrees to manage the Property in an efficient and satisfactory manner to the best of its ability.

**2. DESCRIPTION OF PROPERTY.** The property to be managed by the Agent under this Agreement (the "Property") is housing developments consisting of the land, building(s), and other improvements, which make up the Property:

Name:	HACA Public Housing Disposition
Location:	Union City County of Alameda California
Number of Units:	58, as listed in <u>Exhibit A</u> , which may be amended from time to time

**3. DEFINITIONS.** As used in this Agreement:

- (a) "Principal Parties" means the Owner and the Agent.
- (b) "Management Representative" means a HACA employee, i.e., Property Manager, Property Management Assistant or maintenance personnel.
- (c) "Property" means all aspects of administering, managing and maintaining the properties effectively and in compliance with all required provisions and budgets.

**4. RENTALS.** The Agent will offer for rent and will rent the dwelling units, parking spaces, and other rental facilities and concessions in the Property. Incident thereto, the following provisions will apply:

- (a) Agent will show the premises to prospective applicants.

(b) Agent will process, subject to Owner's approval, applications for tenancy in conformance with Section 8 Project Based Voucher regulations, and will notify applicants of their eligibility status. If an application is rejected, the Agent will tell the applicant the reason for rejection. A current list of prospective tenants will be maintained. Agent will rent all units in a manner which is in compliance with directions from the Owner.

(c) Agent will prepare and execute all dwelling leases on behalf of the Owner, and will execute the same in its name, identified thereon as Agent for the Owner. The terms of all leases will comply with the pertinent provisions of California landlord/tenant law and will be in a form approved by the Owner and the Agent.

(d) Owner will furnish Agent with rent and income schedules as appropriate for dwelling units and other charges for facilities and services.

**5. COLLECTION OF RECEIPTS AND CHARGES.** Agent will collect when due all rents, charges and other amounts receivable on the Owner's account in connection with the management and operation of the Property. Such receipts shall be deposited in the General Operating Account, in the name of the Owner, with Agent and Owner as signatories.

**6. ENFORCEMENT OF LEASE.** Agent will secure full compliance by each tenant with the terms of the tenant's lease. Agent may lawfully terminate any tenancy when, in the Agent's judgment, sufficient cause (including but not limited to nonpayment of rent) for such termination occurs under the terms of the tenant's lease and the termination does not violate the Owner Lease. For this purpose, the Agent is authorized to consult with legal counsel to bring actions for eviction and to execute notices to vacate and judicial pleadings incident to such actions. Attorney's fees and other necessary costs incurred in connection with such actions will be paid out of the General Operating Account as Property expenses.

**7. SERVICE CONTRACTS.** With approval of the Owner, the Agent may negotiate concession agreements and services contracts, and will execute the same in its name, identified thereon as Agent for the Owner, including, but not limited to length of term and fees for such services.

**8. INSPECTION OF UNITS.** Agent shall inspect all units in the Property at least annually. Advance notice shall be given to residents as provided in their lease agreements and subject to law.

**9. MAINTENANCE AND REPAIR.** Agent will thoroughly familiarize itself with the character, location, construction, layout, plan and operation of the Property, including the electrical, heating, plumbing, air conditioning and ventilating systems, and all other electrical and mechanical equipment and systems.

Agent will cause the Property to be maintained and repaired in accordance with local codes and ordinances and in a condition acceptable to the Owner, including but not limited to cleaning, painting, decorating, repair work as may be necessary, subject to any limitations imposed by the Owner in addition to those contained herein. Incident thereto, the following provisions will apply:

- (a) Special attention will be given to addressing deferred maintenance.
- (b) Agent shall develop and perform an annual preventative maintenance and inspection program for all subject properties and units.
- (c) Agent will systematically and promptly receive and investigate all service requests from tenants and complete such with expediency and will keep records of same. Emergency requests will be abated or corrected within twenty-four (24) hours. Agent shall inform tenants of procedures to obtain maintenance services if an emergency occurs after normal office hours. Agent shall maintain records of all service requests and maintenance repairs provided.
- (d) Agent is authorized to purchase all materials, equipment, tools, appliances, supplies and services necessary for proper maintenance and repair.

**10. BIDS, DISCOUNTS, REBATES, ETC.** Agent will obtain contract materials, supplies and services on terms advantageous to the Property and secure and credit to the Property discounts, rebates or commissions obtainable with respect to purchases, services, contracts and other transactions on behalf of the Property as practicable.

**11. ACCOUNTS.** Agent shall establish a separate interest bearing deposit account for Property funds. The account shall be fully insured by the Federal Deposit Insurance Corporation and shall be in the Owner's name. These funds shall not be commingled with Agent's funds or Owner's other funds. In collecting, handling, and disbursing these funds, Agent shall comply with this Agreement and applicable law.

All revenue collected pursuant to Section 5 of this Agreement, including security deposits, shall be credited to the General Operating Account.

**12. DISBURSEMENTS.** Agent may disburse funds from the account described in Section 11 of this Agreement only for the following purposes and in the following order:

- (a) General Operating Account
  - (1) Make the payments required to be made monthly by Owner.
  - (2) Pay Agent's actual direct and indirect cost for managing the Property.

- (3) Pay for insurance as required.
- (4) Pay for other costs for the operation of the Property which have been approved in the Annual Budget.
- (5) Pay for the independent audit costs as required.
- (6) Pay for any other expenditures necessary for the maintenance and repair of the Property.
- (7) Pay for the costs of utilities, energy performance contracts, and services as authorized.
- (8) Pay reasonable attorney's fees and other necessary costs incurred in connection with actions to terminate tenancies in accordance with Section 6 of this Agreement.
- (9) Pay other items of expense approved by Owner.

**13. ANNUAL BUDGET.** Agent shall submit a draft annual budget to Owner for Owner's review before the start of the next fiscal year, with budget estimates for the next fiscal year (or partial expenses) including: (i) repairs, maintenance and cleaning; (ii) utilities; (iii) management services; (iv) expenditures, if any, for repairs, alterations, rebuilding, replacements, additions, and/or improvements in and to the Property; (v) security services; (vi) compensation and related fringe benefits and expenses for personnel; and (vii) other costs and expenses to be incurred in operating the Property; all of which budget estimates shall be collectively referred to as the "Annual Budget." Owner's fiscal year as used in this Agreement shall be July 1 through June 30.

Owner shall provide guidance and input on the proposed Annual Budget within thirty (30) days after its receipt. If Owner shall reject any proposed Annual Budget submitted by Agent as provided above, Agent shall submit to Owner for Owner's approval a new proposed Annual Budget satisfying Owner's rejection as aforesaid. If the proposed Annual Budget is not approved before the start of the new fiscal year, the Agent shall operate, to the extent possible, under the previous year's Annual Budget.

During the fiscal year (or partial fiscal year) covered by each particular Annual Budget Agent, in the performance of its duties as provided in this Agreement, shall operate within that Annual Budget as approved by Owner. Notwithstanding any provisions of this Agreement to the contrary, the prior approval of the Owner will be required for any expenditure that exceeds fifty thousand dollars (\$50,000) in any one instance for labor, materials or otherwise in connection with maintenance or repair, except for emergency repairs involving manifest danger to persons or property or required to avoid suspension of any necessary service to the Property. In the latter

event, Agent will inform Owner of the emergency and the necessary expenditures as promptly as possible.

**14. RECORDS AND REPORTS.** In addition to the requirements specified in other provisions of this Agreement, Agent will have the following responsibilities with respect to records and reports:

(a) Agent will establish and maintain a comprehensive system of records, books, and accounts and any other documentation as required by Owner in a manner conforming to the directives of the Owner. All records, books, and accounts and other documentation will be subject to examination and copying at reasonable hours by any authorized representative of the Owner.

