YOLO COUNTY HOUSING

ADMINISTRATIVE PLAN

FOR THE

HOUSING CHOICE VOUCHER PROGRAM

January 2009

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CHAPTER 1 Overview of the Program and Plan

INTRODUCTION

Yolo County Housing (YCH), formally known as the Housing Authority of the County of Yolo, is a legally constituted Housing Authority under the State Health and Safety Code, with all the rights and obligations thereof. In addition, Yolo County Housing, (YCH) is actually a "suite" of agencies under the YCH umbrella. These entities include New Hope Community Development Corporation, Nueva Esperanza Community Development Corporation and the Dixon Housing Authority, which is managed by the YCH.

YCH receives its funding for the Housing Choice Voucher (HCV) program from the U. S. Department of Housing and Urban Development. YCH is not a federal department or agency. A public housing agency is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. YCH enters into an Annual Contributions Contract with HUD to administer the program requirements on behalf of HUD. YCH must ensure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about YCH and its programs with emphasis on the HCV program. It also contains information about the purpose, intent and use of the plan and guide.

There are three parts to this chapter:

> Part I: Yolo County Housing (YCH). This part includes a description of YCH, its jurisdiction, its programs, and its mission and intent.
>
> Part II: The HCV Program. This part contains information about the Housing Choice Voucher program operation, roles and responsibilities, and partnerships.
>
> Part III: The HCV Administrative Plan. This part discusses the purpose and organization of the plan and its revision requirements.

PART I: YOLO COUNTY HOUSING

1-I.A. OVERVIEW

This part explains the origin of YCH's creation and authorization, the general structure of the organization, and the relationship between the YCH Board and staff.

1-I.B. ORGANIZATION AND STRUCTURE OF YOLO COUNTY HOUSING

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by Yolo County Housing for the jurisdiction of the County of Yolo.

Yolo County Housing has one governing body, the Board of Commissioners. The Board of Commissioners has been charged with establishing policies under which YCH conducts business, ensuring that policies are followed by YCH staff and ensuring that YCH is successful in its mission. The Board has overall responsibility for the YCH budget. The Board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability.

Formal actions of YCH are taken by the Board of Commissioners and entered into the official records of Yolo County Housing.

The principal staff member of YCH is the Executive Director (ED), who is hired and appointed by the Board of Commissioners. The Executive Director is directly responsible for carrying out the policies of YCH and is delegated the responsibility for hiring, training and supervising the remainder of YCH's staff in order to manage the day-to-day operations of YCH to ensure compliance with federal and state laws and directives for the programs managed. In addition, the Executive Director's duties include budgeting and financial planning for the agency.

1-I.C. YCH MISSION

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides guiding direction for developing strategy, defining critical success factors, searching out key opportunities, making resource allocation choices, satisfying clients and stakeholders, and making decisions.

YOLO COUNTY HOUSING MISSION STATEMENT:

> *"Working together to provide quality affordable housing and community development services for all."*

1-I.D. YCH'S PROGRAMS

The following programs are included under this administrative plan:

YCH's administrative plan is applicable to the operation of the Housing Choice Voucher program. Policies in the administrative plan are applicable to families who participate in the Family Self-Sufficiency (FSS) program, the project-based voucher program and the homeownership program. The HCV policies pertain to families who participate in the FSS program, but there is also an FSS action plan which addresses the operation and

guidelines for the operation of the FSS program.

1-I.E. YCH'S COMMITMENT TO ETHICS AND SERVICE

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

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

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

PART II. THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM

The intent of this section is to provide the public and staff with information related to the overall operation of the program. There have been many changes to the program since its inception in 1974 and a brief history of the program will assist the audience in understanding the program.

The United States Housing Act of 1937 (the "Act") is responsible for the birth of federal housing program initiatives. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing developments for low-income residents.

The Housing and Community Development (HCD) Act of 1974 created a new federally assisted housing program – the Section 8 Existing program (also known as the Section 8 Certificate program). The HCD Act represented a significant shift in federal housing strategy from locally owned public housing to privately owned rental housing.

Under the Certificate program, federal housing assistance payments were made directly to private owners of rental housing, where this housing was made available to low-income families. Eligible families were able to select housing in the private rental market. Assuming that the housing met certain basic physical standards of quality ("housing quality standards") and was within certain HUD-established rent limitations ("fair market rents"), the family would be able to receive rental assistance in the housing unit. Family contribution to rent was generally set at 30 percent of the family's adjusted income, with the remainder of the rent paid by the program.

Another unique feature of the Certificate program was that the rental assistance remained with the eligible family, if the family chose to move to another privately-owned rental unit that met program requirements (in contrast to the public housing program where the rental assistance remains with the unit, should the family decide to move). Consequently, the Certificate program was characterized as tenant-based assistance, rather than unit-based assistance.

The Housing and Community Development (HCD) Act of 1987 authorized a new version of tenant-based assistance – the Section 8 Voucher program. The Voucher program was very similar to the Certificate program in that eligible families were able to select housing in the private rental market and receive assistance in that housing unit.

However, the Voucher program permitted families more options in housing selection. Rental housing still had to meet the basic housing quality standards, but there was no fair market rent limitation on rent. In addition, family contribution to rent was not set at a limit of 30 percent of adjusted income. Consequently, depending on the actual rental cost of the unit selected, a family might pay more or less than 30 percent of their adjusted income for rent.

From 1987 through 1999, public housing agencies managed both the Certificate and Voucher tenant-based assistance programs, with separate rules and requirements for each. From 1994 through 1998, HUD published a series of new rules, known as "conforming" rules, to more closely combine and align the two similar housing programs, to the extent permitted by the law.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act – was signed into law. QHWRA eliminated all statutory differences between the Certificate and Voucher tenant-based programs and required that the two programs be merged into a single tenant-based assistance program, now known as the Housing Choice Voucher (HCV) program.

The HCV program was modeled closely on the pre-merger Voucher program. However, unlike the pre-merger Voucher program, the HCV program requires an assisted family to pay at least 30 percent of their total adjusted income for rent.

The transition of assistance from the Certificate and Voucher programs to the new HCV program began in October 1999. By October 2001, all families receiving tenant-based assistance were converted to the HCV program.

1-II.B. HCV PROGRAM BASICS

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

The HCV program offers mobility to eligible families because they may search for suitable housing anywhere in YCH's jurisdiction and may also be eligible to move under portability to other PHAs' jurisdictions.

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

Even though the family is determined to be eligible for the program, the owner has the responsibility of approving the family as a suitable renter. YCH continues to make payments to the owner as long as the family is eligible and the housing unit continues to qualify under the program.

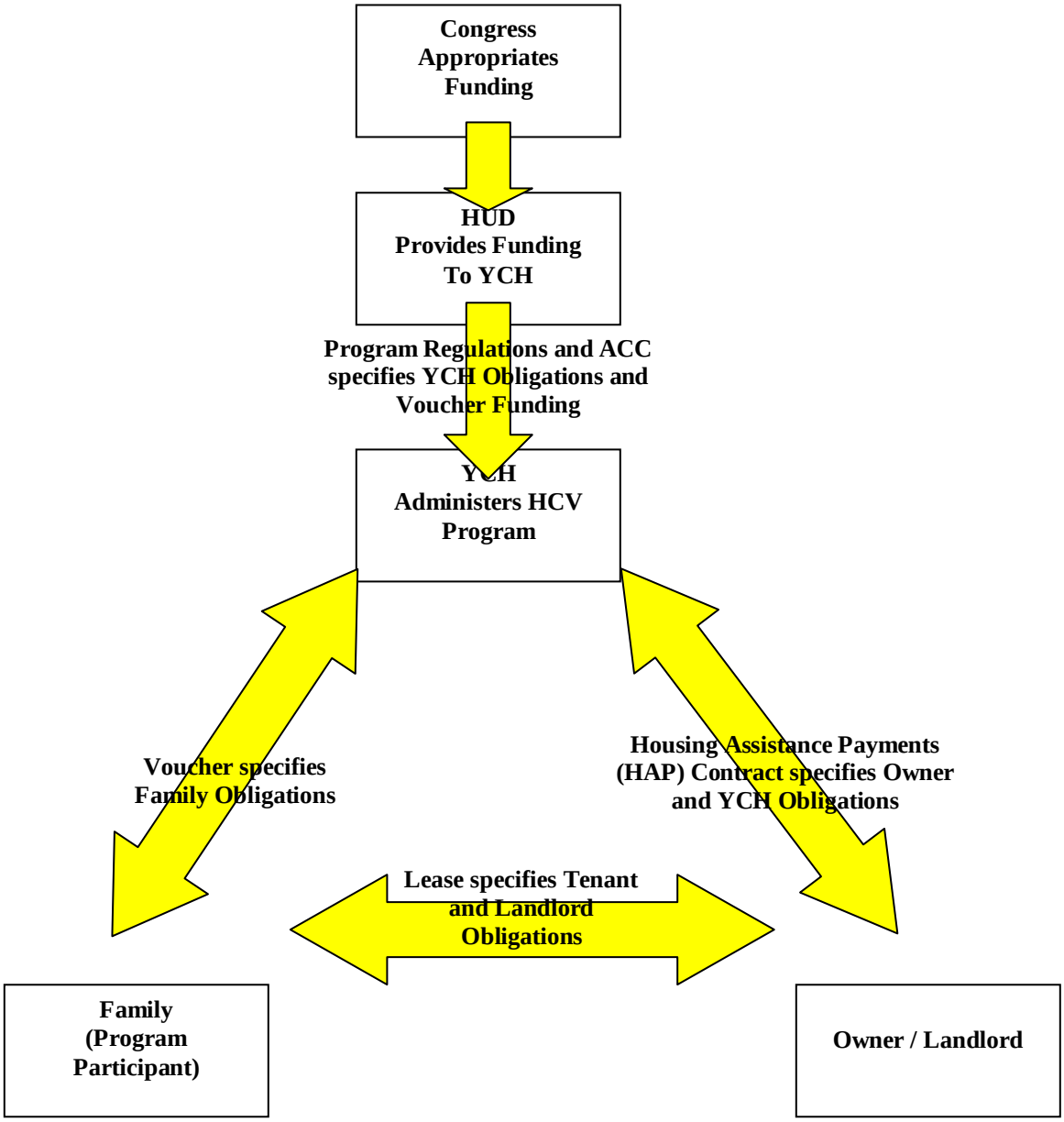
1-II.C. THE HCV PARTNERSHIPS

To administer the HCV program, YCH enters into a contractual relationship with the Housing and Urban Development Department (HUD). YCH also enters into contractual relationships with the assisted family and the owner or landlord of the housing unit.

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

The chart below illustrates key aspects of these relationships:

The HCV Relationships:



What does HUD do?

HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices and other guidance to implement HCV housing program legislation passed by Congress;

- Allocate HCV program funds to Public Housing Authorities (PHAs);
- Provide technical assistance to PHAs on interpreting and applying HCV program requirements;
- Monitor YCH compliance with HCV program requirements and YCH performance in program administration.
- Monitor YCH compliance with HCV program requirements and YCH performance in program administration.

What does YCH do?

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

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

What does the Owner do?

The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine if they will be good renters.
    - YCH can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.
    - The owner should consider family background factors such as rent and bill-paying history; history of caring for property; respecting the rights of others to peaceful enjoyment of the property; compliance

with essential conditions of tenancy; whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.

- Comply with the terms of the Housing Assistance Payments contract, executed with YCH;
- Comply with all applicable fair housing laws and discriminate against no one;
- Maintain the housing unit by making necessary repairs in a timely manner;
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

What does the Family do?

The family has the following responsibilities:

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

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

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination

- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program

PART III. THE HCV ADMINISTRATIVE PLAN

1-III.A. OVERVIEW AND PURPOSE OF THE PLAN

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

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

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

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

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

HUD regulations contain a list of what must be included in the administrative plan. YCH's administrative plan must cover YCH policies on the following subjects:

- Selection and admission of applicants from YCH waiting list, including any YCH admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and re-opening YCH waiting list (Chapter 4);
- Issuing or denying vouchers, including YCH policy governing the voucher term and any extensions or suspensions of the voucher term. 'Suspension' means stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If YCH decides to allow extensions or suspensions of the voucher term, the YCH administrative plan must describe how YCH .determines whether to grant extensions or suspensions, and how YCH determines the length of any extension or suspension (Chapter 5);
- Any special rules for use of available funds when HUD provides funding to YCH for a special purpose (e.g., desegregation), including funding for specified families or a specified category of families (Chapter 4);
- Occupancy policies, including definition of what group of persons may qualify as a 'family', definition of when a family is considered to be 'continuously assisted'; standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with 982.553 (Chapters 3 and 13);

- Encouraging participation by owners of suitable units located outside areas of low income or minority concentration (Chapter 10);
- Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit (Chapter 2);
- Providing information about a family to prospective owners (Chapters 3 and 10);
- Disapproval of owners (Chapter 13);
- Subsidy standards (Chapter 5);
- Family absence from the dwelling unit (Chapter 12);
- How to determine who remains in the program if a family breaks up (Chapter 5);
- Informal review procedures for applicants (Chapter 14);
- Informal hearing procedures for participants (Chapter 13);
- The process for establishing and revising voucher payment standards (Chapter 17);
- The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract) (Chapter 8);
- Special policies concerning special housing types in the program (e.g., use of shared housing) (Chapter 15);
- Policies concerning payment by a family to YCH of amounts the family owes YCH (Chapter 18);
- Interim redeterminations of family income and composition (Chapter 11);
- Restrictions, if any, on the number of moves by a participant family (Chapter 12);
- Approval by the Board of Commissioners or other authorized officials to charge the administrative fee reserve (Chapter 17);
- Procedural guidelines and performance standards for conducting required housing quality standards inspections (Chapter 8); and
- YCH screening of applicants for family behavior or suitability for tenancy (Chapter 3).

Mandatory vs. Discretionary Policy

HUD makes a distinction between:

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

HUD expects YCH to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies YCH has adopted. YCH's administrative plan is the foundation of those policies and procedures. HUD’s directions require YCH to make policy choices that provide guidance to staff and consistency to

program applicants and participants.

Following HUD guidance, even though it is not mandatory, provides YCH with a “safe harbor”. HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. If YCH adopts an alternative strategy, it must make its own determination that the alternative approach is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than HUD’s safe harbor, but YCH would carefully think through those decisions.

1-III.C. ORGANIZATION OF THE PLAN

The Plan is organized to provide information to users in particular areas of operation.

1-III.D. UPDATING AND REVISING THE PLAN

YCH will revise this administrative plan as needed to comply with changes in HUD regulations. The Board of Commissioners must approve the original plan and any changes, and a copy must be sent to HUD.

YCH Policy

YCH will review and update the plan every two years, and more often if needed, to reflect changes in regulations, YCH operations, or when needed to ensure staff consistency in operation.

Chapter 2 FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

This chapter explains the laws and HUD regulations requiring housing agencies to affirmatively further civil rights and fair housing in all federally-assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and processes as outlined in the YCH 504 Plan and the YCH Limited English Proficiency Plan. The responsibility to further nondiscrimination pertains to all areas of YCH's housing choice voucher (HCV) operations.

This chapter describes HUD regulations and YCH policies related to these topics in three parts:

Part I: Nondiscrimination.

Part II: Policies Related to Persons with Disabilities.

Part III: Prohibition of Discrimination against Limited English Proficiency Persons.

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

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

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- Section 12921 of the California Government Code
- When more than one civil rights law applies to a situation, the laws will be read and applied together.
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

2-I.B. NONDISCRIMINATION

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

YCH shall not discriminate against any person because of race, color, sex, religion, marital or familial status, age, disability, medical condition, national origin, ancestry, veteran status and sexual orientation, or other legally protected status.

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

YCH will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the housing choice voucher program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program

- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or participant toward or away from a particular area based on any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class

Providing Information to Families and Owners

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

Discrimination Complaints

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

YCH Policy

Applicants or participants who believe that they have been subject to unlawful discrimination may notify YCH in writing.

YCH will attempt to remedy discrimination complaints made against YCH.

YCH will refer clients with Fair Housing complaints to Legal Services of Northern California (LSNC) as well as to HUD and the California Department of Fair Employment and Housing who claim that illegal discrimination has prevented the family from leasing a suitable unit or gaining access to any services of the Housing Choice Voucher program.

PART II: POLICIES RELATED TO PERSONS WITH DISABIILTIES

2-II.A. OVERVIEW

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

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

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

YCH has developed an agency-wide 504 Plan. The 504 Plan includes the 504 Compliance and Transition Plan and the YCH Reasonable Accommodations Policy and Procedure. The 504 Plan is reviewed and updated annually to assure regulatory compliance.

The responsible official for implementation and compliance with the 504 Plan and the processing of Reasonable Accommodation Requests is the YCH Section 504 Coordinator.

These policies and plans can be reviewed on the YCH website at www.ycha.org or you can request a copy from the YCH Section 504 Coordinator by contacting the YCH Administration Office at 530-662-5428.

PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

2-III.A. OVERVIEW

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the HCV program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. The YCH Limited English Proficiency Plan incorporates the Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal Register* and the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published January 22, 2007 in the *Federal Register*

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

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

The responsible official for implementation of the Limited English Proficiency Plan is the YCH Section 504 Coordinator.

The YCH LEP Plan can be reviewed on the YCH website at www.ycha.org or you can request a copy from the YCH Section 504 Coordinator by contacting the YCH Administration Office at 530-662-5428.

2-III.B. VIOLENCE AGAINST WOMEN ACT (VAWA)

VIOLENCE AGAINST WOMEN ACT (VAWA)

No applicant for the Housing Choice Voucher (HCV) program who has been a victim of domestic violence, dating violence, or stalking shall be denied admission into the program if they are otherwise qualified.

An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence, and shall not be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence.

YCH may terminate the assistance to remove a lawful occupant or tenant who engages in criminal acts or threatened acts of violence or stalking to family members or others without terminating the assistance or evicting victimized lawful occupants.

There is no limitation on the ability of YCH to terminate assistance for other good cause unrelated to the incident or incidents of domestic violence, dating violence or stalking, other than the victim may not be subject to a “more demanding standard” than non-victims.

There is no prohibition on YCH terminating assistance if it “can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant’s (victim’s) assistance is not terminated.”

Any protections provided by law which give greater protection to the victim are not superseded by these provisions.

EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3, 25.104, and 100.201]

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

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

The phrase "physical or mental impairment" includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

The term "physical or mental impairment" includes, but is not limited to such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

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

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

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

The definition of a person with disabilities does not include:

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

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

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

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

CHAPTER 3 Eligibility

INTRODUCTION

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

To be eligible for the HCV program the applicant family must:

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

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and YCH definitions of family and household members and explains initial and ongoing eligibility issues related to these members.

Part II: Basic Eligibility Criteria. This part discusses income eligibility, and rules regarding citizenship, social security numbers, and family consent.

Part III: Denial of Assistance. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause YCH to deny assistance.

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

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

3-I.B. FAMILY AND HOUSEHOLD

[24 CFR 982.201(c), HUD-50058 IB, p. 13]

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

Family

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

> YCH Policy
>
> Each family must identify the individuals to be included in the family at the time of application, and must update this information if the family's composition changes in writing to YCH within thirty (30) days of the change in family composition.
>
> To qualify as a family when proposed family members are not related by blood, marriage, adoption, or other operation of law, YCH will require applicants to demonstrate that the individuals have lived together previously, or certify that each individual's income and other resources will be available to meet the needs of the family.
>
> While the family is on the waiting list, the family must immediately inform YCH of changes in contact information, including current residence, mailing address, and phone number. The family must also report changes in household composition or circumstances and any significant changes in income, which could affect the applicant's eligibility, the size or type of unit needed, or the applicant's priority for admission. All changes must be submitted in writing.

Household

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

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

Family Break-up [24 CFR 982.315]

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

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

When a family currently receiving housing assistance breaks up, the assistance generally remains with the family members who remain in the assisted unit. If family members are forced to leave the unit because of actual or threatened physical violence against family members by a spouse or other members of the household, YCH may terminate the HAP contract for the original assisted unit and transfer the assistance to the family members forced to leave. The actual or threatened physical violence must be documented by a qualified third party, such as a representative of the law enforcement or judicial system. This third party must verify the circumstances and the need for family members to leave the assisted unit.

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, YCH will determine which family retains their placement on the waiting list, or will continue to receive assistance taking into consideration the following factors:

- The interest of any minor children, including custody arrangements,
- The interest of any ill, elderly, or disabled family members,
- Any possible risks to family members as a result of domestic violence or criminal activity, and
- The recommendations of social service professionals.

In some cases, YCH may assign the Voucher to the head of household with the lesser adjusted income (i.e. gross family contributions).

Remaining Member of a Tenant Family [24 CFR 5.403]

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

If dependents are the only “remaining members of a tenant family” and there is no adult family member able to assume the responsibilities of the head of household, YCH will

terminate the housing assistance. Minor children are not bound by contract law and are unable to enter into a binding contract (i.e. HCV Voucher) with YCH, nor into a Lease with a property owner or landlord. YCH will recognize the rights of emancipated minors with respect to contracts. In the case where the family breaks up and there is an emancipated minor in the household, the emancipated minor is eligible to be awarded the Voucher.

3-I.D. HEAD OF HOUSEHOLD

[24 CFR 5.504(b)]

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

YCH Policy

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

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

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

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

Spouse means the marriage or domestic partner of the head of household.

YCH Policy

The term “spouse” does not apply to friends, roommates, or significant others who are not marriage or domestic partners. A minor who is emancipated under state law may be designated as a spouse.

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

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

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

3-I.F. DEPENDENT

[24 CFR 5.603]

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

described in Chapter 6, Income and Subsidy Determination.

Joint Custody of Dependents

YCH Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family fifty-one percent (51%) or more of the time.

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

3-I.G. FULL-TIME STUDENT

[24 CFR 5.603, HCV GB p. 5-29]

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

Identifying each FTS is important because:

- Each family member that is an FTS, other than the head, spouse, or co-head, qualifies the family for a dependent deduction and
- The income of such an FTS is treated differently from the income of other family members.

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

Elderly Persons

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

Near-Elderly Persons

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

Elderly Family

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

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY

[24 CFR 5.403]

Persons with Disabilities

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

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

Disabled Family

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

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

3-I.J. GUESTS

[24 CFR 5.100]

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

> <u>YCH Policy</u>
>
> A guest can remain in the assisted unit no longer than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period.
>
> Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the assisted household more than fifty-percent-one (51%) of the time, are not subject to the time limitations of guests as described above.
>
> A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 40 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

3.I.K. FOSTER CHILDREN AND FOSTER ADULTS

Foster adults are usually persons with disabilities, unrelated to the tenant family, who

are unable to live alone [24 CFR 5.609].

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

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

YCH Policy

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

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

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

3-I.L. ABSENT FAMILY MEMBERS

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

Definitions of Temporarily and Permanently Absent

YCH Policy

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

In the case where the household member is the spouse, legal separation, filing for dissolution of marriage, annulment, or other verification acceptable to YCH will be sufficient proof that the family member is no longer a member of the household. In the case of a minor child, proof that legal custody has been granted to another will be proof that the child is no longer in the home.

Absent Students

YCH Policy

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

separate household.

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

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

YCH Policy

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

Absent Head, Spouse, or Co-head

YCH Policy

An employed head, spouse, or co-head absent from the unit more than 90 consecutive days due to employment may continue to be considered a family member.

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

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

YCH Policy

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

Return of Permanently Absent Family Members

YCH Policy

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

3-I.M. LIVE-IN AIDE

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

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

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

YCH encourages families to care of their elderly and disabled members. YCH will allow family caretakers to be included as part of the assisted household, granting the family a unit with an additional bedroom, when appropriate. The family caretaker's income is included in the household's income determination and subsidy standard. For example, a family member's income from an In-Home Supportive Services program is included as household income, as that income is not paid by the disabled person as a medical expense.

YCH presumes that a relative is a household member, not a live-in aide. For a relative to qualify as a live-in aide, the tenant must show that the care provided is an arms-length transaction. To do this, the family must certify that:

- The person is capable of providing the required care for the tenant;
- The person has never been a member of the household while the family was receiving housing assistance, nor has the person made regular financial contributions to the household while the family was receiving housing assistance;
- There is no other reason for the person to live in the unit other than to provide care for the disabled tenant; and
- The person intends to maintain his or her finances separately and live independently from the disabled tenant's household, providing care purely is an arms-length transaction.

YCH shall apply a preponderance of the evidence standard in determining whether the family has met its burden of proof. If YCH denies the family member live-in aide status, YCH will notify the family in writing. The family may request an informal hearing within fifteen (15) days of the date of the letter.

Upon YCH's determination that a relative is a family member and, therefore, does not qualify as a live-in aide, the family may request to add the person as a household member.

The requirements regarding relatives as live-in aides is continuously in effect. YCH may determine that a relative, who has taken the place of a live-in aide, does not meet the definition of a live-in aide and will be counted as a household member. If YCH makes such a determination, it will notify the tenant in writing and of the process by which the decision may be appealed.

A relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

<u>YCH Policy</u>

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

In addition, the family and live-in aide may be required to answer the following questions in writing:

1. Does the live-in aid have any relation to the tenant?
2. Is the live-in aide obligated to support the tenant?
3. Does the live-in aide contribute toward the rent and utility costs?
4. If the individual(s) was not the live-in aide, would s/he be living with the tenant?
5. Does the individual(s) currently owe rent or other amounts to any PHA?
6. Does the individual(s) have any violent crime, sex offences or drug related arrests or convictions?

YCH will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 982.316(b)]:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The person commits drug-related criminal activity or violent criminal activity;
- The person currently owes rent or other amounts to YCH or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act;
- The person has been convicted of manufacturing or producing methamphetamines. If, during the time the live-in aide is residing with the family and s/he is convicted of manufacturing or producing methamphetamines on the premises of an assisted housing unit, the approval of the live-in aide will be withdrawn. “Premises” is defined as the building or complex in which the dwelling unit is located, including common areas and grounds; or
- The person is a convicted sex offender.

Within thirty (30) days of receiving a request for a live-in aide, including all required documentation related to the request, YCH will notify the family of its decision in writing.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

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

Types of Low-Income Families

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

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

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

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

Using Income Limits for Eligibility [24 CFR 982.201]

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

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

  <u>YCH Policy</u>

  YCH will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were issued a voucher by YCH. A brief interruption in assistance does not constitute a break in the "continuously assisted" definition for Special Admission. A brief interruption is defined only as an interruption that is not under the control of the applicant and does not exceed 30 days in length. For example, continued assistance to residents of a Section 8 unit after the HAP contract expires or is terminated for owner breach of contract may cause a short delay in arranging for continued assistance for project residents.

- A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2

(multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173

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

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

Using Income Limits for Targeting [24 CFR 982.201]

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

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

3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS

[24 CFR 5, Subpart E]

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

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

Declaration [24 CFR 5.508]

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

U.S. Citizens and Nationals

In general, citizens and nationals are required to submit only a signed declaration that

claims their status. However, HUD regulations permit YCH to request additional documentation of their status, such as a passport.

YCH Policy

Family members who declare citizenship or national status will be required to provide documentation for verification purposes.

Eligible Noncitizens

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

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

Ineligible Noncitizens

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

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

Mixed Families

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

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

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

the individual or at least one family member is eligible [24 CFR 5.512(a)].

YCH Policy

YCH will not provide assistance to a family before the verification of at least one family member.

When YCH determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within fifteen (15) calendar days of the determination.

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

Informal hearing procedures are contained in Chapter 17.

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

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

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

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

YCH Policy

YCH will verify the status of applicants at the time other eligibility factors are determined.

3-II.C. SOCIAL SECURITY NUMBERS

[24 CFR 5.216 and 5.218]

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

If a new member who is at least six years of age is added to the family, the new

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

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

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION

[24 CFR 5.230, HCV GB, p. 5-13]

HUD requires each adult family member, and the head of household, spouse, or co-head, regardless of age, to sign form HUD-9886, Authorization for the Release of Information - Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 – Verification – provides detailed information concerning the consent forms and verification requirements.

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

3-II.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION

[24 CFR 5.612 and FR Notice 4/10/06]

Section 327 of Public Law 109-115 and the implementing regulation at 24 CFR 5.612 established new restrictions on the eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, and does not have a dependent child, the student's eligibility must be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents must be income eligible for the student to receive HCV assistance. If, however, a student in these circumstances is determined independent from his/her parents in accordance with PHA policy, the income of the student's parents will not be considered in determining the student's eligibility.

The new law does not apply to students who reside with parents who are applying to receive HCV assistance. It is limited to students who are seeking assistance on their own, separately from their parents.

Definitions

In determining whether and how the new eligibility restrictions apply to a student, the PHA will rely on the following definitions [FR 4/10/06, p. 18148].

Dependent Child

In the context of the student eligibility restrictions, dependent child means a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of dependent in 24 CFR 5.603, which states that the dependent must be a member of the assisted family, other than the head of household or spouse, who is under eighteen (18) years of age, or is a person with a disability, or is a full-time student. Foster children and foster adults are not considered dependents.

Independent Student

YCH Policy

YCH will consider a student "independent" from his or her parents and the parents' income will not be considered when determining the student's eligibility if the following four criteria are all met:

- The individual is of legal contract age under state law.
- The individual has established a household separate from his/her parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education's definition of independent student.
    - To be considered an *independent student* according to the Department of Education, a student must meet one or more of the following criteria:
        - Be at least 24 years old by December 31st of the award year for which aid is sought
        - Be an orphan or a ward of the court through the age of 18
        - Be a veteran of the U.S. Armed Forces
        - Have one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent)
        - Be a graduate or professional student
        - Be married
- The individual was not claimed as a dependent by his/her parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax forms.
- The individual provides a certification of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

YCH will verify that a student meets the above criteria in accordance with the policies in Section 7-II.E.

Institution of Higher Education

Yolo County Housing will use the statutory definition under section 102 of the Higher Education Act of 1965 to determine whether a student is attending an *institution of higher education* (see Exhibit 3-2).

Parents

YCH Policy

For purposes of student eligibility restrictions, the definition of parents includes biological or adoptive parents, stepparents (as long as they are currently married to the biological or adoptive parent), and guardians (e.g., grandparents, aunt/uncle, godparents, etc).

Veteran

YCH Policy

A veteran is a person who served in the active military, naval, or air service and who was discharged or released from such service under conditions other than dishonorable.

Determining Student Eligibility

If a student is applying for assistance on his/her own, apart from his/her parents, Yolo County Housing will determine whether the student is subject to the eligibility restrictions contained in 24 CFR 5.612. If the student is subject to those restrictions, YCH must ensure that: (1) the student is individually eligible for the program, (2) either the student is independent from his/her parents or the student's parents are income eligible for the program, and (3) the "family" with which the student is applying is collectively eligible for the program.

YCH Policy

For any student who is subject to the 24 CFR 5.612 restrictions, YCH will:

- Follow its usual policies in determining whether the student individually and the student's "family" collectively are eligible for the program
- Determine whether the student is independent from his/her parents in accordance with the definition of independent student in this section
- Follow the policies below, if applicable, in determining whether the student's parents are income eligible for the program

If YCH determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, YCH will send a notice of denial in accordance with the policies in Section 3-III.F, and the applicant family will have the right to request an informal administrative review in accordance with the policies in Section 14-I.B.

Determining Parental Income Eligibility

YCH Policy

For any student who is subject to the 24 CFR 5.612 restrictions and who does not satisfy the definition of an independent student in this section, YCH will determine the income eligibility of the student's parents as follows:

If the student's parents are married and living together, YCH will obtain a joint income declaration and certification of joint income from the parents:

- If the student's parent is widowed or single, YCH will obtain an income

declaration and certification of income from that parent.

- If the student's parents are divorced or separated, YCH will obtain an income declaration and certification of income from each parent.
- If the student has been living with one of his/her parents and has not had contact with or does not know where to contact his/her other parent, YCH will require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. YCH will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

In determining the income eligibility of the student's parents, YCH will use the income limits for the jurisdiction in which the parents live.

PART III: DENIAL OF ASSISTANCE

3-III.A. OVERVIEW

A family that does not meet the following eligibility criteria discussed in Parts I and II, must be denied assistance.

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

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

Denial of assistance includes any of the following:

- Not placing the family's name on the waiting list,
- Denying the issuance of a voucher or withdrawing the voucher,
- Not approving a request for tenancy approval (RFTA) or refusing to enter into a HAP contract, or
- Refusing to process a request for or to provide assistance under portability procedures.

Prohibited Reasons for Denial of Assistance [24 CFR 982.202(b), Pub.L. 109-162]

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

- Age, disability, race, color, religion, sex, or national origin. (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
- Where a family lives prior to admission to the program
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside YCH's jurisdiction (See Chapter 12, Moving with Continued Assistance and Portability.)
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock
- Whether the family includes children
- Whether a family decides to participate in the family self-sufficiency program
- Whether or not a qualified applicant has been a victim of domestic violence, dating violence, or stalking (VAWA)

3-III.B. MANDATORY DENIAL OF ASSISTANCE

[24 CFR 982.553(a)]

HUD requires YCH to deny assistance in the following cases:

- Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity. HUD permits but does not require YCH to admit an otherwise-eligible family if the household member has completed a YCH-approved drug rehabilitation program or the circumstances

which led to eviction no longer exist (e.g. the person involved in the criminal activity no longer lives in the household).

YCH Policy

YCH will admit an otherwise eligible family who was evicted from federally-assisted housing within the past three (3) years for drug-related criminal activity, if YCH is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program as approved by YCH, or the person who committed the crime, is no longer living in the household.

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

  YCH Policy

  Currently engaged in is defined as any use of illegal drugs during the previous nine months.

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

  YCH Policy

  In determining reasonable cause, YCH will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. YCH will also consider evidence from treatment providers or community-based organizations providing services to household members.

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

3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE

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

Criminal Activity [24 CFR 982.553]

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

YCH Policy

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

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

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

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

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

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

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

- Conviction for drug-related or violent criminal activity within the past three (3) years.
- Any arrests for drug-related or violent criminal activity within the past three (3) years.
- Any record of eviction from public or privately-owned housing as a result of criminal activity within the past three (3) years.

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

Previous Behavior in Assisted Housing [24 CFR 982.552(c)]

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

<u>YCH Policy</u>

YCH will not deny assistance to an otherwise eligible family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program or the Welfare to Work voucher program.

YCH will deny assistance to an applicant family if:

- The family does not provide information that YCH or HUD determines is necessary in the administration of the program.
- The family does not provide complete and true information to YCH.
- Any public housing agency has ever terminated assistance under the program for any member of the family within the last three years.
- Any family member has been evicted from federally-assisted housing in

the last three years.

- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family owes rent or other amounts to any public housing agency in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs, unless the family repays the full amount of the debt prior to being selected from the waiting list.
- If the family has not reimbursed any public housing agency for amounts the agency paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.
- The family has breached the terms of a repayment agreement entered into with YCH, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.
- A family member has engaged in or threatened violent or abusive behavior toward YCH personnel.
    - *Abusive or violent behavior towards YCH personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate or insult may be considered abusive or violent behavior.
    - *Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

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

3-III.D. SCREENING

Screening for Eligibility

Public housing agencies are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the HCV program. This authority assists the PHA in complying with HUD requirements and YCH 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 YCH must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

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

If YCH proposes to deny assistance based on a criminal record or on lifetime sex

offender registration information, YCH 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]

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

YCH Policy

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

YCH Policy

Upon receipt of a Request for Tenancy Approval (RFTA) by YCH, owners may request and YCH will provide specific information about the family being considered for tenancy. YCH will provide the following information:

- The family's current address as provided by the Applicant; and
- The name and address, if known, of the owner/landlord of the family's current and prior places of residence. YCH will only respond to specific questions asked by owners and only when YCH has documentation to confirm the accuracy of the information being provided. Information may be released if contained in the following types of documents: (1) Notices of lease violation or termination; (2) Unit inspections; (3) Owner claims for unpaid tenant rent and damages; (4) Records of illegal drug activities as reported in newspapers or other public records; (5) Tenant rent accounts (for tenants of YCH managed housing units)

Examples of questions that an owner might ask and to which YCH will respond include:

Q: Has a lease ever been terminated because the prospective tenant failed to pay the rent?

A: Yes. YCH has a Notice of Termination on file for unpaid rent.

Q: Has another owner ever claimed damages caused by the prospective tenant? If so, did the tenant pay for those damages?

A: Yes. YCH has a 1993 Claim for Damages on file, and yes, the tenant has paid for those damages.

Questions to which the answers may not be found in the above-mentioned documentation, will be reviewed by YCH legal counsel prior to responding.

3-III.E. CRITERIA FOR DECIDING TO DENY ASSISTANCE

Evidence [24 CFR 982.553(c)]

YCH Policy

YCH will use the concept of the preponderance of the evidence as the standard for making all admission decisions.

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

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

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

YCH Policy

YCH will consider the following factors when making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents;
- The effects that denial of assistance may have on other members of the family who were not involved in the action or failure;
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities;
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future;
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully; and
    - YCH will require the applicant to submit evidence of the household

member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

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

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

YCH Policy

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

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

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

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

YCH Policy

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

3-III.F. NOTICE OF ELIGIBILITY OR DENIAL

Eligible for Assistance

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

If YCH determines that a family is not eligible for the program for any reason, the family must be notified promptly. The notice must describe:

- The reasons for which assistance has been denied
- The family's right to an informal review, and
- The process for obtaining the informal review [24 CFR 982.554 (a)]. See

Chapter 17, Program Administration, for informal review policies and procedures. If a criminal record is the basis of the denial, a copy of the record must accompany the notice. In addition, a copy of the criminal record must be provided to the subject of the record whenever possible. [24 CFR 982.553(d)].

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

YCH Policy
The family will be notified of a decision to deny assistance in writing within fifteen (15) calendar days of the determination.

3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING

[Pub.L. 109-162]

The Violence against Women Reauthorization Act of 2005 (VAWA) prohibits denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking. Specifically, Section 606(4)(A) of VAWA adds the following provision to Section 8 of the U.S. Housing Act of 1937, which lists contract provisions and requirements for the Housing Choice Voucher program:

- That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate reason for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission.

Definitions:

As used in VAWA:

- 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.
- 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.

Notification and Victim Documentation

YCH Policy

YCH acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history that would warrant denial under YCH's policies. Therefore, if YCH makes a determination to deny admission to an applicant family, YCH will include in its notice of denial a statement of the protection against denial provided by VAWA and will offer the applicant the opportunity to provide documentation affirming that the cause of the unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, or stalking.

The documentation must include two elements:

- A signed statement by the victim that provides the name of the perpetrator and certifies that the incidents in question are bona fide incidents of actual or threatened domestic violence, dating violence, or stalking, and one of the following:
  - A police or court record documenting the actual or threatened abuse, or
  - A statement signed by an employee, agent, or volunteer of a victim service provider; an attorney; a medical professional; or another knowledgeable professional from whom the victim has sought assistance in addressing the actual or threatened abuse. The professional must attest under penalty of perjury that the incidents in question are bona fide incidents of abuse, and the victim must sign or attest to the statement.

The applicant must submit the required documentation with her or his request for an informal review (see section 14-I.B) or must request an extension in writing at that time. If the applicant so requests, YCH will grant an extension of fifteen (15) calendar 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 YCH determines the

family is eligible for assistance, no informal review will be scheduled and YCH will proceed with admission of the applicant family.

Perpetrator Removal or Documentation of Rehabilitation

YCH Policy

In cases where an applicant family includes the perpetrator as well as the victim of domestic violence, dating violence, or stalking, YCH will proceed as above but will require, in addition, either: (a) that the perpetrator be removed from the applicant household and not reside in the assisted housing unit; or (b) that the family provide documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment as approved by YCH.

If the family elects the second option, 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. This additional documentation must be submitted within the same time frame as the documentation required above from the victim.

YCH Confidentiality Requirements

All information provided to YCH 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.

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

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

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:
  - Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; *or*
  - In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.
- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C.6001(8)], which defines developmental disability in functional terms as:
- A severe, chronic disability of a person 5 years of age or older which:
  - Is attributable to a mental or physical impairment or combination of mental and physical impairments;
  - Is manifested before the person attains age twenty-two;
  - Is likely to continue indefinitely;
  - Results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and responsive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; *and*
  - Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated; except that such term, when applied to infants and young children, means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.
- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

- People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.
- A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.
- For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term person with disabilities refers to an individual with handicaps.

Individual with Handicaps [24 CFR 8.3]

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

- Physical or mental impairment includes:
    - Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymychtic; skin; and endocrine; or
    - Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.
- *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
- *Is regarded as having an impairment* means:
    - Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;
    - Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or
    - Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.

EXHIBIT 3-2: DEFINITION OF INSTITUTION OF HIGHER EDUCATION

[20 U.S.C. 1001 and 1002]

Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance; Notice [Federal Register, April 10, 2006]

Institution of Higher Education shall have the meaning given this term in the Higher Education Act of 1965 in 20 U.S.C. 1001 and 1002.

Definition of "Institution of Higher Education" From 20 U.S.C. 1001

(a) Institution of higher education. For purposes of this chapter, other than subchapter IV and part C of subchapter I of Chapter 34 of Title 42, the term ''institution of higher education'' means an educational institution in any State that:
   (1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;
   (2) Is legally authorized within such State to provide a program of education beyond secondary education;
   (3) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a two (2) year program that is acceptable for full credit toward such a degree;
   (4) Is a public or other nonprofit institution; and
   (5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre-accreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(b) Additional institutions included. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term ''institution of higher education'' also includes —
   (1) Any school that provides not less than a one (1) year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a) of this section; and
   (2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) List of accrediting agencies. For purposes of this section and section 1002 of this title, the Secretary shall publish a list of nationally recognized accrediting agencies or associations that the Secretary determines, pursuant to subpart 2 of part G of subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.

Definition of "Institution of Higher Education" From 20 U.S.C. 1002

(a) Definition of institution of higher education for purposes of student assistance programs
   (1) Inclusion of additional institutions. Subject to paragraphs (2) through (4) of this subsection, the term ''institution of higher education'' for purposes of subchapter

IV of this chapter and part C of subchapter I of chapter 34 of title 42 includes, in addition to the institutions covered by the definition in section 1001 of this title —

(A) A proprietary institution of higher education (as defined in subsection (b) of this section);

(B) A postsecondary vocational institution (as defined in subsection (c) of this section); and

(C) Only for the purposes of part B of subchapter IV of this chapter, an institution outside the United States that is comparable to an institution of higher education as defined in section 1001 of this title and that has been approved by the Secretary for the purpose of part B of subchapter IV of this chapter.