(b) Agent shall at all times keep financial records, books, accounts and other financial material relating to the operation of the Property in a safe condition and accessible to the Owner.

(c) Agent will prepare a quarterly report comparing actual and budgeted figures for receipts and disbursements, and will submit each such report to Owner.

(d) Agent will furnish such information (including occupancy reports) as may be requested by Owner from time to time with respect to the financial, physical, or operational condition of the Property.

(e) Agent will furnish the Owner with a quarterly rent roll, quarterly statement of receipts and disbursements, a schedule of accounts receivable and payable, a schedule of security deposit account and reconciled bank statements for the General Operating Account.

(f) Agent shall, at the direction of Owner, cause the records of the Property to be audited annually by the independent certified public accountant approved by Owner.

(g) Agent shall provide Owner, on a quarterly basis, with:

(1) A report regarding the occupancy of the Property indicating the current rent charged each resident and bedroom size.

(2) A statement regarding general management performance, including tenant relations and other relevant information.

(3) Evidence of a currently paid liability insurance policy with Owner as named insured, naming any Lenders as required additional insureds, with coverage in an amount not less than \$1,000,000 per occurrence with combined total

coverage, including primary and umbrella coverage, in an amount not less than \$2,000,000 or such greater amount as may be required by the Owner or Lenders, if any.

(h) Agent shall prepare a standard package of reports to the Owner.

**15. EMPLOYEES.** This Agreement is not one of employment of Agent by Owner, but one in which Agent is engaged as an independent contractor in the business of managing properties. Agent does not have the authority to establish an agency relationship on behalf of Owner. All personnel will be paid, supervised, and discharged through the Agent, subject to the following conditions:

(a) The Property Manager will have duties of the type usually associated with this position. He/she will be directly responsible to Agent. The Property Manager will coordinate his/her activities in the interest of good overall management.

(b) Compensation (including fringe benefits and any indirect costs allocated to the Property) payable to the on-site staff, such as the Property Manager and maintenance personnel, plus all local, state, and federal taxes and assessments incident to the employment of such personnel, will be borne solely by the Property subject to the annual budget. The rental value of any unit furnished rent-free to any on-site staff will be treated as a cost to the Property.

(c) The Owner will reimburse the Agent for compensation (including fringe benefits and any indirect costs allocated to the Property) payable to the onsite management and other employees and for all local, state, and federal taxes and assessments (including but not limited to Social Security taxes, unemployment insurance, and workers' compensation insurance) incident to the employment of such personnel. Such reimbursement will be paid out of the General Operating Account and will be treated as Property expenses.

(d) Agent agrees to comply in all material respects with all applicable laws and regulations concerning workers' compensation, Social Security, unemployment insurance, hours of labor, wages, working conditions, and like subjects affecting employers.

**16. ON-SITE MANAGEMENT FACILITIES.** On-site employees may reside in dwelling units within the Property. Owner will make no rental charge for on-site employees unless Owner and Agent agree to a reduced rental charge for on-site employees.

**17. AGENT'S COMPENSATION.** Agent may be compensated for its services under this Agreement by monthly fees to be paid out of the General Operating Account and treated as Property expenses. Such fees will be agreed upon as part of the Annual Budget approval process. These fees may include but are not limited to a per-unit per-month management fee, bookkeeping fee, and a lease-up or marketing fee.



**18. TERM OF AGREEMENT.** This Agreement shall be in effect for a period of five (5) years, subject, however, to the following conditions:

(a) This Agreement may be terminated by Owner upon ninety (90) days written notice to Agent;

(b) This Agreement may be terminated by Agent upon ninety (90) days written notice to Owner.

Upon any termination of this Agreement, Agent shall forthwith surrender and deliver to Owner any space in the Property occupied by Agent. Agent shall also surrender, deliver, and account for in writing to Owner all money due Owner and any and all money which is received by Agent from the Property after termination. Agent shall also deliver to Owner such contracts, documents, papers, and records pertaining to the Property or to this Agreement as may be requested, and furnish all such information and take all such action as shall be reasonably necessary in order to effectuate an orderly and systematic transition of Agent's duties and activities under this Agreement to a new agent. The accounting records, even if housed at the office of Agent, shall be considered to be official records of the Property. Agent shall retain for five (5) years copies of Property records and other pertinent documents and shall provide Owner, and each lender or assignee of lender, as applicable, with a final accounting of all records relating to this Agreement no later than sixty (60) days after termination.

**19. INSURANCE.** Owner will inform Agent of insurance to be carried with respect to the Property and its operations, and Agent will cause such insurance to be placed and kept in effect at all times. Agent will pay premiums for such insurance out of the General Operating Account, and such premiums will be treated as operating expenses of the Property. All insurance will be placed with such companies, on such conditions, in such amounts, and with such beneficial interests appearing thereon as shall be acceptable to the Owner, and shall be otherwise in conformity with the requirements of this Agreement; provided that the same will include Commercial General Liability coverage, with the Agent designated as one of the insured, in amounts acceptable to Agent as well as Owner. Agent will investigate and furnish Owner with full reports as to all accidents, claims, and potential claims for damage relating to the Property, and will cooperate with Owner's insurers in connection therewith.

Agent shall carry Errors and Omissions Insurance to protect Owner from its management decisions under this agreement. Owner shall reimburse Agent for its quota share of this insurance coverage.

**20. COMPLIANCE WITH GOVERNMENTAL ORDERS.** With the prior approval of Owner, Agent will take such action as may be necessary to comply promptly with any and all governmental orders or other requirements affecting the Property, whether imposed by Federal, state, county or municipal authorities.

Agent shall notify Owner in writing of all notices of such orders or other requirements.

**21. NONDISCRIMINATION.** It is the policy of PACH and HACA to comply fully with all Federal and State regulations with regard to non-discrimination in housing including:

- Title VI of the Civil Rights Act of 1964;
- The Fair Housing Act;
- Executive Order 11063 on Equal Opportunity in Housing;
- Section 504 of the Rehabilitation Act of 1973;
- The Age Discrimination Act of 1975; and
- The Americans with Disabilities Act.

(a) The Principal Parties will comply with any legislation protecting individual rights which may be enacted.

(b) The Principal Parties shall not discriminate because of race, color, sex, age, religion, national origin, ancestry, disability, handicap, sexual orientation, marital status, or familial status in the leasing, rental or other disposition of housing or related facilities (including land) included in any development or developments under its control, or in the use or occupancy thereof.

(c) The Principal Parties shall not, on account of race, color, sex, age, religion, national origin, ancestry, disability, handicap, sexual orientation, marital status, or familial status:

(1) Deny to any family the opportunity to apply for housing, or deny to any eligible applicant the opportunity to lease housing suitable to its needs;

(2) Provide housing which is different than that provided others;

(3) Subject a person to segregation or disparate treatment;

(4) Restrict a person's access to any benefit enjoyed by others in connection with the program;

(5) Treat a person differently in determining eligibility or other requirements for admission;

(6) Deny a person access to the same level of services; or

(7) Automatically deny admission to a particular group or category of otherwise eligible and qualified applicants (e.g., families with children born to unmarried parents or families whose head or spouse is a student).

**22. ATTORNEY'S FEES.** In the event that either party incurs legal costs in the enforcement of the Agreement, the non-prevailing party in such controversy shall pay the legal costs (including, but not limited to reasonable attorney's fees) of the prevailing party.

**23. BUSINESS LICENSE.** Agent shall ensure that any firm hired to sub contract any or all provisions of this Agreement qualifies to do business and that they obtain and maintain such licenses as may be required for the performance by Agent of its services under this Agreement.

**24. INDEMNIFICATION.** Owner shall defend, hold harmless and indemnify Agent and its respective board members, officers, agents and employees from any and all losses, costs, damages, liabilities and expenses, including, without limitation, reasonable attorneys' fees, arising directly or indirectly out of the performance of this Agreement and any of Agent's operations or activities related thereto, excluding the willful misconduct or gross negligence of Agent, its board members, officers and employees.