(2) Institutions outside the United States

(A) In general. For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1001 of this title (except that a graduate medical school, or a veterinary school, located outside the United States shall not be required to meet the requirements of section 1001 (a)(4) of this title). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of subchapter IV of this chapter unless—

(i) In the case of a graduate medical school located outside the United States—

(I)(aa) At least sixty (60) percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 1091(a)(5) of this title in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; and

(bb) At least sixty (60) percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; or

(II) The institution has a clinical training program that was approved by a State as of January 1st, 1992; or

(ii) In the case of a veterinary school located outside the United States that does not meet the requirements of section 1001(a)(4) of this title, the institution's students complete their clinical training at an approved veterinary school located in the United States.

(B) Advisory panel

(i) In general. For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall—

(I) Evaluate the standards of accreditation applied to applicant foreign

medical schools; and

(II) Determine the comparability of those standards to standards for accreditation applied to United States medical schools.

(ii) Special rule if the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1001 of this title.

(C) Failure to release information. The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part B of subchapter IV of this chapter.

(D) Special rule. If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.

(3) Limitations based on course of study or enrollment. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

(A) Offers more than fifty (50) percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 2471 (4)(C) of this title;

(B) Enrolls fifty (50) percent or more of the institution's students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

(C) Has a student enrollment in which more than twenty-five (25) percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate's degree or a postsecondary diploma, respectively; or

(D) Has a student enrollment in which more than fifty (50) percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree or an associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma

or its recognized equivalent.

(4) Limitations based on management. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if —

(A) The institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or

(B) The institution, the institution's owner, or the institution's chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(5) Certification. The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of subchapter IV of this chapter.

(6) Loss of eligibility. An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 as a result of an action pursuant to part G of subchapter IV of this chapter.

(b) Proprietary institution of higher education

(1) Principal criteria. For the purpose of this section, the term ''proprietary institution of higher education'' means a school that—

(A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) Meets the requirements of paragraphs (1) and (2) of section 1001 (a) of this title;

(C) Does not meet the requirement of paragraph (4) of section 1001 (a) of this title;

(D) Is accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part G of subchapter IV of this chapter;

(E) Has been in existence for at least 2 years; and

(F) Has at least 10 percent of the school's revenues from sources that are not derived from funds provided under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary.

(2) Additional institutions. The term ''proprietary institution of higher education'' also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular

students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) Postsecondary vocational institution.

(1) Principal criteria. For the purpose of this section, the term ‘‘postsecondary vocational institution’’ means a school that—

(A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) Meets the requirements of paragraphs (1), (2), (4), and (5) of section 1001 (a) of this title; and

(C) Has been in existence for at least 2 years.

(2) Additional institutions. The term ‘‘postsecondary vocational institution’’ also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

CHAPTER 4 Applications, Waiting List and Tenant Selection

INTRODUCTION

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

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

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

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

> Part I: The Application Process. This part provides an overview of the application process, and discusses how applicants can obtain and submit applications. It also specifies how YCH will handle the applications it receives.
>
> Part II: Managing the Waiting List. This part presents the policies that govern how YCH's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for assistance. It also discusses the process YCH will use to keep the waiting list current.
>
> Part III: Selection for HCV Assistance. This part describes the policies that guide YCH in selecting families for HCV assistance as such assistance becomes available. It also specifies how in-person interviews will be used to ensure that YCH has the information needed to make a final eligibility determination.

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes the policies that guide YCH's efforts to distribute and accept applications, and to make preliminary determinations of applicant family eligibility that affect placement of the family on the waiting list. This part also describes YCH's obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with limited English proficiency (LEP).

4-I.B. APPLYING FOR ASSISTANCE

[HCV GB, pp. 4-11 – 4-16]

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

YCH Policy

Applications are taken by Yolo County Housing to compile a waiting list. Due to the demand for housing in Yolo County, YCH may take applications on an open enrollment basis, depending on the length of the waiting list. Yolo County Housing also may choose to use the lottery system for adding only a specific number of applicants to the waiting list.

The application constitutes the basic record of each applicant for admission. Each applicant is required to supply the information requested on the application form and to sign the application certifying the accuracy of the information provided.

Applicants may be advised that they can be placed on more than one of YCH's combined waiting lists, which serve both the low-income public housing and the tenant-based Housing Choice Voucher programs. If it has been determined that there is a specific need for applicants for a specific program, however, the waiting list may be opened only for applicants to that program. Applications for any special program will only be accepted from those applicants that meet the criteria for the specific targeted population.

YCH will inform applicants about available preferences when the applicants receive applications and will give applicants an opportunity to show that they qualify for available preferences.

Applicants will be notified of the requirement to submit evidence of citizenship or eligible immigration status.

Completed applications will be accepted for all applicants and Yolo County Housing will verify the information. In the case of a lottery, pre-applications will be received and only a specific number selected at random for addition to the waiting list.

The completed application will be dated and time stamped upon its return to Yolo County Housing. In the case of a lottery, the order in which the applicants are randomly selected will be used in-lieu of the date and time stamp.

Persons with disabilities who require a reasonable accommodation in completing an application may call the Yolo County Housing Section 504/ADA Coordinator to make special arrangements. Yolo County Housing uses either its TDD or the California relay system for individuals who are hearing impaired.

The application process involves two phases. The first phase involves placement of the family on the waiting list. This process requires the family to declare any preferences to which they may be entitled and the family's income.

In the event two or more applicants with identical preferences are eligible for placement on the waiting list, their order of placement will be determined by the date and time of application or by the order in which the family was randomly selected in the lottery process.

The second phase is the final determination of eligibility, which takes place when the family nears the top of the waiting list. Yolo County Housing will ensure that verification of all preferences, eligibility, suitability and selection factors are current in order to determine the family's final eligibility for admission into the Housing Choice Voucher program.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

Elderly and Disabled Populations [24 CFR 8; HCV GB, pp. 4-11 – 4-13]

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

Limited English Proficiency

YCH is required to take reasonable steps to ensure meaningful access to its programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2, Fair Housing and Equal Opportunity, provides a full discussion on YCH's policies related to ensuring access to people with limited English proficiency (LEP).

4-I.D. PLACEMENT ON THE WAITING LIST

YCH must review each complete application received and make a preliminary assessment of the family's eligibility. YCH must accept applications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations [24 CFR

982.206(b)(2)]. Where the family is determined to be ineligible, YCH must notify the family in writing [24 CFR 982.201(f)]. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

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

Ineligible for Placement on the Waiting List

YCH Policy

If YCH can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, YCH will send written notification of the ineligibility determination within fifteen (15) calendar days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review and explain the process for doing so (see Chapter 14, Appeals).

Eligible for Placement on the Waiting List

YCH Policy

When the family is selected for placement on the waiting list, either by acceptance of an application in a general opening of the list or by lottery selection, YCH will notify the family in writing of placement on the waiting list.

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

The order of placement will be determined by the date and time of application or by the order in which the family was randomly selected in the lottery process.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

YCH must have policies regarding various aspects of organizing and managing the waiting list of applicant families. This includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for assistance, as well as conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how YCH may structure its waiting list and how families must be treated if they apply for assistance from YCH in regards to administering more than one assisted housing program.

4-II.B. ORGANIZATION OF THE WAITING LIST

[24 CFR 982.204 and 205]

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

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

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

HUD requires YCH to maintain a single waiting list for the HCV program.

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

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

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

> <u>YCH Policy</u>
> YCH will not merge the HCV waiting list with the waiting list for any other program YCH operates.

4-II.C. OPENING AND CLOSING THE WAITING LIST

[24 CFR 982.206]

Closing the Waiting List

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

YCH Policy
YCH will close the waiting list when the estimated waiting period for housing assistance for applicants on the list reaches 12 months for the most current applicants. Where YCH has particular preferences or funding criteria that require a specific category of family, YCH may elect to continue to accept applications from these applicants while closing the waiting list to others.

Reopening the Waiting List

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

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

YCH will give public notice by publishing the relevant information in suitable media outlets including, but not limited to:

- Daily Democrat (Woodland); Davis Enterprise (Davis); West Sacramento Newsledger (West Sacramento); Winters Express,
- Local minority media,
- Local government cable access TV channel; and
- YCH web site and office.

4-II.D. FAMILY OUTREACH

[HCV GB, pp. 4-2 to 4 -4]

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

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

YCH will make a special outreach effort to those groups identified in the Consolidated Plan as most in need of affordable housing.

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

- Analyzing the housing market area and the populations currently being served to

identify underserved populations

- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class.

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

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

YCH Policy

YCH will monitor the characteristics of the population being served and the characteristics of the population as a whole in YCH's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

YCH Policy

While the family is on the waiting list, the family must immediately inform YCH of changes in contact information, including current residence, mailing address, and phone number. The family must also report changes in household composition or circumstances and any significant changes in income, which could affect the applicant's eligibility, the size or type of unit needed, or the applicant's priority for admission. All changes must be submitted in writing.

4-II.F. UPDATING THE WAITING LIST

[24 CFR 982.204]

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

Purging the Waiting List

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

YCH Policy

- The waiting list will be updated annually to ensure that all applicants and

applicant information are current and timely.

- To update the waiting list, YCH will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that YCH has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.
- The family's response must be in writing and may be delivered in person, by mail, by fax, or e-mail. Responses should be postmarked or received by YCH not later than fifteen (15) calendar days from the date of YCH letter.
- If the family fails to respond within fifteen (15) calendar days, the family will be removed from the waiting list without further notice.
- If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice.
- If the notice is returned by the post office with a forwarding address, the notice will not be re-sent to the address indicated. Families on the waiting list have an obligation to keep mailing addresses current at all times.
- If a family is removed from the waiting list for failure to respond, the family may be reinstated, if they so request, within 30 days of the date a notice was sent informing them that they had been removed from the waiting list. If more than 30 days have passed, the Executive Director may reinstate the family if s/he determines the lack of response was due to YCH error, or to circumstances beyond the family's control.

Removal from the Waiting List

YCH Policy

If at any time an applicant family is on the waiting list, YCH determines that the family is not eligible for assistance (see Chapter 3, Eligibility), the family will be removed from the waiting list.

If a family is removed from the waiting list because YCH has determined the family is not eligible for assistance, a notice will be sent to the family's address of record. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review of YCH's decision (see Chapter 14, Appeals) [24 CFR 982.201(f)].

PART III: SELECTION FOR HCV ASSISTANCE

4-III.A. OVERVIEW

As vouchers become available, families on the waiting list must be selected for assistance in accordance with the policies described in this part.

The order in which families receive assistance from the waiting list depends on the selection method chosen by YCH and it is impacted in part by any selection preferences that the family qualifies for. The source of HCV funding also may affect the order in which families are selected from the waiting list.

YCH must maintain a clear record of all information required to verify that the family is selected from the waiting list according to YCH's selection policies [24 CFR 982.204(b) and 982.207(e)].

4-III.B. SELECTION AND HCV FUNDING SOURCES

Special Admissions [24 CFR 982.203]

HUD may award funding for specific families living in specified types of units (e.g. a family that is displaced by demolition of public housing; a non-purchasing family residing in a HOPE 1 or 2 projects). In these cases, YCH may admit families that are not on the waiting list, or without considering the family's position on the waiting list. YCH must maintain records showing that such families were admitted with special program funding.

Targeted Funding [24 CFR 982.204(e)]

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

<u>YCH Policy</u>
YCH may administer the following types of targeted funding in the future:

- Mainstream Program
- Shelter Plus Care Program
- Moderate Rehabilitation Program

Regular HCV Funding

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

4-III.C. SELECTION METHOD

YCH must describe the method for selecting applicant families from the waiting list,

including the system of admission preferences that YCH will use [982.202(d)].

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

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

YCH Policy

The following local preferences have been established:

1) Applicants with Special Provisions, which includes, tenants residing in units owned and or managed by YCH required to move due to special circumstances, and approved by the Executive Director.
2) Yolo County residents (residency preference). This residency preference is limited to the jurisdictional boundaries of the County of Yolo. Use of the residency preference will not have the purpose or effect of delaying admission to the program based on the race, color, ethnic origin, gender, religion, disability, or age of any member of an applicant family. Applicants who live or work in the County of Yolo at the time of application qualify for this preference.
3) Any citizen of the United States who served in the active military, naval, or air service of the United States who received an honorable discharge or released from active duty under honorable conditions. This preference applies to veterans and the surviving spouses of veterans.
4) Section 8 participants who have been terminated due to over-leasing or lack of federal funding. At the time a participant is terminated due to over-leasing or lack of federal funding, that person's name will automatically be placed on the waiting list and given the appropriate preference.
5) Working preference: families with at least one adult who is employed and has been employed for six months. This preference is automatically extended to elderly families or a family whose head or spouse is receiving income based on their permanent disability.

Point Values of Preferences

Points are not assigned for "Special Provisions" preferences. Applicants who qualify for special programs (e.g., Section 8 Moderate Rehabilitation, Mainstream or Welfare-to-Work Vouchers) will be placed on lists specific to those programs in order of the date and time the application was received in the office of Yolo County Housing and according to other preferences for which they are entitled.

Other preferences have point values, which determine, in addition to the date and time of application or lottery selection, the Applicant's order of placement on the waiting lists.

The point values are:

Points Preference

- Residency in Yolo County
- Terminated Section 8 participants (due to over-leasing or lack of federal funding)
- Working/Permanently Disabled/Elderly
- Members of Military/Veterans

Points are cumulative. Applicants with the most points are ranked highest on the waiting lists.

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

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

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

YCH Policy

YCH will monitor progress in meeting the ELI requirement throughout the fiscal year. Extremely low-income families will be selected ahead of other eligible families on an as-needed basis to ensure the income-targeting requirement is met.

Order of Selection

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

YCH Policy

YCH will select families from the targeted funding or selection preferences for which they qualify, and in accordance with YCH's hierarchy of preferences. Within each targeted funding or preference category, families will be selected from the waiting list on a first-come, first-served basis according to the date and time their complete application is received by YCH or in numerical order based on the numbers assigned to each application by lottery at the time the applications were placed on the waiting list depending on the methodology used at the time the family applied.

YCH will maintain documentation as to whether families on the list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that YCH does not have to ask higher placed families each time targeted selections are made.

4-III.D. NOTIFICATION OF SELECTION

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

YCH Policy

YCH will notify the family by first class mail when it is selected from the waiting list. The family will be sent a packet of forms to be completed and returned by a specified date.

If a notification letter is returned to YCH with no forwarding address, the family will be removed from the waiting list. A notice of denial (see Chapter 3, Eligibility) will be sent to the family's address of record.

4-III.E. THE APPLICATION INTERVIEW

HUD recommends that YCH obtain the information and documentation needed to make an eligibility determination though a private interview [HCV GB, pg. 4-16]. Being invited to attend an interview does not constitute admission to the program. Applications may also be processed by mail, when appropriate.

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

YCH Policy

Families selected from the waiting list, who have returned the required documentation, may be scheduled for an eligibility interview. YCH will notify the family by first class mail with the following information:

- Date, time and location of the scheduled application interview, including any procedures for rescheduling the interview;
- Who is required to attend the interview;
- Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation; and
- Any other documents and information that should be brought to the interview.

The head of household and the spouse/co-head will be strongly encouraged to attend the interview together. However, the head of household is required to attend the interview on behalf of the family. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to YCH.

The interview will be conducted only if the head of household or spouse/co-head provides appropriate documentation of legal identity. Chapter 7, Verification, provides a discussion of proper documentation of legal identity. If the family

representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance. The family must also complete required forms, provide required signatures, and submit required documentation. If any materials are missing, YCH will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within fifteen (15) business days of the interview. Chapter 7, Verification, provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (See Chapter 3, Eligibility).

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

Interviews will be conducted in English. For limited English proficient (LEP) applicants, YCH will provide translation services in accordance with YCH's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact YCH in advance of the interview to schedule a new appointment. If a family does not attend a scheduled interview, YCH will send another notification letter with a new interview appointment time. Applicants who fail to attend two (2) scheduled interviews without YCH approval will be denied assistance based on the family's failure to supply information needed to determine eligibility. A notice of denial will be issued in accordance with policies contained in Chapter 3, Eligibility.

4-III.F. COMPLETING THE APPLICATION PROCESS

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

<u>YCH Policy</u>

If YCH determines that the family is ineligible, YCH will send written notification of the ineligibility determination within fifteen (15) calendar days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 14, Appeals).

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g. targeted funding, extremely low-income), the

family will be returned to its original position on the waiting list. YCH will notify the family in writing that it has been returned to the waiting list.

If YCH determines that the family is eligible to receive assistance, YCH will invite the family to attend a briefing in accordance with the policies in Chapter 5.

CHAPTER 5 Briefings and Voucher Issuance

INTRODUCTION

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

This chapter describes HUD regulations and YCH policies related to these topics in two parts:

> Part I: Briefings and Family Obligations. This part details the program's requirements for briefing families orally, and for providing written materials describing the program and its requirements. It includes a particular focus on the family's obligations under the program.
>
> Part II: Subsidy Standards and Voucher Issuance. This part discusses YCH's standards for determining how many bedrooms a family of a given composition qualifies for, which in turn affects the amount of subsidy the family can receive. It also discusses the policies that dictate how Vouchers are issued, and how long families have to locate a unit.

PART I: BRIEFINGS AND FAMILY OBLIGATIONS

5-I.A. OVERVIEW

HUD regulations require YCH to conduct mandatory briefings for applicant families. The briefing provides a broad description of owner and family responsibilities, explains YCH's procedures, and includes instructions on how to lease a unit. This part describes how oral briefings will be conducted, specifies what written information will be provided to families, and lists the family's obligations under the program.

5-I.B. BRIEFING

[24 CFR 982.301]

YCH 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, YCH 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, Fair Housing and Equal Opportunity. Briefings may be conducted in group meetings or individually one-on-one.

YCH Policy

Generally, the head of household is required to attend the briefing. Families are encouraged to bring advocates and/or supportive service representatives to the briefing.

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

Briefings will be conducted in English. For limited English proficient (LEP) applicants, YCH will provide translation services in accordance with YCH's LEP plan (See Chapter 2, Fair Housing and Equal Opportunity).

Notification and Attendance

YCH Policy

Families will be invited to a briefing for an explanation of their rights and responsibilities under the HCV program. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing.

If the notice is returned by the post office with no forwarding address, a notice of denial (see Chapter 3, Eligibility) will be sent to the family's address of record.

Applicants who fail to attend a scheduled briefing will be removed from the waiting list unless the applicant can show good cause. Good cause is defined as a disability or emergency family circumstances. Not attending a briefing because of incarceration is not an acceptable reason to hold an applicant's place on the waiting list and will result in removal from the waiting list. (See Chapter 3, Eligibility).

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

<u>YCH Policy</u>

When YCH-owned units are available for lease, YCH 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 YCH-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 YCH's policies on any extensions or suspensions of the term. 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 YCH determines the Payment Standard for a family, how YCH determines Total Tenant Payment for a family, and information on the Payment Standard and utility allowance schedule.
- An explanation of how YCH 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 YCH 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 YCH policy on providing information about families to prospective owners.
- YCH 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 YCH.
- The family obligations under the program.
- The grounds on which YCH may terminate assistance for a participant family because of family action or failure to act.
- YCH informal hearing procedures including when YCH is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.

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

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

Additional Items to be Included in the Briefing Packet

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

<u>YCH Policy</u>

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

- When YCH-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 YCH-owned unit.
- Information on how to fill out and file a housing discrimination complaint form.
- The publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.

5-I.C. FAMILY OBLIGATIONS

Obligations of the family are described in the Housing Choice Voucher (HCV) Code of Federal Regulations (CFR) and on the Voucher itself. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. YCH 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 13, Termination of Assistance and Tenancy.

Time Frames for Reporting Changes Required By Family Obligations

YCH Policy

Unless otherwise noted below, when family obligations require the family to respond to a request or notify YCH of a change, notifying YCH of the request or change within fifteen (15) calendar days is considered prompt notice.

When a family is required to provide notice to YCH, 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 YCH 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 YCH or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.
- The family must allow YCH 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.

  YCH Policy

  YCH will consider the following: written notice from owner to YCH and family of the serious/repeated lease violation; police reports; arrest logs; neighbor complaints or other third party information. Violation can include: non-payment of rent, failure to allow owner to make necessary repairs, or disturbing the quiet and peaceful enjoyment of the premises by others.
- The family must notify YCH and the owner before moving out of the unit or terminating the lease.

  YCH Policy

  The family must live in the unit for the term of the lease and, then, the family can

move after giving proper notice to the owner with a copy to YCH. Alternatively, the family and owner can sign a mutual rescission of the lease.

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

  YCH Policy

  The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. YCH will determine eligibility of the new member in accordance with the policies in Chapter 3, Eligibility.
- The family must promptly notify YCH in writing if any family member no longer lives in the unit.
- If YCH has given approval, a foster child or a live-in aide may reside in the unit. YCH has the discretion to adopt reasonable accommodation policies concerning residency by a foster child or a live-in aide, and to define when YCH consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3, Eligibility (Sections I.K and I.M), and Chapter 11, Reexamination (Section II.B).

  YCH Policy

  A live-in aide will not be entitled to the family's voucher if he/she is the only remaining member of the household.
- The family must not sublease the unit, assign the lease, or transfer the unit.

  YCH Policy

  Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
- The family must supply any information requested by YCH to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify YCH when the family is absent from the unit.

  YCH Policy

  Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 60 calendar days. Written notice must be provided to YCH at the start of the extended absence. It is suggested that families also notify property owner(s)/landlord(s) of any extended absences from the unit.
- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit (other than in a

cooperative and owners of a manufactured home leasing a manufactured home space).

- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 18, Program Integrity, for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 13, Termination of Assistance and Tenancy, for HUD and YCH policies related to drug-related and violent criminal activity.
- Members of the household must not engage in the abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 13, Termination of Assistance and Tenancy, for a discussion of HUD and YCH policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless YCH has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE

5-II.A. OVERVIEW

YCH must establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions. This part presents the policies .that will be used to determine the family unit size (also known as the Voucher size) a particular family should receive, and the policies that govern making exceptions to those standards. YCH also must establish policies related to the issuance of the Voucher, to the Voucher term, and to any extensions or suspensions of that term.

5-II.B. DETERMINING FAMILY UNIT (VOUCHER) SIZE

[24 CFR 982.402]

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

The following requirements apply when YCH determines family unit size:

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

  <u>YCH Policy</u>

  YCH will assign one bedroom for each two persons within the household, except in the following circumstances. The subsidy standard provides one bedroom for every two persons, except for:

  - For verifiable health reasons, an additional bedroom subsidy may be provided for: a live-in aide, medical equipment which requires a separate room because of size or function, or a family member who must have a

separate bedroom due to any other serious medical condition.

- An unborn child of the applicant or a child expected to be adopted or for whom legal custody is to be granted, will be included when determining the proper subsidy size.

YCH will reference the following chart below in determining the appropriate voucher size for a family.

YCH Policy

YCH will review the household composition of the family at each reexamination to determine whether or not the family has the correct voucher size for the number of persons in the household. If the family has more or less persons in the household than permitted by the voucher size according to the table below, then YCH will issue the family a Voucher to move to a larger or smaller unit, depending on the household size. The new Voucher size will be determined based on the table below.

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

Overcrowded Units

If Yolo County Housing determines that an occupied unit no longer meets Housing Quality Standards (i.e. no more than two persons per living/sleeping room) because of a change in family size or composition, Yolo County Housing will issue the Participant a new Housing Choice Voucher of an appropriate size so that the family may relocate to a new unit.

5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

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

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

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

<u>YCH Policy</u>

YCH will consider granting an exception for any of the reasons specified in the code of federal regulations (CFR): the age, sex, health, handicap, or relationship of family members or other personal circumstances.

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

YCH will notify the family of its determination within fifteen (15) calendar days of receiving the family's request. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

5-II.D. VOUCHER ISSUANCE AND RESCISSION [24 CFR 982.302]

Voucher Issuance

When a family is selected from the waiting list (or as a special admission as described in Chapter 4, Applications), or when a participant family wants to move to another unit, YCH issues a Housing Choice Voucher, form HUD-52646. This chapter deals only with Voucher issuance for applicants. For Voucher issuance associated with moves of program participants, please refer to Chapter 12, Moving with Continued Assistance

and Portability.

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

A Voucher can be issued to an applicant family only after YCH has determined that the family is eligible for the program based on information received within the sixty (60) days prior to issuance [24 CFR 982.201(e)] and after the family has attended an oral briefing [HCV 8-1].

YCH Policy

Vouchers will be issued to eligible applicants at the mandatory briefing.

YCH should have sufficient funds to house an applicant before issuing a Voucher. If funds are insufficient to house the family at the top of the waiting list, YCH must wait until it has adequate funds before it calls another family from the list [HCV GB p. 8-10].

YCH Policy

If YCH determines that there is insufficient funding after a Voucher has been issued, YCH may rescind the Voucher and place the affected family back on the waiting list.

Voucher Rescission

YCH Policy

If, due to budgetary constraints, YCH must rescind Vouchers that have already been issued to families, YCH will do so according to the instructions under each of the categories below. YCH will first rescind Vouchers that fall under Category 1. Vouchers in Category 2 will only be rescinded after all Vouchers under Category 1 have been rescinded.

Category 1: Vouchers issued to new admissions to the HCV program for which a Request for Tenancy Approval (RFTA) and proposed lease have not been submitted to YCH. Vouchers will be rescinded in order of the date and time they were issued, starting with the most recently issued Vouchers.

Category 2: Vouchers issued to new admissions to the HCV program for which a Request for Tenancy Approval and proposed lease have been submitted to YCH. Vouchers will be rescinded in order of the date and time the RFTA was submitted to YCH, starting with the most recently submitted requests.

Families who have their Voucher rescinded will be notified in writing and will be reinstated to their former position on the waiting list. When funding is again

available, families will be selected from the waiting list in accordance with YCH policies described in Chapter 4, Applications.

Families who are continuing participants in the HCV program who have Vouchers because they are moving will not have their Vouchers rescinded.

5-II.E. VOUCHER TERM, EXTENSIONS, AND SUSPENSIONS

Voucher Term [24 CFR 982.303]

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

YCH Policy

Housing Choice Vouchers generally are issued for an initial term of 60 days. If the vacancy rate for rental housing in Yolo County is less than 4 percent, however, YCH will issue Vouchers for an initial term of 120 days.

If YCH is issuing Vouchers with an initial term of 60 days, a person with a disability may request an initial term of 120 days to have an equal opportunity to seek housing. Such requests will be approved upon verification of need.

The family must submit a Request for Tenancy Approval and proposed lease within the time period unless YCH grants an extension for a person with a disability.

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

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

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

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

YCH Policy

The initial 60-day term has an option for two 30-day extensions. A Voucher holder requesting an extension must submit to Yolo County Housing a list of contacts with prospective leasers and the results of the contacts from the past 60-day period.

If at the end of the 120-day period, a permanently disabled applicant still has not located a suitable unit, the applicant may request one additional 60-day extension. Yolo County Housing will determine as a reasonable accommodation

if a final 60-day extension will be granted, based on the situation.

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

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

YCH Policy

When a RFTA and a proposed lease are received by YCH, the term of the Voucher will be suspended while YCH processes the request.

When YCH denies a request for tenancy, the family will be notified immediately that the clock on the Voucher term has restarted. The notice will include the new expiration date of the Voucher.

Expiration of Voucher Term

Once a family's Housing Choice Voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program. If the family still wishes to receive assistance, YCH will require that the family reapply when the waiting list is open.

YCH Policy

Within sixty (60) calendar days after the expiration of the Voucher term or any extension, YCH will notify the family in writing that the Voucher term has expired and that the family must reapply in order to be placed on the waiting list.

CHAPTER 6 Income and Subsidy Determinations

[24 CFR Part 5, Subparts E and F; 24 CFR 982]

INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's payment and YCH's subsidy. YCH will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD regulations and YCH policies related to these topics in three parts as follows:

- Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and YCH policies for calculating annual income are found in Part I.
- Part II: Adjusted Income. Once annual income has been established HUD regulations require YCH to subtract from annual income any of five mandatory deductions for which a family qualifies. The requirements and YCH policies for calculating adjusted income are found in Part II.
- Part III: Calculating Family Share and YCH Subsidy. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining YCH subsidy and required family payment.

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

The general regulatory definition of annual income shown below is from 24 CFR 5.609.

5.609 Annual income.

(a) Annual income means all amounts, monetary or not, which:

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or the annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph [5.609(c)].

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this plan, however, the discussions of income inclusions and exclusions are integrated by topic (e.g. all policies affecting earned income are discussed together in section 6-I.D). Verification requirements for annual income are discussed in Chapter 7, Verification.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(c)(2)].
Head, spouse, or co-head Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head,	Employment income above $480/year is excluded [24 CFR 5.609(c)(11)].

spouse, or co-head)	All other sources of income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].

YCH Policy

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

Absent Students

YCH Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to YCH indicating that the student has established a separate household or the family declares that the student has established a separate household. The student's status will be re-evaluated each year at the time of the family's annual re-exam.

Absences Due to Placement in Foster Care

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

YCH Policy

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

Absent Head, Spouse, or Co-head

YCH Policy

An employed head, spouse, or co-head absent from the unit for more than 30 consecutive days due to employment will continue to be considered a family member.

In the case where the household member is the spouse, legal separation, filing for dissolution of marriage, annulment, or other verification acceptable to YCH will be sufficient proof that the family member is no longer a member of the household.

Family Members Permanently Confined for Medical Reasons

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

YCH Policy

YCH will request verification from a qualified medical professional and will use this determination. If the qualified medical professional cannot provide a determination, the person will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

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

Joint Custody of Dependents

YCH Policy

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

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

Caretakers for a Child

YCH Policy

If neither a parent nor a designated guardian remains in a household receiving HCV assistance, YCH will take the following actions.

(1) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
(2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases YCH will extend the caretaker's status as an eligible visitor.
(3) At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.

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

6-I.C. ANTICIPATING ANNUAL INCOME

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

Basis of Annual Income Projection

YCH generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes YCH to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected [HCV GB, p. 5-17]
- It is not feasible to anticipate a level of income over a 12-month period (e.g. seasonal or cyclic income) [24 CFR 5.609(d)]
- YCH believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

YCH is required to use HUD's Enterprise Income Verification (EIV) system. HUD allows YCH to use pay-stubs to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where YCH does not determine it is necessary to obtain additional third-party data.

<u>YCH Policy</u>

Whenever possible, YCH will use HUD's EIV system. When EIV is obtained and the family does not dispute the EIV employer data, YCH will use current tenant-provided documents to project annual income. When the tenant provided documents are pay-stubs, YCH will make every effort to obtain at least 3 consecutive pay-stubs dated within the last 60 days.

YCH will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

- If EIV or other UIV (upfront income verification) data is not available,
- If the family disputes the accuracy of the EIV employer data, and/or
- If YCH determines additional information is needed.

In such cases, YCH will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how YCH annualized projected income.

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

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

Known Changes in Income
If YCH verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period.

Example: An employer reports that a full-time employee who has been receiving $8/hour will begin to receive $8.25/hour in the eighth week after the effective date of the reexamination. In such a case YCH would calculate annual income as follows: ($8/hour × 40 hours × 7 weeks) + ($8.25 × 40 hours × 45 weeks).

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

When tenant-provided documents are used to anticipate annual income, they will be dated within the last 60 days of the reexamination interview date.

- EIV quarterly wages will not be used to project annual income at an annual or interim reexamination.

Projecting Income
In HUD's EIV webcast of January 2008, HUD made clear that YCH is not to use EIV quarterly wages to project annual income.

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income [24 CFR 5.609(b)(1)].

Some Types of Military Pay. All regular pay, special pay and allowances of a member of the Armed Forces are counted [24 CFR 5.609(b)(8)] except for the special pay to a

family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(c)(7)].

Types of Earned Income Not Counted in Annual Income

Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]. Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed. Such income is not counted.

Children's Earnings. Employment income earned by children (including foster children) under the age of 18 years is not included in annual income [24 CFR 5.609(c)(1)]. (See Eligibility chapter for a definition of foster children.)

Certain Earned Income of Full-Time Students. Earnings in excess of $480 for each full-time student 18 years old or older (except for the head, spouse, or co-head) are not counted [24 CFR 5.609(c)(11)]. To be considered "full-time," a student must be considered "full-time" by an educational institution for a degree or certificate program [HCV GB, p. 5-29].

Income of a Live-in Aide. Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)]. (See Chapter 2, Eligibility, for a full discussion of live-in aides.)

Income Earned under Certain Federal Programs. Income from some federal programs is specifically excluded from consideration as income [24 CFR 5.609(c)(17)], including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b))
- Awards under the federal work-study program (20 U.S.C. 1087 uu)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

Resident Service Stipend. Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed $200 per individual per month) received by a resident for performing a service for YCH or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of YCH's governing board. No resident may receive more than one such

stipend during the same period of time [24 CFR 5.600(c)(8)(iv)].

State and Local Employment Training Programs. Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR 5.609(c)(8)(v)].

YCH Policy

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

YCH defines incremental earnings and benefits as the difference between: (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program; and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

In calculating the incremental difference, YCH will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with YCH's interim reporting requirements.

HUD-Funded Training Programs.

Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

YCH Policy

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

Earned Income Tax Credit. Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual

EITC is included in the employee's payroll check.

Earned Income Disallowance. The earned income disallowance for persons with disabilities is discussed in section 6-I.E below.

6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

[24 CFR 5.617]

The earned income disallowance (EID) encourages people with disabilities to enter the work force by not including the full value of increases in earned income for a period of time. Eligibility criteria and limitations on the disallowance are summarized below.

Eligibility

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

- Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. Previously unemployed includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
- Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].
- New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least $500.

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "prior income."

<u>YCH Policy</u>

YCH defines prior income, or prequalifying income, as the family member's last certified income prior to qualifying for the EID.

The family member's prior, or prequalifying, income remains constant throughout the period that he or she is receiving the EID.

Initial 12-Month Exclusion. During the initial 12-month exclusion period, the full amount (100 %) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are cumulative and need not be consecutive.

YCH Policy

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

Second 12-Month Exclusion and Phase-In. During the second 12-month exclusion period, the exclusion is reduced to half (50 %) of any increase in income attributable to employment or increased earnings. The 12 months are cumulative and need not be consecutive.

Lifetime Limitation. The EID has a four-year (48-month) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance.

YCH Policy

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

6-I.F. BUSINESS INCOME

[24 CFR 5.609(b)(2)]

Annual income includes "the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family" [24 CFR 5.609(b)(2)].

Business Expenses

Net income is "gross income less business expenses" [HCV GB, p. 5-19].

YCH Policy

To determine business expenses that may be deducted from gross income, YCH will use current applicable Internal Revenue Service (IRS) rules for determining

allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.

Business Expansion

HUD regulations do not permit YCH to deduct from gross income expenses for business expansion.

YCH Policy

Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

Capital Indebtedness

HUD regulations do not permit YCH to deduct from gross income the amortization of capital indebtedness.

YCH Policy

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

Negative Business Income

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

Withdrawal of Cash or Assets from a Business

HUD regulations require YCH to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

YCH Policy

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

Co-owned Businesses

YCH Policy

If a business is co-owned with someone outside the family, the family must

document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

6-I.G. ASSETS

[24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]

Overview

There is no asset limitation for participation in the HCV program. However, HUD requires that YCH include in annual income the "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, YCH must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 6-3 provides the regulatory definition of net family assets. This section begins with a discussion of general policies related to assets and then provides HUD rules and YCH policies related to each type of asset.

General Policies

Income from Assets

YCH generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes YCH to use other than current circumstances to anticipate income when: (1) an imminent change in circumstances is expected; (2) it is not feasible to anticipate a level of income over 12 months; or (3) YCH believes that past income is the best indicator of anticipated income.

For example, if a family member owns real property that typically receives rental income but the property is currently vacant, YCH can take into consideration past rental income along with the prospects of obtaining a new tenant.

<u>YCH Policy</u>

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

Valuing Assets

The calculation of asset income sometimes requires YCH to make a distinction between an asset's market value and its cash value.

The market value of an asset is its worth (e.g. the amount a buyer would pay for real estate or the balance in an investment account). The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

YCH Policy

Examples of acceptable costs include penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28].

Lump-Sum Receipts

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g. deposited in a savings or checking account). (For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.)

Imputing Income from Assets [24 CFR 5.609(b)(3)]

When net family assets are $5,000 or less, YCH will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of $5,000, YCH will include in annual income the greater of: (1) the actual income derived from the assets; or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by the current HUD-established passbook savings rate.

Determining Actual Anticipated Income from Assets

It may or may not be necessary for YCH to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

Withdrawal of Cash or Liquidation of Investments

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement fund.

Jointly Owned Assets

The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes "amounts derived (during the 12-month period) from assets to which any member of the family

has access."

YCH Policy

If an asset is owned by more than one person and any family member has unrestricted access to the asset, YCH will count the full value of the asset. A family member has unrestricted access to an asset when s/he can legally dispose of the asset without the consent of any of the other owners.
If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, YCH will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, YCH will prorate the asset evenly among all owners.

Assets Disposed of for Less than Fair Market Value [24 CFR 5.603(b)]

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

Minimum Threshold

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

YCH Policy

YCH will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past year exceeds the gross amount received for the assets by more than $500.

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

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

Separation or Divorce

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

YCH Policy

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

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

Family Declaration

YCH Policy

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. YCH may verify the value of the assets disposed of if other information available to YCH does not appear to agree with the information reported by the family.

Types of Assets
Checking and Savings Accounts

For regular checking accounts and savings accounts, cash value has the same meaning as market value. If a checking account does not bear interest, the anticipated income from the account is zero.

YCH Policy

In determining the value of a checking account, YCH will use the current balance. In determining the value of a savings account, YCH will use the current balance. In determining the anticipated income from an interest bearing checking or savings account, YCH will multiply the value of the account by the current rate of interest paid on the account.

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

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

YCH Policy

In determining the market value of an investment account, YCH will use the value of the account on the most recent investment report.

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

Equity in Real Property or Other Capital Investments

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

Equity in real property and other capital investments is considered in the calculation of asset income except for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR5.603(b)]
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b)]
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCV GB, p. 5-25]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

A family may have real property as an asset in two ways: (1) owning the property itself; and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

<u>YCH Policy</u>

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

Trusts

A trust is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

Revocable Trusts

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid

to the family or deposited in the trust.

Non-revocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6-I.H. Lump-sum receipts are discussed earlier in this section.)

Retirement Accounts

Company Retirement/Pension Accounts

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, YCH must know whether the money is accessible before retirement [HCV GB, p. 5-26]. While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26]. After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

> <u>YCH Policy</u>
>
> In determining the value of personal property held as an investment, YCH will use the family's estimate of the value. However, YCH also may obtain an appraisal if appropriate to confirm the value of the asset. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.
>
> Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g. income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

> <u>YCH Policy</u>
>
> Necessary personal property consists of items such as clothing, furniture, household furnishings, jewelry that is not held as an investment, and vehicles,

including those specially equipped for persons with disabilities.

Life Insurance

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life insurance policy, is included in the calculation of the value of the family's assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

6-I.H. PERIODIC PAYMENTS

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are and are not included in annual income.

Periodic Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCV, p. 5-14]

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

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income [CFR 5.609(b)(4)].

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR 5.609(c)(2)]

  YCH Policy

  YCH will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)]
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)]

- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)].
    - Note: EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.) [24 CFR 5.609(b)(4)].

6-I.I. PAYMENTS IN-LIEU OF EARNINGS

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum as a settlement, for example, they are treated as lump-sum receipts [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G.)

6-I.J. WELFARE ASSISTANCE

Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]

YCH must make a special calculation of annual income when the welfare agency imposes sanctions on families. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

Covered Families

The families covered by 24 CFR 5.615 are those "who receive welfare assistance or other public assistance benefits ('welfare benefits') from a State or other public agency ('welfare agency') under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance" [24 CFR 5.615(b)]

Imputed Income

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, YCH must include in annual income "imputed" welfare income. YCH must request that the welfare agency inform YCH when the benefits of an HCV participant family are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits; (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements; or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

Offsets

The amount of the imputed income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES

[24 CFR 5.609(b)(7)]

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with an assisted family.

Alimony and Child Support

YCH must count alimony or child support amounts awarded as part of a divorce or separation agreement.

> YCH Policy
>
> YCH will count court-awarded amounts for alimony and child support unless YCH verifies that: (1) the payments are not being made; and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].
>
> Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

Regular Contributions or Gifts

YCH must count as income regular monetary and non-monetary contributions or gifts from persons not residing with an assisted family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

> YCH Policy
>
> Examples of regular contributions include: (1) regular payment of a family's bills (e.g. utilities, telephone, rent, credit cards, and car payments); (2) cash or other liquid assets provided to any family member on a regular basis; and (3) "in-kind" contributions such as groceries, diapers and clothing provided to a family on a regular basis.
>
> Non-monetary contributions will be valued at the cost of purchasing the items, as determined by YCH. For contributions that may vary from month to month (e.g.

utility payments), YCH will include an average amount based upon past history.

6-I.L. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]

In 2005, Congress passed a law (for Housing Choice Voucher programs only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies.

Student Financial Assistance Included in Annual Income [24 CFR 5.609(b)(9) and FR 4/10/06]

The regulation requiring the inclusion of certain student financial assistance applies only to students who satisfy all of the following conditions:

- They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
- They are seeking or receiving HCV assistance on their own—that is, apart from their parents—through the HCV program, the project-based certificate program, the project-based voucher program, or the moderate rehabilitation program.
- They are under 24 years of age **or** they have no dependent children.

For students who satisfy these three conditions, any financial assistance in excess of tuition received: (1) under the 1965 HEA; (2) from a private source; or (3) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.

To determine annual income in accordance with the above requirements, YCH will use the definitions of dependent child, institution of higher education, and parents in Section 3-II.E, along with the following definitions [FR 4/10/06, pp. 18148-18150]:

- Assistance under the Higher Education Act of 1965 includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.
- Assistance from private sources means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.
- Tuition will have the meaning given this term by the institution of higher education in which the student is enrolled.

Student Financial Assistance Excluded from Annual Income [24 CFR 5.609(c)(6)]

Any student financial assistance not subject to inclusion under 24 CFR 5.609(b)(9) is fully excluded from annual income under 24 CFR 5.609(c)(6), whether it is paid directly to the student or to the educational institution the student is attending. This includes any

financial assistance received by:

- Students residing with parents who are seeking or receiving HCV assistance
- Students who are enrolled in an educational institution that does **not** meet the 1965 HEA definition of institution of higher education
- Students who are over 23 **and** have at least one dependent child, as defined in Section 3-II.E
- Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

Other exclusions contained in 24 CFR 5.609(c) that have not been discussed earlier in this chapter include the following:

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
- The full amount of student financial assistance paid directly to the student or to the educational institution [24 CFR 5.609(c)(6)]
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]
- Adoption assistance payments in excess of $480 per adopted child [24 CFR 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17)]. HUD publishes an updated list of these exclusions periodically. It includes:
    (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
    (b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
    (c) Payments received under the Alaska Native Claims Settlement Act (43

U.S.C. 1626(c))

(d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)

(e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))

(f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931)).