**25. NOTICE.** Any notice or other communication required or permitted to be given under this Agreement shall be in writing and addressed to the address set forth below and shall be given by any of the following means: (a) personal service; (b) electronic communication, whether by email, telex, telegram or telecopying (if confirmed in writing sent by registered or certified, first class mail, return receipt requested); or (c) registered or certified, first class mail, return receipt requested. Such addresses may be changed by notice to the other party given in the same manner, as provided above. Any notice, demand or request sent pursuant to either subsection (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch by electronic means, and, if sent pursuant to subsection (c), shall be deemed received on the date of delivery or the date that delivery is refused by the addressee, as shown on the return receipt.

If to Owner:

Preserving Alameda County Housing, Inc.  
22941 Atherton Street  
Hayward, CA 94541  
Attention: Secretary

and, if intended for Agent, shall be addressed to:

Housing Authority of the County of Alameda  
22941 Atherton Street  
Hayward, CA 94541  
Attention: Executive Director

IN WITNESS WHEREOF, the Owner and the Agent, by their duly authorized officers, have executed this Agreement.

OWNER:

PRESERVING ALAMEDA COUNTY  
HOUSING, INC., a California nonprofit public  
benefit corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

AGENT:

HOUSING AUTHORITY OF THE COUNTY OF  
ALAMEDA, a public body, corporate and politic

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**Exhibit A**

Scattered Sites Property List

**ATTACHMENT**  
**C**

**Annual Model Administrative Plan Revisions and Other  
Revisions - September 2011**

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

**Family Break-up [24 CFR 982.315]**

Except under the following conditions, the PHA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up:

- If the family breakup results from an occurrence of domestic violence, dating violence, or stalking, the PHA must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, and stalking, see section 16-IX.D of this plan.)
- If a court determines the disposition of property between members of the assisted family in a divorce or separation decree, HACA is bound by the court's determination of which family members continue to receive assistance.

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HACA 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.

In the absence of a judicial decision, or an agreement among the original family members, HACA will determine which family will retain its placement on the waiting list, or will continue to receive assistance. In making its determination, HACA will take 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) the interest of any family member who is the victim of domestic violence, dating violence, or stalking, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse; (4) any possible risks to family members as a result of criminal activity, and (5) the recommendations of social service professionals.

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**3-III.D. SCREENING**

**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 PHAs in complying with HUD requirements and HACA 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 PHAs must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

HACA Policy

HACA will perform a criminal background check for every adult household member.

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 a PHA proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, it 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]**

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

HACA Policy

HACA 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. HACA 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 HACA to provide prospective owners with the family's current and prior address (as shown in HACA records) and the name and address (if known) of the owner at the family's current and prior addresses. HUD permits HACA 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.

HACA may not disclose to the owner any confidential information provided in response to a HACA request for documentation of domestic violence, dating violence, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(b)(4)].

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HACA Policy



HACA will inform owners of their responsibility to screen prospective tenants, and will, upon request, provide owners with the required known name and address information, at the time of the initial HQS inspection or before. HACA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

### 3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING [[24 CFR Part 5, Subpart L]

The Violence Against Women Act of 2005 (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit PHAs from denying an applicant admission to the HCV program "on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking, if the applicant otherwise qualifies for assistance or admission."

Definitions of key terms used in VAWA are provided in section 16-IX of this plan, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

#### Notification

##### HACA Policy

HACA acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under HACA's policies. Therefore, if HACA makes a determination to deny admission to an applicant family, HACA will include in its notice of denial the VAWA information described in section 16-IX.C of this plan and will request that an applicant wishing to claim protection under VAWA notify HACA within 10 business days.

#### Documentation

##### Victim Documentation [24 CFR 5.2007]

##### HACA Policy

If an applicant claims the protection against denial of assistance that VAWA provides to victims of domestic violence, dating violence, or stalking, HACA will request in writing that the applicant provide documentation supporting the claim in accordance with section 16-IX.D of this plan.

##### Perpetrator Documentation

##### HACA Policy

If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the assisted unit

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Inserted: against Women Act of 2005 (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit PHAs from denying an applicant admission to the HCV program "on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking, if the applicant otherwise qualifies for assistance or admission."¶ Definitions of key terms used in VAWA are provided in section 16-IX of this plan, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

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As used in VAWA:¶

The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.¶

¶-#- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction. [1]

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A request that an applicant wishing to claim this protection submit to HACA documentation meeting the specific [2]

Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

**Deleted: *When the Abuser is a Member of the Applicant Family***  
**HACA Policy**

As a condition of receiving assistance, if the perpetrator of the abuse is a member of the applicant family, a family may either:

Agree to remove the culpable family member from the application as set forth in "Removal of a Family Member's Name from the Application [24 CFR 982.552(c)(2)(ii)]", page 3-29, or

Submit documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

***Time Frame for Submitting Documentation***  
**HACA Policy**

The applicant must submit the required documentation with her or his request for an informal review (see section 16-III D) or must request an extension in writing at that time. If the applicant so requests, the PHA will grant an extension of 10 business days, and will postpone scheduling the applicant's informal review until after it has received the documentation or the extension period has elapsed. If after reviewing the documentation provided by the applicant the PHA determines that the family is eligible for assistance, no informal review will be scheduled and the PHA will proceed with admission of the applicant family.

**HACA Confidentiality Requirements**  
**[24 CFR 5.2007(a)(1)(v)]**

All information provided to HACA regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

**HACA Policy**

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the PHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

### **5-I.B. BRIEFING [24 CFR 982.301]**

HACA 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, HACA 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.

#### HACA Policy

Briefings will be conducted in individual or group meetings.

Generally, the head of household is required to attend the briefing. If the head of household is unable to attend, HACA may approve another adult family member to attend the briefing.

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

Briefings will be conducted in English. For limited English proficient (LEP) applicants, HACA will provide translation services in accordance with HACA's LAP plan (See Chapter 2).

### **Notification and Attendance**

#### HACA 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, the applicant will be denied and their name will not be placed back on the waiting list. If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated.

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

### **Oral Briefing [24 CFR 982.301(a)]**

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 HACA's jurisdiction;
- For families eligible under portability, an explanation of portability. HACA 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.

#### HACA Policy

When HACA-owned units are available for lease, HACA will inform the family during the oral briefing that the family has the right to select any eligible unit available for lease, and is not obligated to choose a HACA-owned unit.

#### **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 HACA's policies on any extensions or suspensions of the term. If HACA 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 HACA determines the payment standard for a family, how HACA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how HACA 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 HACA's 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 HACA policy on providing information about families to prospective owners.
- HACA 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 HACA.

- The family obligations under the program, including any obligations of a welfare-to-work family.
- The grounds on which HACA may terminate assistance for a participant family because of family action or failure to act.
- HACA informal hearing procedures including when HACA 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 with 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, Notice PIH 2010-19].

##### HACA Policy

HACA will provide the following additional materials in the briefing packet:

When HACA-owned units are available for lease, a written statement that the family has the right to select any eligible unit available for lease, and is not obligated to choose a HACA-owned unit

Information on how to fill out and file a housing discrimination complaint form.

[Information about the protections afforded by the Violence Against Women Act of 2005 \(VAWA\) to victims of domestic violence, dating violence, and stalking \(see section 16-IX.C\)](#)

“Is Fraud Worth It?” (form HUD-11401141-OIG) which explains the types of actions a family must avoid and the penalties for program abuse

“What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19

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Inserted: against Women Act of 2005 (VAWA) to victims of domestic violence, dating violence, and stalking (see section 16-IX.C)

## 5-I.C. 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. HACA 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

#### HACA Policy

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

When a family is required to provide notice to HACA, 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 HACA 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 HACA 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.

#### HACA Policy

Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

- The family must allow HACA 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.

#### HACA Policy

HACA 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, living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].*

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## 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. This chapter sets forth HUD regulations and HACA policies governing moves within or outside the HACA's jurisdiction in two parts:

**Part I: Moving with Continued Assistance.** This part covers the general rules that apply to all moves by a family assisted under the HACA's HCV program, whether the family moves to another unit within the HACA's jurisdiction or to a unit outside the HACA's jurisdiction under portability.

**Part II: Portability.** This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into HACA's jurisdiction. This part also covers the special responsibilities that HACA has under portability regulations and procedures.

#### PART I: MOVING WITH CONTINUED ASSISTANCE

##### 10-I.A. ALLOWABLE MOVES

HUD lists six regulatory conditions in 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 section 10-I.B.

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- 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 HACA 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)].

##### HACA Policy

If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give HACA 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 HACA a copy of any owner eviction notice [24 CFR 982.551(g)].
- The family or a member of the family is or has been the victim of domestic violence, dating violence, or stalking and the move is needed to protect the health or safety of the family or family member [24 CFR 982.314(b)(4)]. This condition applies even when the family has moved out of its unit in violation of the lease, with or without

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prior notification to HACA, if the family or family member who is the victim reasonably believed that he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.314(b)(4), 24 CFR 982.353(b)].

HACA Policy

If a family requests permission to move with continued assistance based on a claim that the move is necessary to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, or stalking, HACA will request documentation in accordance with section 16-IX.D of this plan.

HACA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the family or family member will suffice. In such cases HACA will document the waiver in the family's file.

- HACA has terminated the assisted lease for the family's unit for the owner's breach [24 CFR 982.314(b)(1)(i)].
- HACA 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, HACA must issue the family a new voucher, and the family and HACA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, HACA 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 HACA gives notice to the owner. [24 CFR 982.403(a) and (c)]

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If a family requests permission to move with continued assistance based on a claim that the move is necessary to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, or stalking, HACA will request documentation in accordance with section 16-IX.D of this plan.¶  
HACA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the family or family member will suffice. In such cases HACA will document the waiver in the family's file.¶

**10-I.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 HACA to deny a family permission to move under the following conditions:

*Insufficient Funding*

Per Notice PIH 2011-3, HACA may only deny a request to move to a higher cost unit within HACA's jurisdiction or to a higher cost area in accordance with 24 CFR 982.314(e)(1) if HACA would be unable to avoid terminations of housing choice voucher assistance for current participants during the calendar year in order to remain within its budgetary allocation (including any available HAP reserves) for housing assistance payments. If HACA does determine it is necessary to deny moves to a higher cost unit based on insufficient funding, it must provide written notification to the San Francisco

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HUD office when it does so as set forth in Notice PIH 2011-3 and Part VIII of Chapter 16 of this Administrative Plan.

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HACA may not deny requests to move, including portability moves, if the subsidy for the new unit is equal to or less than the current subsidy being paid for the family or if the area the family has selected is a lower cost area. A "lower cost area" is defined as an area where the subsidy amount is equal to or lesser than the current subsidy paid because of lower payment standards or less generous subsidy standards (e.g. the receiving PHA issues a 2-bedroom voucher to a family that received a 3-bedroom voucher from the initial PHA).

HACA may not deny a family's request to move to a higher cost unit or a higher cost area because it wishes to admit additional families from its waiting list into its voucher program, regardless of whether it has unit months available (UMA) to do so. Additionally, HACA may not deny a family's request to move to a higher cost area if the receiving PHA commits to absorb the voucher. If HACA denies a family's request to move, it may not subsequently admit any additional families to its voucher program until the PHA has followed the policy described below.

If HACA approves a family's request to move then subsequently experiences a funding shortfall, the PHA may only retract the voucher if the family would be allowed to remain in their current unit. If the family cannot remain in the unit, (e.g. family has already vacated the unit or family has already notified the owner of their intent to vacate and the owner has re-let the unit to another family) HACA, must not retract the voucher. This requirement applies to moves both within HACA's jurisdiction and to portability moves.

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#### HACA Policy

If HACA denies a family permission to move on grounds that HACA does not have sufficient funding for continued assistance, HACA will individually notify the family in writing at the time the move is denied. The family's request to move will remain open for HACA's consideration for 3 months from the family's request. HACA will notify a family with an open request in writing if and when HACA determines that it has sufficient funds to allow the move. This policy applies to moves within HACA's jurisdiction as well as to moves outside it under portability.

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#### Grounds for Denial or Termination of Assistance

HACA has grounds for denying or terminating the family's assistance [24 CFR 982.314(e)(2)]. VAWA allows exceptions to these grounds for denial or termination of assistance for families who are otherwise in compliance with program obligations, but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking, and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit. [Pub.L. 109-162]

Deleted: Before denying a family's request to move due to insufficient funding under portability, HACA must contact the receiving PHA and confirm that the receiving PHA will not absorb the family. If the receiving PHA is willing to absorb the family, there are no grounds to deny the portability move (PIH 2008-43).¶ If HACA denies a family's request to move under portability, it may not subsequently admit any additional families to its voucher program until HACA has determined that sufficient funding exists to approve the move and has notified the family that the family may now exercise its portability move (PIH 2008-43).¶

#### PHA Policy

If HACA has grounds for denying or terminating a family's assistance, HACA 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. Refer to sections 3-III.G and 12-II.E for VAWA provisions.

#### **Restrictions on Elective Moves [24 CFR 982.314(c)]**

HUD regulations permit HACA to prohibit any elective move by a participant family during the family's initial lease term. They also permit HACA to prohibit more than one elective move by a participant family during any 12-month period.

##### HACA Policy

HACA will not deny a family permission to make an elective move during the family's initial lease term provided the family and owner agree to the lease termination in writing. This policy applies to moves within HACA's jurisdiction, and, except during the first 12 months after a nonresident applicant has been admitted to the program, to moves outside of HACA's jurisdiction under portability.

HACA 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, HACA 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-I.C. MOVING PROCESS**

##### **Notification**

If a family wishes to move to a new unit, the family must notify HACA 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 HACA's jurisdiction under portability, the notice to HACA must specify the area where the family wishes to move [24 CFR 982.314(d)(2), Notice PIH 2008-43]. The notices must be in writing [24 CFR 982.5].

##### **Approval**

##### HACA Policy

Upon receipt of a family's notification that it wishes to move, HACA will determine whether the move is approvable in accordance with the regulations and policies set forth in sections 10-I.A and 10-I.B. Within 10 business days following receipt of the family's notification, HACA will either issue the family a voucher or notify it in writing of its determination that the move is not approvable.

## **Reexamination of Family Income and Composition**

### **HACA Policy**

For families approved to move to a new unit within HACA's jurisdiction, HACA will perform a new annual reexamination, if required, 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 HACA's jurisdiction under portability, HACA will follow the policies set forth in Part II of this chapter.

## **Voucher Issuance and Briefing**

### **HACA Policy**

For families approved to move to a new unit within HACA's jurisdiction, HACA will issue a new voucher within 10 business days of the family's notification that it wishes to move.

For families who move without notifying HACA, the issue date of the voucher will be the date HACA determines the family moved out of the assisted unit.

For families who do not execute an issued voucher, the issue date of the voucher will be the date HACA determines the family moved out of the assisted unit.

No briefing is required for any of the above families. HACA 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 HACA approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of HACA's jurisdiction under portability, HACA 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, HACA 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.

### **HACA Policy**

HACA does not allow the owner to keep the housing assistance payment for the remainder of the month when the family moves out of the unit. Housing assistance payments end the date HACA determines the family has vacated the unit. Amounts overpaid to the owner must be returned to HACA.