(g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)

(h) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)

(i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under the federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu)

(j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))

(k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.)

(l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)

(m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)

(n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))

(o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)

(p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))

(q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child

suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805)

(r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)

(s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

HUD regulations require YCH to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

> 5.611(a) Mandatory deductions.
> In determining adjusted income, the responsible entity [YCH] must deduct the following amounts from annual income:
> (1) $480 for each dependent;
> (2) $400 for any elderly family or disabled family;
> (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
> (i) Unreimbursed medical expenses of any elderly family or disabled family;
> (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
> (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification

requirements related to these deductions are found in Chapter 7, Verification.

Anticipating Expenses

YCH Policy

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

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

6-II.B. DEPENDENT DEDUCTION

A deduction of $480 is taken for each dependent [24 CFR 5.611(a)(1)]. Dependent is defined as any family member other than the head, spouse, or co-head who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An elderly family is a family whose head, spouse, co-head, or sole member is 62 years of age or older, and a disabled family is a family whose head, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403].

6-II.D. MEDICAL EXPENSES DEDUCTION

[24 CFR 5.611(a)(3)(i)]

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

The medical expense deduction is permitted only for families in which the head, spouse, or co-head is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

Definition of Medical Expenses

HUD regulations define medical expenses at 24 CFR 5.603(b) to mean “medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.”

YCH Policy

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

Summary of Allowable Medical Expenses from IRS Publication 502	
Services of medical professionals Surgery and medical procedures that are necessary, legal, and noncosmetic Services of medical facilities Hospitalization, long-term care, and in-home nursing services Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor Improvements to housing directly related to medical needs (e.g. ramps for a wheel chair, handrails)	Substance abuse treatment programs Psychiatric treatment Ambulance services and some costs of transportation related to medical expenses The cost and care of necessary equipment related to a medical condition (e.g. eyeglasses/lenses, hearing aids, crutches, and artificial teeth) Cost and continuing care of necessary service animals Medical insurance premiums or the cost of a health maintenance organization (HMO)
Note: This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.	

Families That Qualify for Both Medical and Disability Assistance Expenses

YCH Policy

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

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

6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION

[24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work; (2) are not paid to a family member or reimbursed by an outside

source; (3) in combination with any medical expenses, exceed three percent of annual income; and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of "earned income received by family members who are 18 years of age or older and who are able to work" because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

> YCH Policy
>
> The family will identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, YCH will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.
>
> When YCH determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' incomes.

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the HCV Guidebook as follows: "Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work" [HCV GB, p. 5-30].

Eligible Auxiliary Apparatus

> YCH Policy
>
> Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g. a vehicle or computer), the cost to maintain the special adaptations, but not maintenance of the apparatus itself, is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

Eligible Attendant Care

The family determines the type of attendant care that is appropriate for the person with

disabilities.

YCH Policy

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

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

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

Payments to Family Members

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

YCH Policy

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

Families That Qualify for Both Medical and Disability Assistance Expenses

YCH Policy

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

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, YCH will consider them medical expenses unless

it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.F. CHILD CARE EXPENSE DEDUCTION

HUD defines child care expenses at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

Clarifying the Meaning of Child for This Deduction

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family's household, are included when determining the family's child care expenses [HCV GB, p. 5-29].

Qualifying for the Deduction

Determining who is enabled to pursue an eligible activity:

YCH Policy

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

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

Seeking Work

YCH Policy

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

Furthering Education

YCH Policy

If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not

required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

Being Gainfully Employed

YCH Policy

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

Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above $480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, child care expenses are limited to $5,000.

YCH must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

YCH Policy

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

Eligible Child Care Expenses

The type of care to be provided is determined by the assisted family. YCH may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

Allowable Child Care Activities

YCH Policy

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

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

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

Necessary and Reasonable Costs

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education; and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

YCH Policy

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

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

PART III: CALCULATING FAMILY SHARE AND YCH SUBSIDY

6-III.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS

TTP Formula [24 CFR 5.628]
HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12 (months))
- The welfare rent (in as-paid states only)
- A minimum rent between $0 and $50 that is established by YCH

YCH has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.
The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

Welfare Rent [24 CFR 5.628]

YCH Policy

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

YCH Policy

The minimum rent for this locality is $0.

Family Share [24 CFR 982.305(a)(5)]
If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds YCH's applicable payment standard: (1) the family will pay more than the TTP; and (2) at initial occupancy YCH may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. The income used for this determination must have been verified no earlier than 60 days before the family's voucher was issued. (For a discussion of the application of payment standards, see section 6-III.C.)

YCH Subsidy [24 CFR 982.505(b)]
YCH will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of: (1) the applicable payment standard for the family minus the family's TTP; or (2) the gross rent for the family's unit minus the TTP. (For a discussion of the application of payment standards, see section 6-III.C.)

Utility Reimbursement [24 CFR 982.514(b)]
When YCH subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits YCH to pay the reimbursement to the family or directly to the utility provider.

YCH Policy
YCH will not make utility reimbursements to the family. Any URP will be paid to the utility company.

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

YCH Policy
The financial hardship rules described below do not apply in this jurisdiction because YCH has established a minimum rent of $0.

Overview
If YCH establishes a minimum rent greater than zero, YCH must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If YCH determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship
Financial hardship includes the following situations:

(1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.
YCH Policy
A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

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

(2) The family would be evicted because it is unable to pay the minimum rent.
YCH Policy
For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.

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

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

(5) The family has experienced other circumstances determined by YCH.
YCH Policy
YCH has not established any additional hardship criteria.

Implementation of Hardship Exemption
Determination of Hardship
When a family requests a financial hardship exemption, YCH must suspend the minimum rent requirement beginning the first of the month following the family's request.

YCH then determines whether the financial hardship exists and whether the hardship is temporary or long-term.
YCH Policy
YCH defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption Assume YCH has established a minimum rent of $35.	
Family Share – No Hardship	**Family Share – With Hardship**
$0 30% of monthly adjusted $15 income N/A 10% of monthly gross income $35 Welfare rent Minimum rent	$0 30% of monthly adjusted $15 income N/A 10% of monthly gross income $35 Welfare rent Minimum rent
Minimum rent applies. TTP = $35	Hardship exemption granted. TTP = $15

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

YCH will make the determination of hardship within 30 calendar days.

No Financial Hardship

If YCH determines there is no financial hardship, YCH will reinstate the minimum rent and require the family to repay the amounts suspended.

Temporary Hardship

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

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay YCH the amounts suspended. HUD requires YCH to offer a reasonable repayment agreement, on terms and conditions established by YCH. YCH also may determine that circumstances have changed and the hardship is now a long-term hardship.

YCH Policy

YCH will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan.

Long-Term Hardship

If YCH determines that the financial hardship is long-term, YCH must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

YCH Policy

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

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

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

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

6-III.C. APPLYING PAYMENT STANDARDS

[24 CFR 982.505]

Overview

YCH's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of YCH's payment

standards. The establishment and revision of YCH's payment standard schedule are covered in Chapter 16.

Payment standard is defined as "the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)" [24 CFR 982.4(b)].

The payment standard for a family is the lower of: (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under YCH's subsidy standards [24 CFR 982.4(b)]; or (2) the payment standard for the size of the dwelling unit rented by the family.

If YCH has established an exception payment standard for a designated part of an FMR area and a family's unit is located in the exception area, YCH must use the appropriate payment standard for the exception area.

YCH is required to pay a monthly housing assistance payment (HAP) for a family that is the lower of: (1) the payment standard for the family minus the family's TTP; or (2) the gross rent for the family's unit minus the TTP.

If during the term of the HAP contract for a family's unit, the owner lowers the rent, YCH will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB, p. 7-8].

Changes in Payment Standards
When YCH revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations.

Decreases
If the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard generally will be used beginning at the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard. YCH will determine the payment standard for the family as follows:

> **Step 1:** At the first regular reexamination following the decrease in the payment standard, YCH will determine the payment standard for the family using the lower of the payment standard for the family unit size or the size of the dwelling unit rented by the family.
>
> **Step 2:** YCH will compare the payment standard from step 1 to the payment standard last used to calculate the monthly housing assistance payment for the family. The payment standard used by YCH at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. YCH will advise the family that the application of the lower payment standard will be deferred until the second regular reexamination

following the effective date of the decrease in the payment standard.

Step 3: At the second regular reexamination following the decrease in the payment standard, the lower payment standard will be used to calculate the monthly housing assistance payment for the family unless YCH has subsequently increased the payment standard, in which case the payment standard will be determined in accordance with procedures for increases in payment standards described below.

Increases
If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7-8].

Changes in Family Unit Size
Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.

Reasonable Accommodation
If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, YCH is allowed to establish a higher payment standard for the family within the basic range.

6-III.D. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]

Overview
A YCH-established utility allowance schedule is used in determining family share and YCH subsidy. YCH must use the appropriate utility allowance for the size of dwelling unit actually leased by a family rather than the voucher unit size for which the family qualifies using YCH subsidy standards. See Chapter 5 for information on YCH's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 17.

Reasonable Accommodation
HCV program regulations require YCH to approve a utility allowance amount higher than shown on YCH's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member

with a disability requires such an accommodation, YCH will approve an allowance for air-conditioning, even if YCH has determined that an allowance for air-conditioning generally is not needed.

The family must request the higher allowance and provide YCH with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCV GB, p. 18-8].

Utility Allowance Revisions

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

> YCH Policy
>
> Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted.

6-III.E. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A mixed family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. YCH must prorate the assistance provided to a mixed family. YCH will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if YCH subsidy for a family is calculated at $500 and two of four family members are ineligible, YCH subsidy would be multiplied by 50 percent (two over four families) and reduced to $250.

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

(a) Annual income means all amounts, monetary or not, which:

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or

annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph (c) of this section.

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

(b) Annual income includes, but is not limited to:

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31[1]; and

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

HHS DEFINITION OF "ASSISTANCE"

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term "assistance" mean?

(a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

[1] Text of 45 CFR 260.31 follows.

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.

(b) [The definition of “assistance”] excludes: (1) Nonrecurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as child care and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.609

(c) Annual income does not include the following:

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in Sec. 5.403;

(6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(8) (i) Amounts received under training programs funded by HUD;

(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time;

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

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of $480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits
a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b));
b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);
c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);
e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));
f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931);
g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub.L-94-540, 90 Stat. 2503-04);

h) The first $2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);

i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);

j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f));

k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);

m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);

n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));

o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);

p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));

q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);

r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and

s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

EXHIBIT 6-4: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

24 CFR 5.617 Self-sufficiency incentives for persons with disabilities– Disallowance of increase in annual income.

(a) Applicable programs. The disallowance of increase in annual income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

(b) Definitions. The following definitions apply for purposes of this section.

Disallowance. Exclusion from annual income.

Previously unemployed includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

(2) Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance-- provided that the total amount over a six-month period is at least $500.

(c) Disallowance of increase in annual income—

(1) Initial twelve month exclusion. During the cumulative twelve month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

(2) Second twelve month exclusion and phase-in. During the second cumulative twelve month period after the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

(3) Maximum four year disallowance. The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) is limited to a lifetime 48 month period. The disallowance only applies for a maximum of twelve months for disallowance under paragraph (c)(1) and a maximum of twelve months for disallowance under paragraph (c)(2), during the 48 month period starting from the initial exclusion under paragraph (c)(1) of this section.

(d) Inapplicability to admission. The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) *Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) *Definitions.* The following definitions apply for purposes of this section:

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

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) *Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) *Review of PHA decision.*

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

(e) *PHA relation with welfare agency.*

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.

CHAPTER 7 Verification

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

INTRODUCTION

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

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

Part I describes the general verification process. More detailed requirements related to individual factors are provided in subsequent parts including family information (Part II), income and assets (Part III), and mandatory deductions (Part IV).

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

PART I. GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION

[24 CFR 982.516 AND 982.551, 24 CFR 5.230]

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

Consent Forms

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

Penalties for Failing to Consent [24 CFR 5.232]

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

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy

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

<u>YCH Policy</u>

In order of priority, the forms of verification that may be used are:

- Enterprise Income Verification (EIV) whenever available
- Third-party Written Verification
- Third-party Oral Verification
- Review of Documents
- Self-Certification

Each of the verification methods is discussed in subsequent sections below. Exhibit 7-1

at the end of the chapter contains an excerpt from the notice that provides guidance with respect to how each method may be used.

Requirements for Acceptable Documents

YCH Policy

Any documents used for verification must be dated within 60 calendar days of the date they are provided to YCH. The documents must not be damaged, altered or in any way illegible.

Print-outs from web pages, e-mails and faxes are considered original documents.

YCH staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.

Any family self-certifications must be made in a format acceptable to YCH.

File Documentation

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

YCH Policy

YCH will document, in the family file, the following:

- Reported family annual income
- Value of assets
- Expenses related to deductions from annual income
- Other factors influencing the adjusted income or income-based rent determination

When YCH is unable to obtain 3rd party verification, YCH will document in the family file the reason that third-party verification was not available and will place a photocopy of any original document(s) in the family file. [24 CFR 960.259(c)(1); VG, p.15]

7-I.C. ENTERPRISE INCOME VERIFICATION (EIV)

Use of HUD's Enterprise Income Verification (EIV) System

HUD's EIV system contains data showing earned income, unemployment benefits, Social Security and SSI benefits for participant families. HUD requires YCH to use the EIV system when available. The following policies will apply when YCH has access to HUD's EIV system.

The EIV system contains two main components: tenant income data reports and "exceeds threshold" reports.

Tenant Income Data (TID) Reports
The data shown on TID reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

YCH Policy
YCH will obtain TID reports for annual reexaminations. Reports will be generated as part of the regular reexamination process.

TID reports will be compared to family-provided information as part of the annual reexamination process. TID reports may be used in the calculation of annual income, as described in Chapter 6.I.C. TID reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between TID reports and family-provided information will be resolved as described in Chapter 6.I.C. and in this chapter.

TID reports will be used in interim reexaminations when it is necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits, and to verify that families claiming zero income are not receiving income from any of these sources.

TID reports will be retained in participant files with the applicable annual or interim reexamination documents.

When YCH determines through TID reports and third party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 18, Program Integrity.

Income Discrepancy Reports (IDRs)
The IDR is a tool for identifying families who may have concealed or under-reported income. Data in the IDR represents income for past reporting periods and may be between 6 months and 30 months old at the time IDRs are generated.

Families who have not concealed or under-reported income may appear on the IDR in some circumstances, such as loss of a job or addition of new family members.

YCH Policy
YCH will generate and review IDRs during an annual reexamination. The IDR threshold percentage will be adjusted as necessary based on the findings in the IDRs.

In reviewing IDRs, YCH will begin with the largest discrepancies.

When YCH determines that a participant appearing on the IDR has not

concealed or under-reported income, the participant's name will be placed on a list of "false positive" reviews. To avoid multiple reviews in this situation, participants appearing on this list will be eliminated from IDR processing until a subsequent interim or annual reexamination has been completed.

When it appears that a family may have concealed or under-reported income, YCH will request third-party written verification of the income in question.

When YCH determines through IDR review and third party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 18, Program Integrity.

EIV Identity Verification

The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on Social Security number, name, and date of birth. When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

YCH Policy

YCH will verify the identity of participants whose identity verification has failed as part of the annual reexamination process.

YCH will attempt to resolve PIC/SSA discrepancies by reviewing file documents. When YCH determines that discrepancies exist due to YCH errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

Reasonable Effort and Timing

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

YCH Policy

YCH will diligently seek third-party verification using a combination of written and oral requests to verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.

YCH may mail, fax, e-mail, or hand deliver third-party written verification requests and will accept third-party responses using any of these methods. YCH will send a written request for verification to each required source and give the source five (5) calendar days to respond in writing. If response has not been received by the 5th day, YCH will request third-party oral verification.

YCH will make a minimum of two attempts, one of which may be oral, to obtain

third-party verification. A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source will be documented in the file. Regarding third-party oral verification, YCH staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification YCH will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

When Third-Party Information is Late

When third-party verification has been requested and the timeframes for submission have been exceeded, YCH will use the information from hand -carried documents on a provisional basis.

YCH Policy
If YCH later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, YCH will conduct an interim reexamination to adjust the figures used for the reexamination. YCH will correct the reexamination if the third-party verification shows an increase in income of $200/month or higher. If there is a decrease in income, YCH will correct the reexamination.

When Third-Party Verification is Not Required

Primary Documents

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

Certain Assets and Expenses

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

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

YCH Policy
YCH will use review of documents in-lieu of requesting third-party verification when the market value of an individual asset or an expense is less than $5,000 annually and the family has original documents that support the declared amount.

Certain Income, Asset and Expense Sources

YCH will determine that third-party verification is not available when it is known that an income source does not have the ability to provide written or oral third-party verification [VG, p. 15]. For example, YCH will rely upon review of documents when YCH determines that a third party's privacy rules prohibit the source from disclosing

information.

Another example would be where the Social Security Administration (SSA) has refused to respond to requests for third-party verification. YCH also will determine that third-party verification is not available when there is a service charge for verifying an asset or expense and the family has original documents that provide the necessary information.

7-I.E. REVIEW OF DOCUMENTS

Using Review of Documents as Verification

YCH Policy

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

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

7-I.F. SELF-CERTIFICATION

YCH Policy

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

YCH may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to YCH and must be signed by the family member whose information or status is being verified.

PART II. VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

YCH Policy

YCH will require families to furnish verification of legal identity for each household member.

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

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required. If none of these documents can be provided, at YCH's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to YCH and be signed in the presence of a YCH representative or public notary.

When a member of the household becomes an adult (i.e. turns 18), YCH will require them to furnish a photo ID as verification of legal identity at the family's next annual reexamination.

7-II.B. SOCIAL SECURITY NUMBERS

[24 CFR 5.216 and HCV GB, p. 5-12]

For every family member age 6 or older, the family must provide documentation of a

valid Social Security number (SSN), or a self-certification stating that no SSN has been issued. The self-certification must be executed personally by any family member 18 or older, or by a parent or guardian for a minor.

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

> YCH Policy
> YCH will instruct the family to obtain a duplicate card from the local Social Security Administration (SSA) office.

Social Security numbers must be verified only once during continuously-assisted occupancy.

If any family member obtains a SSN after admission to the program, the new SSN must be disclosed at the next regularly scheduled reexamination. If a family member changes their name on their Social Security card, they must provide a copy of the new card. Case file names must match current Social Security information.

In addition, if a child reaches the age of 6 and has no SSN, the parent or guardian must execute a self-certification stating that the child has no SSN at the next regularly scheduled reexamination.

The Social Security numbers of household members, such as live-in aids, must be verified for the purpose of conducting criminal background checks.

7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of Social Security retirement benefits is acceptable.

> YCH Policy
> If an official record of birth or evidence of Social Security retirement benefits cannot be provided, YCH will require the family to submit other documents that support the reported age of the family member (e.g. school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously-assisted occupancy.

7-II.D. FAMILY RELATIONSHIPS

Applicants and program participants are required to identify the relationship of each household member to the head of household.

> YCH Policy
> Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household

normally is sufficient verification of family relationships.

Marriage

YCH Policy

Certification by the head of household is normally sufficient verification. If YCH has reasonable doubts about a marital relationship, YCH will require the family to document the marriage. A marriage certificate may be required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g. by telling the community they are married, calling each other husband and wife (or wife and wife), using the same last name, filing joint income tax returns).

Separation or Divorce

YCH Policy

A certified copy of a divorce decree or other court record is required to document that a couple is divorced or legally separated. If no court document is available, the head of household will be required to certify that the divorce or separation has taken place by providing verification of the spouse's new address.

Absence of Adult Member

YCH Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g. submission of family composition form signed by landlord and head of household).

Foster Children and Foster Adults

YCH Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

7-II.E. VERIFICATION OF STUDENT STATUS

General Requirements

YCH Policy

YCH requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family reports full-time student status for an adult other than the head, spouse, or co-head.
- The family includes a student enrolled in an *institution of higher education.*

Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

YCH Policy

In accordance with the verification hierarchy described in Section 7-1.B, YCH will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see Section Exhibit 3-2)
- The student is at least 24 years old
- The student is a veteran, as defined in Section 3-II.E
- The student is married
- The student has at least one dependent child, as defined in Section 3-II.E

If YCH cannot verify at least one of these exemption criteria, YCH will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, YCH will then proceed to verify either the student's parents' income eligibility (see Section 7-III.J) or the student's independence from his/her parents (see below).

Independent Student

YCH Policy

YCH will verify a student's independence from his/her parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

- Either reviewing and verifying previous address information to determine whether the student has established a household separate from his/her parents for at least one year or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student* (see Section 3-II.E)
- Reviewing prior year income tax returns to verify whether a parent has claimed the student as a dependent

- Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is $0.

7-II.F. DOCUMENTATION OF DISABILITY

YCH must verify the existence of a disability in order to allow certain income disallowances and deductions from income. YCH is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. YCH may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If YCH receives a verification document that provides such information, YCH will not place this information in the tenant file. Under no circumstances will YCH request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at www.os.dhhs.gov.

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

YCH Policy

For family members claiming disability who receive disability benefits from the SSA, YCH will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, YCH will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), YCH will ask the family to request a benefit verification letter by either calling SSA at (1-800) 772-1213,

or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter they will be required to provide it to YCH.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603.

YCH Policy

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a qualified professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The qualified professional will verify whether the family member does or does not meet the HUD definition.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS

[24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and YCH verification requirements related to citizenship status.
The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

YCH may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

YCH Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless YCH receives information indicating that an individual's declaration may not be accurate.

Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date in which the family began receiving HUD-funded assistance. Exhibit 7-2 at the end of this chapter summarizes documents family members must provide.

YCH Verification [HCV GB, pp. 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, YCH must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

YCH will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

YCH must verify any preferences claimed by an applicant.

<u>YCH Policy</u>

YCH will verify local preferences in the following manner:

Residency:

- Telephone bill (not cell phone)
- Utility bills
- Written verification from an employer that a family member is employed or have been notified that they are hired to work in Yolo County.

If at the time of application the applicant is staying in a shelter that is not located in Yolo County, YCH will consider the applicant to be a resident and give the local preference if the applicant's last permanent address was in Yolo County. If at the time of application the applicant is staying in a shelter located in Yolo County, the applicant will be given the local preference.

Member of the Military or Veteran Status:

- DD214 form to verify veteran and honorable discharge status of a family member or the spouse of a deceased veteran. Merchant Marines who served in active oceangoing service from December 7, 1941, to August 15, 1945, are considered veterans.
- U. S. military card to verify current military service.

PART III. VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides YCH policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Tips

YCH Policy
Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

7-III.B. BUSINESS AND SELF-EMPLOYMENT INCOME

YCH Policy
Business owners and self-employed persons will be required to provide:

- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.
- All schedules completed for filing federal and local taxes in the preceding year.

The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination YCH may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

YCH will accept the family member's certified estimate of income and will require the family to provide documentation of income and expenses and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN-LIEU OF EARNINGS

Social Security/SSI Benefits

YCH Policy
To verify the SS/SSI benefits of applicants, YCH will request a verification of benefits for the current year SSA benefit verification letter from each family member that receives Social Security benefits. If the family is unable to provide the document(s), YCH will ask the family to request a benefit verification letter by

either calling SSA at (1-800) 772-1213, or by requesting it from www.ssa.gov. Once the applicant has received the benefit verification letter they will be required to provide it to YCH.

To verify the SS/SSI benefits of participants, YCH will obtain information about Social Security/SSI benefits through the HUD EIV System. If benefit information is not available in the HUD EIV System, YCH will ask the family to request a benefit verification letter by either calling SSA at (1-800) 772-1213, or by requesting it from www.ssa.gov. Once the participant has received the benefit verification letter they will be required to provide it to YCH.

7-III.D. ALIMONY OR CHILD SUPPORT

YCH Policy

The way YCH will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that it receives regular payments, verification will be sought in the following order.

- If payments are made through a state or local entity, YCH will request a record of payments for the past 12 months and request that the entity disclose any known information about the likelihood of future payments.
- Third-party verification from the person paying the support.
- Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.
- Copy of the latest check and/or payment stubs.
- Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

If the family declares that it receives irregular or no payments, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include a statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts. If the family has made independent efforts to collect amounts due, a written statement from the attorney or other collection entity that has assisted the family in these efforts.

Note: Families are not required to undertake independent enforcement action.

7-III.E. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. YCH needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

YCH Policy
YCH will verify the value of assets disposed of only if:

- YCH does not already have a reasonable estimation of its value from previously collected information, or
- The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and YCH verified this amount. Now the person reports that she has given this $10,000 to her son. YCH has a reasonable estimate of the value of the asset; therefore, re-verification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately $5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, YCH will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

YCH Policy
The family must provide:

- A current executed lease for the property that shows the rental amount or written certification from the current tenant; and
- A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, YCH will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.G. RETIREMENT ACCOUNTS

YCH Policy
When third-party verification is not available, the type of original document that

will be accepted depends upon the family member's retirement status. Before retirement, YCH will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

Upon retirement, YCH will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

After retirement, YCH will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

YCH must obtain verification for income exclusions only if, without verification, YCH would not be able to determine whether the income is to be excluded. For example: If a family's 17 year old has a job at a fast food restaurant, YCH will confirm that YCH records verify the child's age but will not send a verification request to the restaurant.

If a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

<u>YCH Policy</u>
YCH will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family share (as is the case with the earned income disallowance). In all other cases, YCH will report the amount to be excluded as indicated on documents provided by the family.

7-III.I. ZERO ANNUAL INCOME STATUS

<u>YCH Policy</u>
For families claiming to have no annual income, YCH will execute verification forms to determine that certain forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by the household. Any adult household member claiming zero income will be required to complete YCH's Zero Income Statement form. Households with zero income may be marked for quarterly reviews of income.

7-III.J. STUDENT FINANCIAL ASSISTANCE

Any financial assistance, in excess of amounts received for tuition, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or

is residing with parents who are seeking or receiving HCV assistance [24 CFR 5.609(b)(9) and FR 4/10/06].

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income [24 CFR 5.609(c)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 3-2).

Excluded amounts are verified only if, without verification, YCH would not be able to determine whether or to what extent the income is to be excluded (see Section 7-III.H).

YCH Policy

For a student subject to having a portion of his/her student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), YCH will request third-party written verification of both the source and the amount from the educational institution attended by the student as well as from any other person or entity providing such assistance, as reported by the student.

In addition, YCH will request written verification from the institution of higher education regarding the student's tuition amount.

If YCH is unable to obtain third-party written verification of the requested information, YCH will pursue other forms of verification following the verification hierarchy in Section 7-I.B.

7-III.K. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, and does not have a dependent child, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from his or her parents in accordance with YCH policy [24 CFR 5.612 and FR 4/10/06, p. 18146].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

YCH Policy

If YCH is required to determine the income eligibility of a student's parents, YCH will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E). YCH will send the request directly to the parents, who will be required to certify their income under penalty of perjury. The parents will be required to submit the information directly to YCH. The required information must be submitted (postmarked) within 15 calendar days of the date of YCH's request or within any extended timeframe

approved by YCH.

YCH reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

PART IV. VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that YCH verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 (6-II.B.) for a full discussion of this deduction. YCH will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or co-head of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. YCH will verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

<u>YCH Policy</u>

YCH will provide a third-party verification form directly to the medical provider requesting the needed information.

Medical expenses will be verified through:

- Third-party verification form signed by the provider, when possible
- If third-party is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case YCH will make a best effort to determine what expenses from the past are likely to continue to occur in the future. YCH will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months

In addition, YCH must verify that:

- The household is eligible for the deduction.

- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62, or a person with disabilities. YCH will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for YCH's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

YCH Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

Expenses Incurred in Past Years

YCH Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, YCH will verify:

- The anticipated repayment schedule,
- The amounts paid in the past, and
- Whether the amounts to be repaid have been deducted from the family's annual income in past years.

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

YCH Policy

YCH will provide a third-party verification form directly to the care provider requesting the needed information. Expenses for attendant care will be verified

through:

- Third-party verification form signed by the provider, when possible.
- If third-party is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source.
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

Auxiliary Apparatus

YCH Policy
Expenses for auxiliary apparatus will be verified through:

- Third-party verification of anticipated purchase costs of auxiliary apparatus
- If third-party is not possible, billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months
- If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, YCH must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. YCH will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

YCH must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

YCH Policy
YCH will seek third-party verification from a Rehabilitation Agency or qualified

medical professional indicating that the person with disabilities requires attendant care to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.).

If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

YCH Policy
An attendant care provider will be asked to certify that, to the best of the provider's knowledge, the expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, YCH must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. YCH will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

YCH Policy
The child care provider will be asked to certify that, to the best of the provider's knowledge, the child care expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

YCH must verify the family member(s) that the family has identified as being enabled to seek work, pursue an education, or be gainfully employed, are actually pursuing those activities.

YCH Policy

Information to be Gathered

YCH may verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible YCH may use documentation from a state or local agency that monitors work-related requirements (e.g. welfare or unemployment). In such cases YCH may request verification from the agency of the member's job seeking efforts to date and require the family to submit to YCH any reports provided to the other agency.

In the event third-party verification is not available, YCH may require the participant to record job search efforts. YCH may review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

YCH may ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered.

Gainful Employment

YCH will seek verification from the employer of the work schedule of the person who is permitted to work by the child care attendant. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

YCH Policy

YCH will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

YCH will verify that the fees paid to the child care provider cover only child care

costs (e.g. no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g. prorate costs if some of the care is provided for ineligible family members).

YCH will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

YCH Policy

The actual costs the family incurs will be compared with YCH's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

EXHIBIT 7-1: EXCERPT FROM HUD VERIFICATION GUIDANCE NOTICE

(PIH 2004-01, pp. 11-14)

Upfront (UIV)	**Highest (Highly Recommended, highest level of third party verification)**
Written 3rd Party	**High (Mandatory if upfront income verification is not available or if UIV data differs substantially from tenant-reported information)**
Oral 3rd Party	**Medium (Mandatory if written third party verification is not available)**
Document Review	**Medium-Low (Use on provisional basis)**
Tenant Declaration	**Low (Use as a last resort)**

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Wages/Salaries	Use of computer matching agreements with a State Wage Information Collection Agency (SWICA) to obtain wage information electronically, by mail or fax or in person. Agreements with private vendor agencies, such as The Work Number or ChoicePoint to obtain wage and salary information. Use of HUD systems, when available.	The PHA mails, faxes, or e-mails a verification form directly to the independent sources to obtain wage information. The PHA may have the tenant sign a Request for Earnings Statement from the SSA to confirm past earnings. The PHA mails the form to SSA and the statement will be sent to the address the PHA specifies on the form.	In the event the independent source does not respond to the PHA's written request for information, the PHA may contact the independent source by phone or make an in person visit to obtain the requested information.	When neither form of third party verification can be obtained, the PHA may accept original documents such as consecutive pay stubs (HUD recommends the PHA review at least three months of pay stubs, if employed by the same employer for three months or more), W-2 forms, etc. from the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from earnings. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.

Verification of Employment Income: The PHA should always obtain as much information as possible about the employment, such as start date (new employment), termination date (previous employment), pay frequency, pay rate, anticipated pay increases in the next twelve months, year-to-date earnings, bonuses, overtime, company name, address and telephone number, name and position of the person completing the employment verification form.
Effective Date of Employment: The PHA should always confirm start and termination dates of employment.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Self-Employment	Not Available	The PHA mails or faxes a verification form directly to sources identified by the family to obtain income information.	The PHA may call the source to obtain income information.	The PHA may accept any documents (i.e. tax returns, invoices and letters from customers) provided by the tenant to verify self-employment income. **Note:** The PHA must document in the tenant file, the reason third party verification was not obtained.	The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from self-employment. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.
Verification of Self-Employment Income: Typically, it is a challenge for PHAs to obtain third party verification of self-employment income. When third party verification is not available, the PHA should always request a notarized tenant declaration that includes a perjury statement.					
Social Security Benefits	Use of HUD Tenant Assessment System (TASS) to obtain current benefit history and discrepancy reports.	The PHA mails or faxes a verification form directly to the local SSA office to obtain social security benefit information. **(Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)**	The PHA may call SSA, with the tenant on the line, to obtain current benefit amount. **(Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)**	The PHA may accept an original SSA Notice from the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly social security benefits. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.
Welfare Benefits	Use of computer matching agreements with the local Social Services Agency to obtain current benefit amount electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the local Social Services Agency to obtain welfare benefit information.	The PHA may call the local Social Services Agency to obtain current benefit amount.	The PHA may review an original award notice or printout from the local Social Services Agency provided by the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly welfare benefits. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Child Support	Use of agreement with the local Child Support Enforcement Agency to obtain current child support amount and payment status electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.	The PHA may call the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.	The PHA may review an original court order, notice or printout from the local Child Support Enforcement Agency provided by the tenant to verify current child support amount and payment status. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares current child support amount and payment status. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.
Unemployment Benefits	Use of computer matching agreements with a State Wage Information Collection Agency to obtain unemployment compensation electronically, by mail or fax or in person. Use of HUD systems, when available.	The PHA mails, faxes, or e-mails a verification form directly to the State Wage Information Collection Agency to obtain unemployment compensation information.	The PHA may call the State Wage Information Collection Agency to obtain current benefit amount.	The PHA may review an original benefit notice or unemployment check stub, or printout from the local State Wage Information Collection Agency provided by the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares unemployment benefits. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.
Pensions	Use of computer matching agreements with a Federal, State, or Local Government Agency to obtain pension information electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the pension provider to obtain pension information.	The PHA may call the pension provider to obtain current benefit amount.	The PHA may review an original benefit notice from the pension provider provided by the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly pension amounts. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Assets	Use of cooperative agreements with sources to obtain asset and asset income information electronically, by mail or fax or in person.	The PHA mails, faxes, or emails a verification form directly to the source to obtain asset and asset income information.	The PHA may call the source to obtain asset and asset income information.	The PHA may review original documents provided by the tenant. **Note: The PHA must document in the tenant file, the reason third party verification was not available.**	The PHA may accept a notarized statement or affidavit from the tenant that declares assets and asset income. **Note: The PHA must document in the tenant file, the reason third party verification was not available.**
Comments	Whenever HUD makes available wage, unemployment, and SSA information, the PHA should use the information as part of the reexamination process. Failure to do so may result in disallowed costs during a RIM review.	**Note:** The independent source completes the form and returns the form directly to the PHA. Agency. The tenant should not hand carry documents to or from the independent source.	The PHA should document in the tenant file, the date and time of the telephone call or in person visit, along with the name and title of the person that verified the current income amount.		The PHA should use this verification method as a last resort, when all other verification methods are not possible or have been unsuccessful. **Notarized statement should include a perjury penalty statement.**

Note: The PHA must not pass verification costs along to the participant.

Note: In cases where the PHA cannot reliably project annual income, the PHA may elect to complete regular interim reexaminations (this policy should be apart of the PHA's written policies.)

EXHIBIT 7-2: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS

[HCV GB, pp. 5-9 and 5-10] **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA. Except for persons 62 or older, all noncitizens must sign a verification consent form Additional documents are required based upon the person's status.	
Elderly Noncitizens • A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.	
All other Noncitizens • Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.	

• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
• Form I-94 Arrival-Departure Record annotated with one of the following:
  • "Admitted as a Refugee Pursuant to Section 207"
  • "Section 208" or "Asylum"
  • "Section 243(h)" or "Deportation stayed by Attorney General"
  • "Paroled Pursuant to Section 221 (d)(5) of the USCIS"
	• Form I-94 Arrival-Departure Record with no annotation accompanied by:
	  • A final court decision granting asylum (but only if no appeal is taken);
	  • A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
	  • A court decision granting withholding of deportation; or
	  • A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

• Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".	Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

CHAPTER 8 Housing Quality Standards and Rent Reasonableness

[24 CFR 982 Subpart I and 24 CFR 982.507]

INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits YCH to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and YCH-established requirements. HQS inspections are required before the Housing Assistance Payments (HAP) Contract is executed between the landlord and YCH. One HQS inspection is required at least annually during the term of the contract.

HUD also requires YCH to determine that units rented by families assisted under the HCV program have rents that are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and YCH requirements related to housing quality standards and rent reasonableness as follows:

> Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.
>
> Part II. The Inspection Process. This part describes the types of inspections YCH will make and the steps that will be taken when units do not meet HQS.
>
> Part III. Rent Reasonableness Determinations. This part discusses the policies YCH will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

PART I: PHYSICAL STANDARDS

8.I.A. GENERAL HUD REQUIREMENTS

HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors

A summary of HUD performance criteria is provided in Attachment 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988

Tenant Preference Items

HUD requires YCH to enforce minimum HQS but also requires that certain judgments about acceptability be left to the family. For example, YCH must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic condition of the facilities is acceptable. Attachment 8-2 summarizes those items that are considered tenant preferences.

Modifications to Provide Accessibility

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require

restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained. [24 CFR 100.203; Notice 2003-31]

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

8.I.B. ADDITIONAL LOCAL REQUIREMENTS

YCH may impose additional quality standards as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choice. HUD approval is required if more stringent standards are imposed. HUD approval is not required if YCH additions are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

Thermal Environment [HCV GB p.10-7]

YCH must define a “healthy living environment” for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

The heating system (i.e. a working radiator, hot air register or baseboard heat) must be capable of maintaining an interior temperature of 65 degrees Fahrenheit between October 1 and May 1. A kitchen stove with a built-in heater or portable electric room heaters are not adequate.

Clarifications of HUD Requirements

YCH Policy

As permitted by HUD, YCH has adopted the following specific requirements that elaborate on HUD standards.

Windows

Window screens must be in good condition (applies only if screens are present).

Doors

All exterior doors must be lockable and have no holes. Locks must be in compliance with California state law.

*CC **1941.3.***

(a) On and after July 1, 1998, the landlord, or his or her agent, of a building intended for human habitation shall do all of the following:

1. *Install and maintain an operable dead bolt lock on each main swinging entry door of a dwelling unit. The dead bolt lock shall be installed in conformance with the manufacturer's specifications and shall comply with applicable state and local codes including, but not limited to, those provisions relating to fire and life safety and accessibility for the disabled. When in the locked position, the bolt shall extend a minimum of 13/16 of an inch in length beyond the strike edge of the door and protrude into the doorjamb.*
2. *This section shall not apply to horizontal sliding doors. Existing dead bolts of at least one-half inch in length shall satisfy the requirements of this section. Existing locks with a thumb-turn deadlock that have a strike plate attached to the doorjamb and a latch bolt that is held in a vertical position by a guard bolt, a plunger, or an auxiliary mechanism shall also satisfy the requirements of this section. These locks, however, shall be replaced with a dead bolt at least 13/16 of an inch in length the first time after July 1, 1998, that the lock requires repair or replacement.*
3. *Existing doors which cannot be equipped with dead bolt locks shall satisfy the requirements of this section if the door is equipped with a metal strap affixed horizontally across the midsection of the door with a dead bolt which extends 13/16 of an inch in length beyond the strike edge of the door and protrudes into the doorjamb. Locks and security devices other than those described herein which are inspected and approved by an appropriate state or local government agency as providing adequate security shall satisfy the requirements of this section.*

Security

If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

8.I.C. LIFE THREATENING CONDITIONS

[24 CFR 982.404(a)]

HUD requires YCH to define life threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life threatening conditions within 24 hours of YCH notification.

YCH Policy

The following are considered life threatening conditions:

- Any condition that jeopardizes the security of the unit.
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling.
- Natural or LP gas or fuel oil leaks.
- Any electrical problem or condition that could result in shock or fire.
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.
- Utilities not in service, including no running hot water.
- Conditions that present the imminent possibility of injury.
- Obstacles that prevent safe entrance or exit from the unit.
- Absence of a functioning toilet in the unit.
- Inoperable smoke detectors.
- Window bars in bedrooms with no release.
- Combustible materials near the gas water heater or gas furnace.
- Sewage spills inside the unit or on the surrounding grounds.

If an owner fails to correct life threatening conditions as required by YCH, the housing assistance payment will be abated and the HAP contract will be terminated (see 8-II-G). The termination of the HAP contract will begin 15 days after the abatement. If a family fails to correct a family caused life threatening condition as required by YCH, YCH may terminate the family's assistance (see 8-II.H). The family will be required to correct family caused life threatening condition within five (5) calendar days from the date of the inspection.

Smoke Detectors

Inoperable smoke detectors are a serious threat to tenant safety and YCH will treat the situation as an emergency (24-hour) fail item. If the smoke detector is not operating properly, YCH will contact the owner by phone and request the owner to repair the smoke detector within 24 hours. YCH will re-inspect the unit the following day.

YCH Policy

If YCH determines that the family has purposely disconnected the smoke detector (by removing batteries or other means), the family will be required to repair the smoke detector within 24 hours and YCH will re-inspect the unit once the repair has been made. YCH will issue a verbal warning to any family determined to have purposely disconnected the unit's smoke detector. This warning will state that deliberate disconnection of the unit's smoke detector is a safety and fire hazard and is considered a violation of HQS.

8-I.D. OWNER AND FAMILY RESPONSIBILITIES

[24 CFR 982.404]

Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain family-supplied appliances
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

Owner Responsibilities

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g. vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

8-I-E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

[24 CFR 35.1225]

If YCH is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an environmental intervention blood lead level, YCH must complete a risk assessment of the dwelling unit. The risk assessment must be completed in accordance with program requirements, and the result of the risk assessment must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the risk assessment report from YCH, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the owner does not complete the “hazard reduction” as required, the dwelling unit is in violation of HQS and YCH will take action in accordance with Section 8-II.G.

YCH reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 16.

8-I-F. VIOLATION OF HQS SPACE STANDARDS

[24 CFR 982.403]

If YCH determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, YCH must issue the family a new voucher, and the family and YCH must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, YCH must terminate the HAP contract in accordance with its terms.

PART II: THE INSPECTION PROCESS

YCH conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections*. YCH conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection before the effective date of the HAP Contract.
- *Annual Inspections*. HUD requires YCH to inspect each unit under lease at least annually to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
- *Special Inspections.* A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
- *Quality Control Inspections.* HUD requires that a sample of units be re-inspected by a supervisor or other qualified individual to ensure that HQS are being enforced correctly and uniformly by all inspectors.