## **PART II: PORTABILITY**

### **10-II.A. OVERVIEW**

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**. The second is called the **receiving PHA**.

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-II.B. 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 HACA'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 HACA's jurisdiction under portability. However, HUD gives HACA 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.

#### HACA Policy

In determining whether or not to deny an applicant family permission to move under portability because HACA lacks sufficient funding or has grounds for denying assistance to the family, HACA will follow the policies established in section 10-I.B of this chapter.

In addition, HACA 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)].

#### HACA Policy

If neither the head of household nor the spouse/cohead of an applicant family had a domicile (legal residence) in the HACA's jurisdiction at the time the family's application for assistance was submitted, the family must live in HACA's jurisdiction with voucher assistance for at least 12 months before requesting portability.

HACA will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2) or reasons related to domestic violence, dating violence, or stalking. However, any exception to this policy is subject to the approval of the receiving PHA [24 CFR 982.353(c)(3)].

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#### *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 982.353(b)]. VAWA creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit [24 CFR 982.353(b)].

#### HACA Policy

HACA will determine whether a participant family may move out of HACA's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-I.A and 10-I.B of this chapter. HACA will notify the family of its determination in accordance with the approval policy set forth in section 10-I.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 2008-43].

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 2008-43].

##### *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.

#### HACA Policy

For a participant family approved to move out of its jurisdiction under portability, HACA 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.

HACA 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 HACA to provide information on portability to all applicant families that qualify to lease a unit outside HACA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

#### HACA Policy

No formal briefing will be required for a participant family wishing to move outside of HACA's jurisdiction under portability. However, HACA will provide the family with a general explanation of portability (see Chapter 5). HACA will provide the name, address, and phone of the portability contact person for the PHA in the jurisdiction to which the family wishes to move. HACA will advise the family that, until the earliest of the expiration of the voucher issued by HACA, execution of a new HAP contract by the receiving PHA, or the termination of the participant's assistance by either HACA or the receiving PHA, the family will be under HACA's policies and procedures, including its 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, HACA will follow the regulations and procedures set forth in Chapter 5. A new voucher is not required for portability purposes.

#### HACA Policy

For families approved to move under portability, HACA will issue a new voucher within 10 business days of the later of; the family's notification that it wishes to move, or if a reexamination is required, the completion date of the reexamination.

The initial term of the voucher will be 90 days.

### **Voucher Extensions and Expiration**

#### HACA Policy



HACA will approve no extensions to a voucher issued to an applicant or participant family porting out of HACA'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 PHA, (b) the family decides to return to the initial PHA's jurisdiction and search for a unit there, or (c) the family decides to search for a unit in a third PHA's jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-II.E, 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 PHA's voucher program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction within 60 days following the expiration date of the initial PHA's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.)

**Preapproval Contact with the Receiving PHA**

Prior to approving a family's request to move under portability, the initial PHA must contact the receiving PHA via e-mail or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the family's voucher. Based on the receiving PHA's response, the initial PHA must determine whether it will approve or deny the move [Notice PIH 2011-3].

**HACA Policy**

HACA will use e-mail, when possible, to contact the receiving PHA regarding whether the receiving PHA will administer or absorb the family's voucher.

**Initial Notification to 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 2011-3]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(2)].

**HACA Policy**

Because the portability process is time-sensitive, HACA will notify the receiving PHA by phone, fax, or e-mail to expect the family. HACA will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, email and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. HACA will pass this information along to the family. HACA 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:

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- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2008-43]
- A copy of the family's voucher [Notice PIH 2008-43]
- 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 2008-43]
- Copies of the income verifications backing up the form HUD-50058, including a copy of the family's current EIV data [24 CFR 982.355(c)(4), Notice PIH 2008-43]

HACA Policy

In addition to these documents, HACA will provide the following information, if available, to the receiving PHA:

Social security numbers (SSNs)

Documentation of SSNs for all nonexempt household members whose SSNs have not been verified through the EIV system

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

HACA will notify the family in writing regarding any information provided to the receiving PHA [HCV GB, p. 13-3].

**Initial Billing Deadline [Notice PIH 2008-43]**

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 inform the receiving PHA that they will not accept any subsequent billing on behalf of the family. Once the initial PHA has so notified the receiving PHA, the initial PHA is not required to honor any billing notice received after the billing deadline. If the initial PHA still subsequently receives a late billing notice on behalf of the family, it simply returns the late Form HUD-52665 to the receiving PHA, and the receiving PHA must absorb the family. If the receiving PHA reports that the family is under HAP contract and the receiving PHA cannot absorb the family when the initial PHA contacts the receiving PHA to determine the status of the family, the initial PHA is required to accept the subsequent late billing; however, it may report to HUD the receiving PHA's failure to comply with the deadline.

HACA Policy

If HACA has not received an initial billing notice from the receiving PHA by the deadline specified on form HUD-52665, it will contact the receiving PHA by phone, fax, or e-mail within 10 business days. If the PHA fails to respond within 10 business days of HACA's contact or attempted contact, or reports that the family is not yet under HAP contract, HACA will inform the receiving PHA that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. Within 10 business days, HACA will send the receiving PHA a written confirmation of its decision by mail.

HACA will not inform the receiving PHA that it will not honor a late billing submission 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 PHA.

#### **Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2008-43]**

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 overleasing 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. The initial PHA may not withhold payment solely because the receiving PHA did not submit the updated form HUD-50058 by the annual recertification date.

#### **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-II.C. 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)].

**Responding to Initial PHA's Request**

The receiving PHA must respond via e-mail or other confirmed delivery method to the initial PHA's inquiry to determine whether the family's voucher will be billed or absorbed. If the receiving PHA informs the initial PHA that it will be absorbing the voucher, the receiving PHA cannot reverse its decision at a later date [Notice PIH 2011-3].

HACA Policy

HACA will use e-mail, when possible, to notify the initial PHA whether it will administer or absorb the family's voucher.

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## 12-II.E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING

This section addresses the protections against termination of assistance that the Violence Against Women Act of 2005 (VAWA) provides for victims of domestic violence, dating violence, and stalking. For general VAWA requirements and PHA policies pertaining to notification, documentation, and confidentiality, see section 16-IX of this plan, where definitions of key VAWA terms are also located.

### VAWA Protections against Termination

VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, or stalking. (Note: The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program. So do the limitations discussed under the next heading.)

First, VAWA provides that a PHA may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the PHA, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.314(b)(4)].

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [24 CFR 5.2005(c)(1)].

Third, it provides that criminal activity directly related to domestic violence, dating violence, or stalking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or an immediate family member of the tenant is the actual or threatened victim of the domestic violence, dating violence, or stalking [24 CFR 5.2005(c)(2)].

Fourth, it gives PHAs the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing, the victim of the violence [24 CFR 5.2009(a)].

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Inserted: against Women Act of 2005 (VAWA) provides for victims of domestic violence, dating violence, and stalking. For general VAWA requirements and PHA policies pertaining to notification, documentation, and confidentiality, see section 16-IX of this plan, where definitions of key VAWA terms are also located.¶

#### **VAWA Protections against Termination¶**

VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, or stalking. (Note: The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program. So do the limitations discussed under the next heading.)¶

First, VAWA provides that a PHA may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the PHA, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.314(b)(4)].¶

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [24 CFR 5.2005(c)(1)].¶

Third, it provides that criminal activity directly related to domestic violence, dating violence, or stalking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or an immediate family member of the tenant is the actual or threatened victim of the domestic violence, dating violence, or stalking [24 CFR 5.2005(c)(2)].¶

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The Violence Against Women Reauthorization Act of 2005 (VAWA) provides that "criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be a cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that domestic violence, dating violence, or stalking."¶

VAWA also gives PHAs the authority to "terminate assistance to any individual who is a tenant or lawful occupant ... [4]

Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]

VAWA does not limit the authority of a PHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, or stalking so long as the PHA does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(1)].