Inspection of YCH-owned Units [24 CFR 982.352(b)]

YCH must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a YCH-owned unit. A YCH-owned unit is defined as a unit that is owned by YCH that administers the assistance under the consolidated ACC (including a unit owned by an entity controlled by YCH). The independent agency must communicate the results of each inspection to the family and YCH. The independent agency must be approved by HUD, and may be the unit of general local government for YCH jurisdiction (unless YCH is itself the unit of general local government or an agency of such government).

Inspection Costs

YCH may not charge the family or owner for unit inspections [24 CFR 982.405(e)]. In the case of inspections of YCH-owned units, YCH may compensate the independent agency from ongoing administrative fee for inspections performed. YCH and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

Notice and Scheduling

The family must allow YCH to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

<u>YCH Policy</u>

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:30 a.m. and 5:00 p.m. Inspections will be conducted on business days only, Monday through

Friday. In the case of a life threatening emergency, YCH will give as much notice as possible, given the nature of the emergency.

Attendance at inspections by owner and family.

HUD permits YCH to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

YCH Policy

When a family occupies the unit at the time of inspection, an adult family member or designated adult representative must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

8-II.B. INITIAL HQS INSPECTION

[24 CFR 982.401(a)]

Timing of Initial Inspections

HUD requires the unit to pass HQS before the effective date of the lease and HAP Contract. HUD requires PHAs with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 14 calendar days of submission of the Request for Tenancy Approval (RFTA). For PHAs with 1,250 or more budgeted units, to the extent practicable, such inspection and determination must be completed within 14 calendar days. The 14-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

YCH Policy

To the extent practicable, YCH will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 14 calendar days of submission of the Request for Tenancy Approval (RFTA).

Inspection Results and Re-inspections

YCH Policy

If any HQS violations are identified, the owner will be notified of the deficiencies and be advised to notify YCH when they have been corrected. YCH will re-inspect the unit within 7 calendar days of the date the owner notifies YCH that the required corrections have been made.

If the unit fails HQS at the time of the re-inspection, YCH will notify the owner and the family that the unit has been rejected and that the family must search for another unit. YCH may agree to conduct a second re-inspection, for good cause, at the request of the family and owner.

Utilities

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying. Those utilities for which the family will be responsible for paying must have individual meters to determine individual family usage and costs. If a utility has a shared meter, the landlord is responsible for the cost.

YCH Policy

If utility service is not available for testing at the time of the initial inspection, YCH will allow the utilities to be placed in service after the unit has met all other HQS requirements. YCH will re-inspect the unit to confirm that utilities are operational before the HAP contract is executed by YCH.

Appliances

YCH Policy

If the family is responsible for supplying the stove and/or refrigerator, YCH will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the HAP contract is executed by YCH. YCH will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working. A confirmatory inspection will be scheduled within 30 days of HAP contract approval.

8.II.C. ANNUAL HQS INSPECTIONS

[24 CFR 982.405(a)]

Scheduling the Inspection

Each unit under HAP contract must have an annual inspection no more than 365 days after the most recent inspection.

YCH Policy

If an adult family member or other adult designated by the family cannot be present on the scheduled date, the family should request that YCH reschedule the inspection. YCH and the family will agree on a new inspection date that generally should take place within seven (7) calendar days of the originally-scheduled date. YCH may schedule an inspection more than seven (7) calendar days after the original date for good cause.

If the family misses the first scheduled appointment for an inspection without notifying YCH, the inspector will place a notice on the door advising the family that the inspector will return within seven (7) calendar days, giving date and time of the return inspection appointment. The notice will state that if the family misses the second inspection, they could be subject to termination of assistance.

If the family misses a second scheduled appointment for an inspection without notifying YCH, YCH will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the

family's assistance in accordance with Chapter 13.

8-II.D. SPECIAL INSPECTIONS

[HCV GB p. 10-30]

YCH will conduct a special inspection if the owner, family, or another source reports HQS violations in the unit.

YCH Policy

During a special inspection, YCH generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the annual inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled YCH may elect to conduct a full annual inspection.

8-II.E. QUALITY CONTROL INSPECTIONS

[24 CFR 982.405(b), HCV GB p. 10-32]

HUD requires a YCH supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample will include: (1) each type of inspection (initial, annual, and special); (2) inspections completed by each inspector; and (3) units from a cross-section of neighborhoods.

8.II.F. INSPECTION RESULTS AND RE-INSPECTIONS FOR UNITS UNDER HAP CONTRACT

Notification of Corrective Actions

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, YCH will determine: (1) whether or not the failure is a life threatening condition; and (2) whether the family or owner is responsible.

YCH Policy

When life threatening conditions are identified, YCH will immediately notify both parties. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the YCH notice.

When failures that are not life threatening are identified, YCH will send the owner and the family a written notification of the inspection results within seven (7) calendar days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. No more than 30 days will be allowed for the correction.

The notice of inspection results will inform the owner that if life threatening conditions are not corrected within 24-hours, and non-life threatening conditions are not corrected within the specified time frame (or any YCH-approved extension), the owner's HAP will be abated in accordance with YCH policy (see 8-II.G.). Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any YCH-approved extension, if applicable) the family's assistance will be terminated in accordance with YCH policy (see Chapter 12).

Extensions

For conditions that are life-threatening, YCH cannot grant an extension to the 24-hour corrective action period. For conditions that are not life-threatening, YCH may grant an exception to the required time frames for correcting the violation, if YCH determines that an extension is appropriate [24 CFR 982.404].

YCH Policy

Extensions will be granted in cases where YCH has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available.
- A repair is expensive (e.g. exterior painting or roof repair) and the owner needs time to obtain funds.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case by case basis, but will not exceed 60-days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided. Owners must make requests for extensions in writing and include verification of the reason the extension is needed.

Re-Inspections

YCH Policy

YCH will conduct a re-inspection immediately following the end of the corrective period, or any YCH approved extension.

The family and owner will be given reasonable notice of the re-inspection appointment. If the deficiencies have not been corrected by the time of the re-inspection, YCH will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with

YCH policies. If YCH is unable to gain entry to the unit in order to conduct the scheduled re-inspection, YCH will immediately reschedule the re-inspection. If YCH is unable to gain entry to the unit at the time of the second scheduled re-inspection, YCH will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

8.II.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, YCH must take prompt and vigorous action to enforce the owner obligations.

HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by YCH, HUD requires YCH to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.2(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family's responsibility.

YCH Policy

YCH will make all HAP abatements effective the first of the month after the second failed HQS inspection.

YCH will inspect abated units within 7 calendar days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

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

HAP Contract Termination

YCH must decide how long any abatement period will continue before the HAP contract will be terminated. YCH should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. YCH will issue a voucher to permit the family to move to another unit as described in Chapter 10.

YCH Policy

The maximum length of time that a HAP may be abated is 60 days. However, if the owner completes corrections and notifies YCH before the termination date of the HAP contract, YCH may rescind the termination notice if: (1) the family still resides in the unit and wishes to remain in the unit; and (2) the unit passes inspection.

Reasonable notice of HAP contract termination by YCH is 30 calendar days.

This notice will be given in the abatement notice.

8.II.H. ENFORCING FAMILY COMPLIANCE WITH HQS

[24 CFR 982.404(b)]

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by YCH (and any extensions), YCH will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

PART III: RENT REASONABLENESS

[24 CFR 982.507]

8-III.A. OVERVIEW

No HAP contract can be approved until YCH has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

YCH-Owned Units [24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in a YCH-owned unit, YCH must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A YCH-owned unit is defined as a unit that is owned by YCH that administers the assistance under the consolidated ACC (including a unit owned by an entity controlled by YCH). The independent agency must communicate the results of the rent reasonableness determination to the family and YCH. The independent agency must be approved by HUD, and may be the unit of general local government for the YCH jurisdiction (unless YCH is itself the unit of general local government or an agency of such government)

8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

Owner-initiated Rent Determinations

YCH must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. YCH (or independent agency in the case of YCH-owned units) will assist the family with the negotiations upon request. At initial occupancy, YCH must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. They must comply with local law. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

> <u>YCH Policy</u>
>
> After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, YCH may request owners to provide information about the rents charged for other units on the premises. In evaluating the proposed rents in comparison to

other units on the premises, YCH will consider unit size and length of tenancy in the other units.

YCH will determine whether the requested increase is reasonable within fifteen (15) days of receiving the request from the owner. The owner will be notified of the determination in writing.

If the request for rent increase coincides with the annual re-exam, the adjustment will be effective on the same date the annual re-exam takes effect. All rent adjustments will be effective the first of the month following 60 days after YCH's receipt of the owner's request or on the date specified by the owner, whichever is later.

YCH- and HUD-Initiated Rent Reasonableness Determinations

HUD requires YCH to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 5 percent decrease in the Fair Market Rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct YCH to make a determination at any other time. YCH may decide that a new determination of rent reasonableness is needed at any time.

<u>YCH Policy</u>

In addition to the instances described above, YCH will always make a determination of rent reasonableness at any time after the initial occupancy period if: (1) YCH determines that the initial rent reasonableness determination was in error; or (2) YCH determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

8-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

HUD requires YCH to take into consideration the factors listed below when determining rent comparability. YCH may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age of unit
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g. single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made.
- Amenities, services, and utilities included in the rent

Units that Must Not be Used as Comparables

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects; HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs; and units that are rent-controlled by local ordinance.

Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than four (4) units.

By accepting YCH payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give YCH information regarding rents charged for other units on the premises.

8-III.D . YCH RENT REASONABLENESS METHODOLOGY

How Market Data is Collected

YCH Policy

YCH will collect and maintain data on market rents in YCH's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries. The data will be updated on an ongoing basis and rent information that is more than 24 months old will be eliminated from the database.

How Rents are Determined

YCH Policy

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. YCH will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for HCV assistance, YCH may make adjustments to the range of prices to account for these differences.

The adjustment must reflect the local market. Not all differences in units require adjustments (e.g. the presence or absence of a garbage disposal may not affect

the rent in some market areas).

Adjustments may vary by unit type (e.g. a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

The adjustment must reflect the rental value of the difference – not its construction costs (e.g. it might cost $20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rental units are presumed to have functioning roofs).

When a comparable project offers rent concessions (e.g. first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of $500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $500 x 11 months = 5500/12 months = actual monthly rent of $488.

YCH will notify the owner of the rent YCH can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. YCH will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within seven (7) calendar days of YCH's request for information or the owner's request to submit information.

EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS

Note: This document provides an overview of HQS. For more detailed information see the following documents:

- 24 CFR 982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Sanitary Facilities

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

Food Preparation and Refuse Disposal

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

Space and Security

The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons.

Thermal Environment

The unit must have a safe system for heating the dwelling unit. Air conditioning is not required but if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

Illumination and Electricity

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

Structure and Materials

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

Interior Air Quality

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one openable window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

Water Supply

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

Lead-Based Paint

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
- provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by the PHA
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices
- As part of ongoing maintenance ask each family to report deteriorated paint.

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

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

Access

Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

Site and Neighborhood

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

Sanitary Condition

The dwelling unit and its equipment must be in sanitary condition and free of vermin and

rodent infestation. The unit must have adequate barriers to prevent infestation.

Smoke Detectors

Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).

Hazards and Heath/Safety

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.

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INTRODUCTION

Chapter 9 covers the lease-up process from the family's submission of a Request for Tenancy Approval (RFTA) to execution of the HAP contract.

In order for YCH to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, YCH must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by YCH and meet the Housing Quality Standards (HQS) [24 CFR 982.305(a)]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)]
- The owner must be an eligible owner, approvable by YCH, with no conflicts of interest [24 CFR 982.306]
- For families initially leasing a unit only: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]

9-I.A. TENANT SCREENING

YCH has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy [24 CFR 982.307(a)(1)].

YCH may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of YCH's policies with regard to screening applicant families for program eligibility [24 CFR 982.307(a)(1)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before YCH approval of the tenancy, YCH must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)].

YCH must provide the owner with the family's current and prior address (as shown in YCH records); and the name and address (if known to YCH) of the landlord at the family's current and prior address. [24 CFR 982.307 (b)(1)].

YCH is permitted, but not required, to offer the owner other information in YCH's possession about the family's tenancy [24 CFR 982.307(b)(2)].

YCH's policy on providing information to the owner will be included in the family's briefing packet [24 CFR 982.307(b)(3)].

<u>YCH Policy</u>

YCH will not screen applicants for family behavior or suitability for tenancy.

Owners are responsible for screening prospective tenants. At, or before YCH's approval to lease a unit, YCH will advise the owner that YCH has not screened the family's behavior or suitability for tenancy and that this screening is the owner's responsibility. (24 CFR 982.307(a)) Owners are strongly encouraged to screen prospective tenants.

Owners may request and YCH will provide specific information about the family being considered for tenancy. YCH will provide the following information:

- The family's current address as provided by the Applicant; and
- The name and address, if known, of the owner/landlord of the family's current and prior places of residence. YCH will only respond to specific questions asked by owners and only when YCH has documentation to confirm the accuracy of the information being provided. Information may be released if contained in the following types of documents;
- Notices of lease violation or termination
- Unit inspections

- Owner claims for unpaid tenant rent and damages
- Records of illegal drug activities as reported in newspapers or other public records
- Tenant rent accounts (for tenants of YCH-managed housing units)

Examples of questions that an owner might ask and to which YCH will respond include:

> Q: Has a lease ever been terminated because the prospective tenant failed to pay the rent?
>
> A: Yes. YCH has a Notice of Termination on file for unpaid rent.
>
> Q: Has another owner ever claimed damages caused by the prospective tenant? If so, did the tenant pay for those damages?
>
> A: Yes. Yolo County Housing has a 1993 Claim for Damages on file, and yes, the tenant has paid for those damages.

Questions to which the answers may not be found in the above mentioned documentation, will be reviewed by the attorney for YCH prior to responding.

9-I.B. REQUESTING TENANCY APPROVAL [Form HUD-52517]

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request YCH to approve the assisted tenancy in the selected unit.

The owner and the family must submit a completed Request for Tenancy Approval (RFTA) – Form HUD-52517 to YCH.

The RFTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for YCH to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless YCH has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either: (1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or (2) attach a lead-based paint disclosure statement.

The RFTA must be submitted no later than the expiration date stated on the voucher. [HCV GB p.8-15].

YCH Policy

The RFTA must be signed by both the family and the owner.

The owner may submit the RFTA on behalf of the family.

A completed RFTA (including the proposed dwelling lease) must be submitted as hard copies in-person, by mail, or by fax.

The family may not submit, and YCH will not process, more than one (1) RFTA at a time.

When the family submits the RFTA YCH will review the RFTA for completeness.

- If the RFTA is incomplete (including lack of signature by family, owner, or both), YCH will notify the family and the owner of the deficiencies.
- Corrections to the terms of the RFTA, missing information and/or missing documents will be accepted in-person, by mail, by fax or by e-mail.

Because of the time sensitive nature of the tenancy approval process, YCH will attempt to communicate with the owner and family by phone, fax, or e-mail. YCH will use mail when the parties can't be reached by phone, fax, or e-mail.

9-I.C. OWNER PARTICIPATION

YCH does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where YCH may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program. [24 CFR 982.306(e)]

See Chapter 10 for a full discussion of owner qualifications to participate in the HCV program.

9-I.D. ELIGIBLE UNITS

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in YCH's jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units [24 CFR 982.352(a)]

YCH may not assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under Section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar

public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

YCH-Owned Units [24 CFR 982.352(b)]

Otherwise eligible units that are owned or substantially controlled by YCH issuing the voucher may also be leased in the voucher program. In order for a YCH-owned unit to be leased under the voucher program, the unit must not be ineligible housing and YCH must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a YCH-owned unit without any pressure or steering by YCH.

> YCH Policy
>
> YCH has eligible YCH-owned units available for leasing under the voucher program.
>
> YCH will inform the family of this housing at the time of the briefing. YCH will also inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select an YCH-owned unit without any pressure or steering by YCH.

Special Housing Types [24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require, YCH to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group homes, shared housing, manufactured home space (where the family owns the manufactured home and leases only the space), cooperative housing and homeownership option.

The regulations require YCH to permit the use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Duplicative Assistance [24 CFR 982.352(c)]

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance;
- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;

- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.

Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family. See Chapter 5 for a full discussion of subsidy standards.

Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

Rent Burden [24 CFR 982.508]

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the dwelling unit rent must be at a level where the family's share of rent does not exceed 40 percent of the family's monthly adjusted income. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

9-I.E. LEASE AND TENANCY ADDENDUM

The family and the owner must execute and enter into a written dwelling lease for the assisted unit. This written lease is a contract between the tenant family and the owner; YCH is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

Lease Form and Tenancy Addendum [24 CFR 982.308]

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease is in such standard form.

All provisions in the HUD-required Tenancy Addendum must also be added word-for-word to the owner's standard lease form, for use with the assisted family. The Tenancy Addendum includes the tenancy requirements for the program and the composition of the household as approved by YCH. As a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner and the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

> YCH Policy
>
> YCH does not provide a model or standard dwelling lease for owners to use in the HCV program.

Lease Information [24 CFR 982.308(d)]

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant.
- The unit rented (address, apartment number, and any other information needed to identify the contract unit).
- The term of the lease (initial term and any provisions for renewal).
- The amount of the monthly rent to owner.
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family.

Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit YCH to approve a shorter initial lease term if certain conditions are met.

YCH Policy

YCH will approve an initial lease term of less than one year when YCH determines that: (i) Such shorter term would improve housing opportunities for the tenant; and (ii) such shorter term is the prevailing local market practice.

During the initial term of the lease, the owner may not raise the rent to owner [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be in the dwelling lease if they exist.

YCH may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC. [24 CFR 982.309(b)].

Security Deposit [24 CFR 982.313 (a) and (b)]

The owner may collect a security deposit from the tenant. YCH may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if YCH chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

YCH Policy

YCH will allow the owner to collect any security deposit amount the owner determines is appropriate. Therefore, no modifications to the HAP contract will be necessary.

An owner may collect a security deposit from the prospective tenant that is the same amount of deposit collected from tenants of similar unassisted units.

The security deposit must not exceed the following:

Separate Non-Lease Agreements between Owner and Tenant

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner minus YCH's housing assistance payments to the owner [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].

YCH Policy

YCH permits owners and families to execute separate, non-lease agreements for

Unfurnished Unit:	Two month's contract rent (this includes any amount labeled as last month's rent)
Furnished Unit:	Three month's contract rent (this includes any amount labeled as last month's rent)

SSMA

services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

YCH Review of Lease

YCH will review the dwelling lease for compliance with all applicable requirements.

YCH Policy

If the dwelling lease is incomplete or incorrect, YCH will notify the family and the owner of the deficiencies. Missing and corrected lease information will be accepted in-person, by mail, by fax, or by e-mail.

Because the initial leasing process is time-sensitive, YCH will attempt to communicate with the owner and family by phone, fax, or e-mail. YCH will use mail when the parties can't be reached by phone, fax, or e-mail.

YCH is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if YCH determines that the lease does not comply with State or local law [24 CFR 982.308(c)]

YCH Policy

YCH will review the owner's lease for compliance with state/local law.

9-I.F. TENANCY APPROVAL

[24 CFR 982.305]

After receiving the family's Request for Tenancy Approval, with the proposed dwelling lease, YCH must promptly notify the family and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, YCH must ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by YCH and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit is reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]; the owner is an eligible owner, not unapproved by YCH, with no conflicts of interest [24 CFR 982.306]; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information [24 CFR 982.305(b)].

<u>YCH Policy</u>

YCH will complete its determination within fifteen (15) calendar days of receiving all required information.

If the terms of the RFTA/proposed lease are changed for any reason, including but not limited to negotiation with YCH, YCH will obtain corrected copies of the RFTA and proposed lease, signed by the family and the owner.

- Corrections to the RFTA/proposed lease will be accepted as hard copies in-person, by mail, by fax, by e-mail or by phone.

If YCH determines that the tenancy cannot be approved for any reason, the owner and the family will be notified and given the opportunity to address any reasons for disapproval. YCH will instruct the owner and family of the steps that are necessary to approve the tenancy.

- Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.
- If the tenancy is not approvable due to rent affordability (including rent burden and rent reasonableness), YCH will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

9-I.G. HAP CONTRACT EXECUTION

[24 CFR 982.305]

The HAP contract is a written agreement between YCH and the owner of the dwelling unit occupied by a HCV assisted family. Under the HAP contract, YCH agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit and obliges the owner to comply with all program requirements.

The HAP contract format is prescribed by HUD.

If YCH has given approval for the family of the assisted tenancy, the owner and YCH execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

YCH is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

YCH must make a best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

YCH may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, YCH will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60-day period is void, and YCH may not pay any housing assistance payment to the owner.

> <u>YCH Policy</u>
>
> The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to YCH. YCH will ensure that both the owner and the assisted family receive copies of the dwelling lease.
>
> The owner and YCH will execute the HAP contract. YCH will not execute the HAP contract until the owner has submitted IRS form W-9. YCH will ensure that the owner receives a copy of the executed HAP contract.

See Chapter 13 for a discussion of the HAP contract and contract provisions.

9-I.H. CHANGES IN LEASE OR RENT

[24 CFR 982.308]

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give YCH a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, YCH approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, voucher assistance in the unit shall not be continued unless YCH has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances.
- Changes in lease provisions governing the term of the lease.
- The family moves to a new unit, even if the unit is in the same building or complex.