Likewise, VAWA does not limit the authority of a PHA to terminate the assistance of a victim of domestic violence, dating violence, or stalking if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance [24 CFR 5.2005(d)(2)].

HUD regulations define actual and imminent threat to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

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Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR 5.2005(d)(3)].

HACA Policy

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In determining whether a program participant who is a victim of domestic violence, dating violence, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, HACA will consider the following, and any other relevant, factors:

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Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, or stalking

Whether the threat is a physical danger beyond a speculative threat

Whether the threat is likely to happen within a short period of time

Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the participant wishes to contest HACA's determination that he or she is an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

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Documentation of Abuse [24 CFR 5.2007]

HACA Policy

When a participant facing termination of assistance for reasons related to domestic violence, dating violence, or stalking claims protection under VAWA, HACA will request that the individual provide documentation supporting the claim in accordance with the policies in section 16-IX.D of this plan.

HACA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases HACA will document the waiver in the individual's file.

**Terminating the Assistance of a Domestic Violence Perpetrator**

Although VAWA provides protection against termination for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives HACA the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others...without terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant" [24 CFR 5.2009(a)]. This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state, or other federal law to the contrary. However, if HACA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance. This means that HACA must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family [3/16/07 Federal Register notice on the applicability of VAWA to HUD programs].

HACA Policy

HACA will terminate assistance to a family member if HACA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, nonculpable family members.

In making its decision, HACA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066) or other documentation of abuse submitted to HACA by the victim in accordance with this section and section 16-IX.D. HACA will also consider the factors in section 12-II.D. Upon such consideration, HACA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If HACA does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.

**HACA Confidentiality Requirements**

All information provided to HACA regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared data base nor

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Deleted: The documentation will consist of a completed and signed form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking. In lieu of the certification form, HACA will accept either of the following forms of documentation:  
A police or court record documenting the actual or threatened abuse.  
Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

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If the individual provides the requested documentation within 14 business days, or any HACA-approved extension, HACA will reconsider its termination decision in light of the documentation.  
If the individual does not provide ... [S]

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provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

#### HACA Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, HACA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

### **12-II.F. TERMINATION NOTICE**

HUD regulations require PHAs to provide written notice of termination of assistance to a family only when the family is entitled to an informal hearing. However, since the family's HAP contract and lease will also terminate when the family's assistance terminates [form HUD-52641], it is a good business practice to provide written notification to both the owner and family anytime assistance will be terminated, whether voluntarily or involuntarily.

#### HACA Policy

Whenever a family's assistance will be terminated, HACA will send a written notice of termination to the family and to the owner of the family's unit. The notice will state the date on which the termination will become effective. This date generally will be at least 30 calendar days following the date of the termination notice, but exceptions will be made whenever HUD rules, other HACA policies, or the circumstances surrounding the termination require.

When HACA notifies an owner that a family's assistance will be terminated, HACA will, if appropriate, advise the owner of his/her right to offer the family a separate, unassisted lease.

If a family whose assistance is being terminated is entitled to an informal hearing, the notice of termination that the PHA sends to the family must meet the additional HUD and PHA notice requirements discussed in section 16-III.C of this plan. Although HUD does not require PHAs to include information about the protections against termination of assistance provided by the Violence Against Women Act of 2005 (VAWA) to victims of domestic violence, dating violence, or stalking, PHAs have the discretion to include such information.

#### HACA Policy

Whenever HACA decides to terminate a family's assistance because of the family's action or failure to act, HACA will include in its termination notice the VAWA information described in section 16-IX.C of this plan and will request that a family member wishing to claim protection under VAWA notify HACA within 10 business days.

Still other notice requirements apply in two situations:

- If a criminal record is the basis of a family's termination, a copy of the record must accompany (or precede) the termination notice, and a copy of the record must also be provided to the subject of the record [24 CFR 982.553(d)].

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Inserted: against Women Act of 2005 (VAWA) to victims of domestic violence, dating violence, or stalking. PHAs have the discretion to include such information.¶

HACA Policy¶

Whenever HACA decides to terminate a family's assistance because of the family's action or failure to act, HACA will include in its termination notice the VAWA information described in section 16-IX.C of this plan and will request that a family member wishing to claim protection under VAWA notify HACA within 10 business days.¶

Still other notice requirements apply in two situations.¶

If a criminal record is the basis of a family's termination, a copy of the record must accompany (or precede) the termination notice, and a copy of the record must also be provided to the subject of the record [24 CFR 982.553(d)].¶

If immigration status is the basis of a family's termination, as discussed in section 12-I.D, the special notice requirements in section 16-III.D must be followed.¶

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- If immigration status is the basis of a family's termination, as discussed in section 12-I.D, the special notice requirements in section 16-III.D must be followed.

**Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]**

HACA 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 (United States Citizenship and Immigration Service) primary and secondary verification does not verify eligible immigration status of a family; or (3) HACA 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 HACA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Informal hearing procedures are contained in Chapter 16.

HACA 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-II.G. 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].

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 <#>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 16 ¶  
 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)].¶  
**HACA Policy**¶  
 When termination is initiated by HACA, the notice to terminate will be sent to the family at least 30 calendar days prior to the effective date of the termination. The HAP Contract will be terminated with 30 day written notice to the owner at the conclusion of the termination process. However, if a family vacates the unit without informing HACA, 30 days notice will not be given. In these cases, the notice to terminate will be sent at the time HACA learns the family has vacated the unit. ¶  
 When a family requests to be terminated from the program they must do so in writing to HACA (see section 12-I.C.). HACA will then send a confirmation notice to the family and the owner within 10 business days of the family's request.¶

## PART III: TERMINATION OF TENANCY BY THE OWNER

### 12-III.A. OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the family; HACA is not a party to the lease and, therefore, is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy and the reasons for which a tenancy is terminated dictate whether assistance also will be terminated.

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Deleted: In terminating an assisted tenancy, the owner is constrained as set forth in Sections 12-III.B through 12-III.D below. The reasons for which a tenancy is terminated dictate whether assistance also will be terminated.

### 12-III.B. 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.

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#### 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, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, or stalking and the victim is protected from eviction by the Violence Against Women Act of 2005 (see section 12-II.E). A serious lease violation includes failure to pay rent or other amounts due under the lease. However, HACA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

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Inserted: against Women Act of 2005 (see section 12-II.E). A serious lease violation includes

Deleted: including failure to pay rent or other amounts due under the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, or stalking against that participant. This includes

#### 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.

However, in the case of criminal activity directly related to domestic violence, dating violence, or stalking, if the tenant or an immediate member of the tenant's family is the

victim, the criminal activity may not be construed as cause for terminating the victim's tenancy (see section 12-II.E).

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 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.

**Deleted:** 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.¶

#### **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.

**Deleted:** except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, or stalking and the tenant or an immediate member of the tenant's family is the victim or threatened victim of the domestic violence, dating violence, or stalking. (See Section 12-II.E.)

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-III.C. 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 HACA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give HACA a copy of any eviction notice (see Chapter 5).

#### HACA Policy

If the eviction action is finalized in court, the owner must provide HACA with documentation related to the eviction, including notice of the eviction date and any judgment, as soon as possible, but no later than 5 business days following the court-ordered eviction.

### **12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h), 24 CFR 982.310(h)(4)]**

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 nature of the offending action
- 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.

An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, or stalking is limited by the Violence Against Women Act of 2005 (VAWA) and the conforming regulations in 24 CFR Part 5, Subpart I. (See Section 12-II.E.)

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### **12-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY'S ASSISTANCE**

If a termination is not due to a serious or repeated violation of the lease, and if HACA has no other grounds for termination of assistance, HACA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

## **PART IV: TERMINATION OF TENANCY BY A VICTIM**

### **12-IV.A. OVERVIEW**

Termination of an assisted tenancy is a matter between the owner and the family; HACA is not a party to the lease termination. In terminating an assisted tenancy, the family is constrained by state law as set forth in Section 12-IV.B, below.

### **12-IV.B. GROUNDS FOR VICTIM TERMINATION OF TENANCY [State of California A.B. 2052, State of California Civil Code §1946.7]**

During the term of the lease, the family is not permitted to terminate the tenancy except that, if a tenant or a household member was a victim of domestic violence, sexual assault, or stalking, the tenant may break a lease to escape further violence by the abuser. The victim is responsible for rent for up to 30 days after notifying the landlord that he or she is ending the rental agreement, but not afterwards.

#### **California's Early Lease Termination Law**

The early lease termination law, which went into effect September 27, 2008, allows a person who has a temporary restraining order, emergency protective order, or a police report, to end their lease without owing additional rent beyond 30 days after notifying the landlord that he or she is ending the rental agreement. This law was created to protect victims of domestic violence, sexual assault, and stalking. It applies to both private and subsidized housing.

#### **The Law's Purpose**

In most cases, if a tenant moves from an apartment before the lease ends, the tenant can be held responsible for all the rent that would be owed until the lease expires. The new law allows victims of domestic violence, sexual assault, or stalking to terminate the lease early, leave the unit, and no longer be required to pay rent. The victim is responsible for rent for up to 30 days after notifying the landlord that he or she is ending the rental agreement, but not afterwards. The victim is free to move out anytime after giving the landlord the 30-day notice. If the victim leaves, and the landlord re-rents the unit within 30 days after the victim gave the notice, the landlord must prorate the victim's rent.

#### **How the Lease Termination Law Works**

To use this law, a tenant must notify the landlord in writing that he or she is a victim of domestic violence, sexual assault, or stalking, and is ending the rental agreement. Under the law, the tenant must give the landlord at least 30 days' notice before the rental agreement terminates. The tenant must attach to the notice either: (1) a restraining order; (2) an emergency protective order, or (3) a copy of a police report showing that he or she was the victim of domestic violence, sexual assault, or stalking. The restraining order, emergency protective order, or police report must have been issued no more than 60 days before the tenant's request to end the rental agreement.

If there are other members of the household on the lease who are not members of the victim's family, they remain obligated under the lease, even after the victim moves out.

They must continue to pay the full amount of rent due under the lease, including any share of the rent that the victim was paying.

**The security deposit**

The security deposit is treated the same way as if the victim had used the standard procedure for ending a tenancy. The deposit must be returned to the victim within 21 days after the rental agreement ends. The landlord may deduct money from the deposit for unpaid rent, damages beyond ordinary wear and tear, and reasonable cleaning charges.

**EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS**

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

- The family must supply any information that HACA 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 HACA 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.

HACA Policy

Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

- The family must allow HACA 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.

HACA Policy

HACA 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 criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].

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**16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555, Pub.L. 109-162]**

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

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

**HACA Policy**

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

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

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

**HACA Evidence to Support HACA 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 HACA'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 HACA policies. If the grounds for termination are not specified in the regulations or are not in compliance with HACA policies, then the decision of HACA will be overturned.

The hearing officer will issue a written decision to HACA no later than 20 business days after the hearing. The decision will contain the following information:

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

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

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while a HACA 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 HACA 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)]

The notice of denial or termination of assistance for noncitizens must advise the family:

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

##### HACA Policy

HACA 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 HACA 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 HACA, of its decision. When the USCIS notifies HACA of the decision, HACA must notify the family of its right to request an informal hearing.

### HACA Policy

HACA 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)]

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

The informal hearing procedures for applicant families are described below.

#### Informal Hearing Officer

The 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.

#### HACA 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 HACA 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.

#### HACA Policy

HACA 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.

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

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

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

### PART IX: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

#### 16-IX.A. OVERVIEW

The Violence Against Women Act of 2005 (VAWA) provides special protections for victims of domestic violence, dating violence, and stalking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws take precedence over VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located primarily in the following sections: 3-I.C, "Family Breakup and Remaining Member of Tenant Family"; 3-III.G, "Prohibition Against Denial of Assistance to Victims of Domestic Violence, Dating Violence, and Stalking"; 10-I.A, "Allowable Moves"; 10-I.B, "Restrictions on Moves"; 12-II.E, "Terminations Related to Domestic Violence, Dating Violence, or Stalking"; and 12-II.F, "Termination Notice."

#### 16-IX.B. DEFINITIONS [24 CFR 5.2003]

As used in VAWA:

- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

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Inserted: against Women Act of 2005 (VAWA) provides special protections for victims of domestic violence, dating violence, and stalking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws take precedence over VAWA.¶ In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located primarily in the following sections: 3-I.C, "Family Breakup and Remaining Member of Tenant Family"; 3-III.G, "Prohibition

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Inserted: against Denial of Assistance to Victims of Domestic Violence, Dating Violence, and Stalking"; 10-I.A, "Allowable Moves"; 10-I.B, "Restrictions on Moves"; 12-II.E, "Terminations Related to Domestic Violence, Dating Violence, or Stalking"; and 12-II.F, "Termination Notice."¶

16-IX.B. DEFINITIONS [24 CFR 5.2003]¶

As used in VAWA:¶

The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.¶

The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:¶

The length of the relationship¶

The type of relationship¶

The frequency of interaction between the persons involved in the relationship¶

The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.¶

The term *immediate family member* ... [6]

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- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- The term *immediate family member* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or
  - Any other person living in the household of that person and related to that person by blood and marriage.
- The term *stalking* means:
  - To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or
  - To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and
  - In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

16-IX.C. NOTIFICATION [24 CFR 5.2005(a)]

Notification to Public

HACA adopts the following policy to help ensure that all actual and potential beneficiaries of its HCV program are aware of their rights under VAWA.

HACA Policy

HACA will post the following information regarding VAWA in its offices and on its Web site. It will also make the information readily available to anyone who requests it.

**Deleted: PART IX: NOTIFICATION REGARDING APPLICABLE PROVISIONS OF THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005 (VAWA)¶**

The Violence against Women Reauthorization Act of 2005 (VAWA) requires PHAs to inform assisted tenants of their rights under this law, including their right to confidentiality and the limits thereof. Since VAWA provides protections for applicants as well as tenants, PHAs may elect to provide the same information to applicants. VAWA also requires PHAs to inform owners and managers of their obligations under this law 24 CFR 5.2007(3).¶

This part describes the steps that the PHA will take to ensure that all actual and potential beneficiaries of its housing choice voucher program are notified about their rights and that owners and managers are notified of their obligations under VAWA.¶

PHA Policy¶

HACA will post the following information regarding VAWA in its offices and on its Web site. It will also make the information readily available to anyone who requests it.¶

A summary of the rights and protections provided by VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, or stalking (see notices in Exhibits 16-1 and 16-2).¶

The definitions of *domestic violence*, *dating violence*, and *stalking* provided in VAWA (included in Exhibits 16-1 and 16-2).¶

An explanation of the documentation that HACA may require from an individual who claims the protections provided by VAWA (included in Exhibits 16-1 and 16-2).¶

A copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking.¶

A statement of HACA's obligation to keep confidential any information that it receives from a victim unless (a) HACA has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information (included in Exhibits 16-1 and 16-2).¶

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibits 16-1 and 16-2).¶

Contact information for local victim advocacy groups or service providers.¶

A summary of the rights and protections provided by VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, or stalking (see sample notices in Exhibits 16-1 and 16-2)

The definitions of domestic violence, dating violence, and stalking provided in VAWA (included in Exhibits 16-1 and 16-2)

An explanation of the documentation that HACA may require from an individual who claims the protections provided by VAWA (included in Exhibits 16-1 and 16-2)

A copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking

A statement of HACA's obligation to keep confidential any information that it receives from a victim unless (a) HACA has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information (included in Exhibits 16-1 and 16-2)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibits 16-1 and 16-2)

Contact information for local victim advocacy groups or service providers

#### Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]

PHAs are required to inform program participants of their rights under VAWA, including their right to confidentiality and the limits thereof. Since VAWA provides protections for applicants as well as participants, PHAs may elect to provide the same information to applicants.

##### HACA Policy

HACA will provide all applicants with information about VAWA at the time they request an application for housing assistance. HACA will also include information about VAWA in all notices of denial of assistance (see section 3-III.G).

HACA will provide all participants with information about VAWA at the time of admission (see section 5-I.B) and at annual reexamination. HACA will also include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.

The VAWA information provided to applicants and participants will consist of the notice in Exhibit 16-1 and a copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, and Stalking.

#### Notification to Owners and Managers [24 CFR 5.2005(a)(2)]

PHAs are required to notify owners and managers participating in the HCV program of their rights and obligations under VAWA.

##### HACA Policy

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16-IX.A. NOTIFICATION TO PARTICIPANTS [24 CFR 5.2007(3)(i)]  
VAWA requires PHAs to notify HCV program participants of their rights under this law, including their right to confidentiality and the limits thereof.¶  
HACA Policy¶  
HACA will provide all participants with notification of their protections and rights under VAWA at the time of admission and at annual reexamination.¶  
The notice will explain the protections afforded under the law, inform the participant of HACA confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.¶  
HACA will also include in all assistance termination notices a statement explaining assistance termination protection provided by VAWA (see Section 12-II.E).¶

Deleted: 16-IX.B. NOTIFICATION TO APPLICANTS¶

HACA will provide owners and managers with information about their rights and obligations under VAWA when they begin their participation in the HCV program and at least annually thereafter.

The VAWA information provided to owners will consist of the notice in Exhibit 16-2 and a copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, and Stalking.

#### 16-IX.D. DOCUMENTATION [24 CFR 5.2007]

A PHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The PHA may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the PHA's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

- (1) A completed and signed HUD-approved certification form (HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking), which must include the name of the perpetrator
- (2) A federal, state, tribal, territorial, or local police report or court record
- (3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The PHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [VAWA final rule].

#### HACA Policy

Any request for documentation of domestic violence, dating violence, or stalking will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

HACA may, in its discretion, extend the deadline for 10 business days. Any extension granted by HACA will be in writing.

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HACA will provide all applicants with notification of their protections and rights under VAWA at the time they request an application for housing assistance.¶ The notice will explain the protections afforded under the law, inform each applicant of HACA confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.¶ HACA will also include in all notices of denial a statement explaining the protection against denial provided by VAWA (see section 3-III.G).¶

#### 16-IX.C. NOTIFICATION TO OWNERS AND MANAGERS [24 CFR 5.2007(3)(ii)]

VAWA requires PHAs to notify owners and managers of their rights and responsibilities under this law.¶ HACA Policy¶ HACA will inform property owners and managers of their screening and termination responsibilities related to VAWA. HACA may utilize any or all of the following means to notify owners of their VAWA responsibilities.¶ As appropriate in day to day interactions with owners and managers.¶ Inserts in HAP payments, 1099s, owner workshops, classes, orientations, and/or newsletters.¶ Signs in HACA lobby and/or mass mailings which include model VAWA certification forms.¶

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#### Conflicting Documentation [24 CFR 5.2007(e)]

In cases where the PHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the PHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The PHA must honor any court orders issued to protect the victim or to address the distribution of property.

##### HACA Policy

If presented with conflicting certification documents (two or more forms HUD-50066) from members of the same household, HACA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(b)(2) or (3) and by following any HUD guidance on how such determinations should be made.

#### Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]

The PHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b).

##### HACA Policy

If HACA accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, or stalking, HACA will document acceptance of the statement or evidence in the individual's file.

#### Failure to Provide Documentation [24 CFR 5.2007(c)]

In order to deny relief for protection under VAWA, a PHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the PHA may allow, the PHA may deny relief for protection under VAWA.

#### 16-IX.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]

All information provided to the PHA regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence. This means that the PHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

##### HACA Policy



If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, HACA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

## Definitions

As used in VAWA:

The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

The length of the relationship

The type of relationship

The frequency of interaction between the persons involved in the relationship

The term *stalking* means:

To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or

To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and

In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

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The term *immediate family member* means, with respect to a person:

A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or

Any other person living in the household of that person and related to that person by blood and marriage.

A statement of the protection against denial provided by VAWA;

A description of PHA confidentiality requirements

A request that an applicant wishing to claim this protection submit to HACA documentation meeting the specifications below with her or his request for an informal review (see section 16-III.D)

## Documentation

### *Victim Documentation*

#### HACA Policy

An applicant claiming that the cause of an unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence,

or stalking must provide documentation (1) demonstrating the connection between the abuse and the unfavorable history and (2) naming the perpetrator of the abuse. The documentation may consist of any of the following:

A statement signed by the victim certifying that the information provided is true and correct and that it describes bona fide incident(s) of actual or threatened domestic violence, dating violence, or stalking

A police or court record documenting the domestic violence, dating violence, or stalking

Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

against Women Act of 2005 (VAWA) provides for victims of domestic violence, dating violence, and stalking. For general VAWA requirements and PHA policies pertaining to notification, documentation, and confidentiality, see section 16-IX of this plan, where definitions of key VAWA terms are also located.

#### **VAWA Protections against Termination**

VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, or stalking. (*Note:* The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program. So do the limitations discussed under the next heading.)

First, VAWA provides that a PHA may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the PHA, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.314(b)(4)].

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [24 CFR 5.2005(c)(1)].

Third, it provides that criminal activity directly related to domestic violence, dating violence, or stalking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or an immediate family member of the tenant is the actual or threatened victim of the domestic violence, dating violence, or stalking [24 CFR 5.2005(c)(2)].

Fourth, it gives PHAs the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing, the victim of the violence [24 CFR 5.2009(a)].

## 12-II.E. TERMINATING THE ASSISTANCE OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING VICTIMS AND PERPETRATORS [24 CFR 5.2005]

The Violence Against Women Reauthorization Act of 2005 (VAWA) provides that “criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control shall not be a cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant’s family is the victim or threatened victim of that domestic violence, dating violence, or stalking.”

VAWA also gives PHAs the authority to “terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.”

VAWA does not limit the authority of HACA to terminate the assistance of any participant if HACA “can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance.”

The individual claiming victim status must submit the requested documentation within 14 business days after receipt of HACA’s written request or must request an extension within that time frame. HACA may, at its discretion, extend the deadline for 10 business days.

If the individual provides the requested documentation within 14 business days, or any HACA-approved extension, HACA will reconsider its termination decision in light of the documentation.

If the individual does not provide the requested documentation within 14 business days, or any HACA-approved extension, HACA will proceed with termination of the family’s assistance in accordance with applicable law, program regulations, and the policies in this plan.

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against Denial of Assistance to Victims of Domestic Violence, Dating Violence, and Stalking”; 10-I.A, “Allowable Moves”; 10-I.B, “Restrictions on Moves”; 12-II.E, “Terminations Related to Domestic Violence, Dating Violence, or Stalking”; and 12-II.F, “Termination Notice.”

## 16-IX.B. DEFINITIONS [24 CFR 5.2003]

As used in VAWA:

The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members’ lease and occupancy rights are allowed to remain intact.

The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

The length of the relationship

The type of relationship

The frequency of interaction between the persons involved in the relationship

The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

The term *immediate family member* means, with respect to a person:

A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or

Any other person living in the household of that person and related to that person by blood and marriage.

The term *stalking* means:

To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or

To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and

In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.