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RFTA) along with a new dwelling lease containing the altered terms. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of rent, the owner must notify YCH of any changes in the amount of the rent to owner at least sixty (60) days before any such changes go into effect [24 CFR 982.308(g)(4)]. YCH will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or give the family notice in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

<u>YCH Policy</u>

Where the owner is requesting a rent increase, YCH will determine whether the requested increase is reasonable within fifteen (15) calendar days of receiving the request from the owner. The owner will be notified of the determination in writing.

If the request for rent increase coincides with the annual re-exam, the adjustment will be effective on the same date the annual re-exam takes effect. All other rents adjustments will be effective the first of the month following 60 days after YCH's receipt of the owner's request or on the date specified by the owner, whichever is later.

CHAPTER 10 Owners

INTRODUCTION

Owners play a central role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term “owner” refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term “owner” includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations. However, this chapter is not meant to be an overview of all aspects of owner participation in the HCV program.

The chapter is organized in two parts:

> Part I: Owners in the HCV Program. This part discusses the role of an owner in YCH’s HCV program and highlights key owner rights and responsibilities.
>
> Part II: HAP Contracts. This part explains provisions of the HAP contract and the relationship between YCH and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including YCH policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 10 will reference the other chapters.

PART I. OWNERS IN THE HCV PROGRAM

10-I.A. OWNER RECRUITMENT AND RETENTION

[HCV GB, pp. 2-4 to 2 -6]

Recruitment

YCH is responsible for ensuring that very low income families have access to all types and ranges of affordable housing in Yolo County, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for YCH to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in Yolo County, are willing to participate in the HCV program.

To accomplish this objective, YCH will identify and recruit new owners to participate in the program.

YCH Policy

YCH will conduct owner outreach to ensure that owners are familiar with the program and its advantages. YCH will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

- Distributing printed material about the program to property owners and managers.
- Contacting property owners and managers by phone, by e-mail, or in-person.
- Holding owner recruitment/information meetings at least once a year.
- Participating in community based organizations comprised of private property and apartment owners and managers.
- Developing working relationships with owners and real estate brokers associations

Outreach strategies will be monitored for effectiveness, and adapted accordingly.

Retention

In addition to recruiting owners to participate in the HCV program, YCH will also provide the kind of customer service that will encourage participating owners to remain active in the program.

YCH Policy

All YCH activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for

owners.

YCH will provide owners with a handbook that explains the program, including HUD and YCH policies and procedures, in easy-to-understand language.

YCH will give special attention to helping owners succeed through activities such as:

- Maintaining a free listing of units available to searching families and updating it at least bi-monthly.
- Providing the owner with a designated YCH contact person for each assisted family.
- Coordinating inspection and leasing activities between YCH, the owner, and the family.
- Initiating telephone contact with the owner to explain the inspection process, and providing an inspection booklet and other resource materials about HUD housing quality standards.
- Providing other written information about how the program operates, including answers to frequently asked questions.

Additional services may be undertaken on an as-needed basis, and as resources permit.

10-I.B. BASIC HCV PROGRAM REQUIREMENTS

HUD requires YCH to aid families in their housing search by providing the family with a list of landlords or other parties known to YCH who may be willing to lease a unit to the family, or to help the family find a unit. Although YCH cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to YCH their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24 CFR 982.301(b)(11)].

<u>YCH Policy</u>

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify YCH. YCH will maintain a listing of such owners and provide this listing to the HCV family as part of the informational briefing packet

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential tenant. YCH has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RFTA, Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease

to the family and to follow the program's requirements. When submitted to YCH, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate that an assisted tenancy can be approved only under certain conditions.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of the family's past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. In addition, the owner must document legal ownership of the specified unit. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. YCH will inspect the owner's dwelling unit at various stages of HCV program participation, to ensure that the unit continues to meet HQS requirements. See chapter 8 for a discussion of the HQS standards, as well as the process for HQS inspections at initial lease-up and throughout the family's tenancy.

YCH must determine that the cost of the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability and the rent reasonableness determination process.

At initial lease-up of a unit, YCH must determine that the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]. See chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. However, YCH requires that the Tenancy Addendum, which helps standardize the tenancy requirements for all assisted families, be attached to that lease. See chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

YCH and the owner enter into a formal contractual relationship by executing the Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See chapter 9 for a discussion of the HAP contract execution process. Specific HAP contract provisions and responsibilities are discussed

later in this chapter 13.

10-I.C. OWNER RESPONSIBILITIES

[24 CFR 982.452]

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Performing all of the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease.
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit.
- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance.
- Complying with equal opportunity requirements.
- Preparing and furnishing to YCH information required under the HAP contract.
- Collecting from the family any security deposit, the tenant's contribution to rent (that part of rent to owner not covered by the housing assistance payment from YCH), and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease.
- Paying for utilities and services (unless paid for by the family under the lease).
- Making modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203].

10-I.D. OWNER QUALIFICATIONS

YCH does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where YCH may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

Owners Barred from Participation [24 CFR 982.306(a) and (b)]

YCH must not approve the assisted tenancy if YCH has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct YCH not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2]

YCH must not approve a RFTA if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. YCH may make an exception

as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19]

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

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

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. YCH must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by YCH must include [HCV Guidebook pp.11-2 and 11-3]:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, YCH, or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by YCH or assistance under the HCV program for an eligible YCH employee, explanation of the

responsibilities and duties of the position, including any related to the HCV program;

- If the case involves an investment on the part of a member, officer, or employee of YCH, description of the nature of the investment, including disclosure/divestiture plans.

Where YCH has requested a conflict of interest waiver, YCH may not execute the HAP contract until HUD has made a decision on the waiver request.

YCH Policy

In considering whether to request a conflict of interest waiver from HUD, YCH will consider: the reasons for waiving the requirement; consistency with state and local laws; the existence of alternative housing available to families; the individual circumstances of a particular family; the specific duties of individuals whose positions present a possible conflict of interest; the nature of any financial investment in the property and plans for disclosure/divestiture; and the possible appearance of impropriety.

Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]

HUD regulations permit YCH, at YCH's discretion, to refuse to approve a request for tenancy if the owner has committed any of a number of different actions.

If YCH disapproves a request for tenancy (RFTA) because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units [HCV GB p. 11-4].

YCH Policy

YCH will refuse to approve a request for tenancy if any of the following are true:

- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in any drug-related criminal activity or any violent criminal activity;
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the

household, a guest or another person under the control of any member of the household that: (i) threatens the right to peaceful enjoyment of the premises by other residents; (ii) threatens the health or safety of other residents, of employees of YCH, or of owner employees or other persons engaged in management of the housing; (iii) threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) is drug-related criminal activity or violent criminal activity.

- The owner has a history or practice of renting units that fail to meet state or local housing codes;
- The owner has not paid state or local real estate taxes, fines, or assessment;
- The owner is 30 days delinquent in repaying YCH housing assistance overpayments after receiving written notification from YCH.

In considering whether to disapprove owners for any of the discretionary reasons listed above, YCH will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, and the health and safety of participating families, among others.

Legal Ownership of Unit

The following represents YCH policy on legal ownership of a dwelling unit to be assisted under the HCV program.

<u>YCH Policy</u>

YCH will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g. deed of trust, proof of taxes for most recent year).

10-I.E. NON-DISCRIMINATION

[HAP Contract – Form HUD-52641]

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with YCH.

The owner must cooperate with YCH and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with YCH.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

PART II. HAP CONTRACTS

10-II.A. OVERVIEW

The HAP contract represents a written agreement between YCH and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner's responsibilities under the program, as well as YCH's obligations. Under the HAP contract, YCH agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit.

The HAP contract is used for all HCV program tenancies except for assistance under the Section 8 homeownership program, and assistance to families that own a manufactured home and lease the space.

If YCH has given approval of the family for the assisted tenancy, the owner and YCH execute the HAP contract. See chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.

10-II.B. HAP CONTRACT CONTENTS

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three parts.

Part A of the contract includes basic **contract information** about the name of the tenant family, address of the contract unit, names of all household members, first and last dates of initial lease term, amount of initial monthly rent to owner, amount of initial housing assistance payment, utilities and appliances to be supplied by owner and tenant, signatures of YCH and owner [HCV Guidebook, pp 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, YCH does have the discretion to add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. The YCH policy on the amount of security deposit an owner may collect is found in chapter 9.

In addition, YCH has the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by YCH is deemed received by the owner (e.g. upon mailing by YCH or actual receipt by the owner).

> <u>YCH Policy</u>
>
> YCH has not adopted a policy that defines when the housing assistance payment by YCH is deemed received by the owner. Therefore, no modifications to the HAP contract will be necessary.

Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- YCH Payment to Owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- YCH and HUD Access to Premises and Owner's Records
- Exclusion of Third Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices
- Entire Agreement Interpretation

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by YCH. The owner must sign the HUD Tenancy Addendum with the prospective tenant, and the tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

10-II.C. HAP CONTRACT PAYMENTS

General

During the term of the HAP contract, and subject to the provisions of the HAP contract, YCH must make monthly HAP payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

The amount of the HAP payment is determined according to the policies described in Chapter 6, and is subject to change during the term of the HAP contract. YCH must notify the owner and the family in writing of any changes in the HAP payment.

HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by YCH is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant, plus YCH HAP payment, should be equal to the rent specified in the lease (the rent to owner).

The family is not responsible for payment of the HAP payment, and YCH is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the total rent

to the owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from YCH, the excess amount must be returned immediately to YCH.

> YCH Policy
>
> If YCH determines that the owner is not entitled to all or a portion of the HAP, YCH will deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. See Chapter 17 for additional detail on owner reimbursement of HAP overpayments.

Owner Certification of Compliance

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract – Form HUD-52641]. By endorsing the monthly check from YCH, the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and premises in accordance with HQS; that the contract unit is leased to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

Late HAP Payments [24 CFR 982.451(a)(5)]

YCH is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for penalties if YCH fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if: 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants; 2) it is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted family for late payment of the family's share of the rent.

YCH is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond YCH's control. In addition, late payment penalties are not required if YCH intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

Termination of HAP Payments

YCH must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, YCH must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

YCH Policy

The owner must inform YCH when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform YCH when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide YCH with a copy of such judgment or determination.

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, YCH will continue to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform YCH of the date when the family actually moves from the unit or the family is physically evicted from the unit.

10-II.D. BREACH OF HAP CONTRACT

[24 CFR 982.453]

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS.
- If the owner has violated any owner obligation under any other HAP contract under Section 8.
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan.
- If the owner has engaged in drug-related criminal activity.
- If the owner has committed any violent criminal activity.

If YCH determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

YCH rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment or termination the HAP contract. YCH may also obtain additional relief by judicial order or action.

YCH must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. YCH must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

> YCH Policy
>
> Before YCH invokes a remedy against an owner, YCH will evaluate all information and documents available to determine if the contract has been breached.
>
> If relevant, YCH will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, YCH will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

10-II.E. HAP CONTRACT TERM AND TERMINATIONS

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease;
- The lease expires;
- YCH terminates the HAP contract;
- YCH terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner may keep the housing assistance payment for the month when the family moves out of the unit.
- 180 calendar days have elapsed since YCH made the last housing assistance payment to the owner;

- The family is absent from the unit for longer than the maximum period permitted by YCH;
- The Annual Contributions Contract (ACC) between YCH and HUD expires
- YCH elects to terminate the HAP contract.

YCH Policy

YCH may elect to terminate the HAP contract in each of the following situations:

- Available program funding is not sufficient to support continued assistance for families in the program [24 CFR 982.454];
- The unit does not meet HQS size requirements due to change in family composition [24 CFR 982.403] – see chapter 8;
- The unit does not meet HQS [24 CFR 982.404] – see chapter 8;
- The family breaks up [HUD Form 52641] – see chapter 3;
- The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 10-II.D.

If YCH terminates the HAP contract, YCH must give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract [HCV Guidebook pg.15-4].

YCH Policy

In all cases, the HAP contract terminates on the day YCH provides in the written notice to the owner. The owner is not entitled to any housing assistance payment after this day, and must return to YCH any housing assistance payment received after this day.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p. 11-17].

When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy [HCV GB, p. 8-22].

10-II.F. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [HUD 52641]

The HAP contract cannot be assigned to a new owner without the prior written consent of YCH.

An owner under a HAP contract must notify YCH in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by YCH.

The assignment will be approved only if the new owner is qualified to become an owner

under the HCV program according to the policies in Section 13-I.D. of this chapter.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that YCH finds acceptable. The new owner must provide YCH with a copy of the executed agreement.

YCH Policy

YCH must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

Within fifteen (15) calendar days of receiving the owner's request, YCH will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to YCH that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed;
- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;
- The effective date of the HAP contract assignment;
- A written agreement to comply with the terms of the HAP contract;
- Confirmation that the new owner is not a prohibited relative;
- A new lease for the rental assisted unit.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, YCH will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, YCH will process the leasing in accordance with the policies in chapter 9.

INTRODUCTION

YCH is required to reexamine each family's income and composition at least one-time annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and YCH policies concerning reexaminations are presented in three parts:

> Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.
>
> Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.
>
> Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

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PART I: ANNUAL REEXAMINATIONS

[24 CFR 982.516]

11-I.A. OVERVIEW

YCH must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

11-I.B. SCHEDULING ANNUAL REEXAMINATIONS

YCH must establish a policy to ensure that the annual reexamination for each family is completed *within* a 12-month period, and may require reexaminations more frequently [HCV GB p. 12-1].

> YCH Policy
>
> YCH will begin the annual reexamination process 90 days in advance of its scheduled effective date. Generally, YCH will schedule annual reexamination effective dates to coincide with the family's anniversary date.
>
> *Anniversary date* is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).
>
> If the family moves to a new unit, YCH will perform a new annual reexamination.
>
> YCH also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

YCH is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of YCH.

> YCH Policy
>
> The annual reexamination will be conducted by mail. Notification of the reexamination will be sent by first-class mail and will inform the family of the information and documentation that must be provided to YCH, and the deadline for providing this information. Documents will be accepted by mail, by fax, or in person. The housing specialist will provide his/her contact information for the client to contact them if they have any questions or concerns regarding the information and documentation that must be provided to YCH for the annual reexamination. Failure to respond to the notification of the reexamination by the deadline will result in the proposed termination of the family's assistance according to 24 CFR 982.551(a)(2).

If the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 13) will be sent to the family's address of record, as well as to any alternate address provided in the family's file.

An in-person interview will be scheduled if the family requests assistance in providing information or documentation requested by YCH. The in-person interview must be attended by the head of household, spouse, or co-head. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact YCH to request a reasonable accommodation (see Chapter 2).

Notification of reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact YCH in advance of the interview to schedule a new appointment. If a family misses the scheduled interview without notifying YCH within 24 hours of the appointment, a notice of termination (see Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file.

An advocate, interpreter, or other assistant may assist the family in the interview process.

11-I.C. CONDUCTING ANNUAL REEXAMINATIONS

As part of the annual reexamination process, families are required to provide updated information to YCH regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

YCH Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment or to supply all required information (as described in the reexamination notice) before the deadline specified in the notice. The required information will include a YCH-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview or by mail must be provided within five (5) calendar days of the date YCH notifies the family. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be sent a notice of termination (See Chapter 13).

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the Housing Quality Standards (HQS) (see Chapter 8), YCH must issue the family a new voucher, and the family and YCH must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, YCH must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

11-I.D. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)]

Section 327 of Public Law 109-115 established new restrictions on the ongoing eligibility of certain students (both part and full-time) who are enrolled in institutions of higher education.

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, and does not have a dependent child, the student's eligibility must be reexamined along with the income eligibility of the student's parents on an annual basis. In these cases, both the student and the student's parents must be income eligible for the student to continue to receive HCV assistance. If, however, a student in these circumstances is determined to be independent from his or her parents in accordance with YCH policy, the income of the student's parents will not be considered in determining the student's ongoing eligibility.

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

<u>YCH Policy</u>

During the annual reexamination process, YCH will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student's individual income as well as the income of the

student's parents. If the student has been determined "independent" from his/her parents based on the policies in Sections 3-II.E and 7-II.E, the parents' income will not be reviewed.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student's assistance will be terminated in accordance with the policies in Section 12-I.D.

If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), YCH will process a reexamination in accordance with the policies in this chapter.

11-I.E. EFFECTIVE DATES

YCH must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

YCH Policy

In general, an *increase* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 calendar days in advance.

- If less than 30 calendar days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.
- If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

- If the family causes a delay in processing the annual reexamination, d*ecreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by YCH by the date specified, and this delay prevents YCH from completing the reexamination as scheduled.

PART II: INTERIM REEXAMINATIONS

[24 CFR 982.516]

11-II.A. OVERVIEW

Family circumstances may change throughout the period between annual reexaminations. HUD and YCH policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances YCH must process interim reexaminations to reflect those changes. HUD regulations also permit YCH to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted [HCV GB, p. 12-10].

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition changes. YCH must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and YCH policies describing what changes families are required to report, what changes families may choose to report, and how YCH will process both YCH and family-initiated interim reexaminations.

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

YCH must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to family obligations under the program, YCH has limited discretion in this area.

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

New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require YCH approval. However, the family is required to promptly notify YCH of the addition [24 CFR 982.551(h)(2)].

> YCH Policy
>
> The family must inform YCH of the birth, adoption or court-awarded custody of a child within fifteen (15) calendar days.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request YCH approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

When any new family member is added, YCH must conduct a reexamination to

determine any new income or deductions associated with the additional family member, and to make appropriate adjustments in the family share of the rent and the HAP payment [24 CFR 982.516(e)].

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), YCH must issue the family a new Voucher, and the family must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, YCH must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

YCH Policy

Families must request YCH approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days, or 30 cumulative days, within a 12-month period, and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by YCH prior to the individual moving into the unit.

YCH will not approve the addition of a new family or household member unless the individual meets YCH's eligibility criteria (see Chapter 3, Eligibility).

YCH will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If YCH determines an individual meets YCH's eligibility criteria as defined in Chapter 3, YCH will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued another voucher and will be required to move.

If YCH determines that an individual does not meet YCH's eligibility criteria as defined in Chapter 3, YCH will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

YCH will make its determination within fifteen (15) days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

Families must promptly notify YCH if any family member no longer lives in the unit [24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], YCH also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

YCH Policy

If a household member ceases to reside in the unit, the family must inform YCH within fifteen (15) calendar days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform YCH within fifteen (15) calendar days.

YCH will terminate HCV assistance for a family if they fail to give notification of the change in household composition within thirty (30) calendar days.

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because YCH has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, YCH may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

YCH-Initiated Interim Reexaminations

YCH-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by YCH. They are not scheduled because of changes reported by the family.

YCH Policy

YCH will conduct interim reexaminations in each of the following instances:

- For families receiving the Earned Income Disallowance (EID), YCH will conduct an interim reexamination at the start and conclusion of the second 12-month exclusion period (50 percent phase-in period).
- If the family has reported zero income, YCH may conduct an interim reexamination every three (3) months as long as the family continues to report that they have no income.
- If at the time of the annual reexamination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, YCH will conduct an interim reexamination.
- YCH may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

Family-Initiated Interim Reexaminations

YCH must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)].

REPORTING INTERIM CHANGES

HUD regulations give YCH the freedom to determine the circumstances under which

families will be required to report changes affecting income.

YCH Policy

Applicants on the Housing Choice Voucher Program Waiting List must report all changes in address and/or household composition that occur before and while they are receiving rental assistance under the Housing Choice Voucher Program.

Program participants in the Housing Choice Voucher Program must report all changes in assets, income and/or household composition to Yolo County Housing between annual reexaminations.

Program participants with new Vouchers must also report all changes in assets, income and/or household composition to Yolo County Housing that occur during their housing search and/or before their first annual recertification.

Reports must be submitted in writing. Applicants and participants may use the Interim Change Report form or report in the form of a letter, e-mail or fax. Applicants and participants reporting changes must provide written verification of the changes.

This includes additions due to birth, adoption and court-awarded custody. The family must obtain approval from Yolo County Housing and their landlord/property owner prior to all other additions to the household.

If any new family member is added, family income must include any income of the new family member. YCH will conduct a reexamination to determine such additional income and will make the appropriate adjustments in the housing assistance payment and family unit size.

Interim Reexamination Policy

Generally, YCH will not conduct interim reexaminations when families have an increase in income. The following exceptions allow for interim reexaminations.

- Addition of a new family member.
- Quarterly reviews for zero income households that may require an interim to include new income.
- YCH will conduct interim reexaminations for families that qualify for the earned income disallowance (EID).
- Increases in the Contract rent for the rental assisted unit.

YCH will conduct an interim reexamination when families report a decrease in income.

Families will be required to report all changes in income/assets and household composition within fifteen (15) calendar days of the change. A Notice of Change form may be used for reporting, or changes may be reported via letters, e-mails or fax.

YCH Errors

If YCH makes a calculation error at admission to the program or at an annual reexamination, an interim reexamination will be conducted, if necessary, to correct the error, but the family will not be charged retroactively. Families will be given decreases, when applicable, retroactive to when the decrease for the change would have been effective if calculated correctly.

Optional Reporting

YCH Policy

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. YCH must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615.6].

11-II.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

YCH Policy

Reports must be submitted in writing. Applicants and participants may use the Interim Change Report form or report in the form of a letter, e-mail or fax. Applicants and participants reporting changes must provide written verification of the changes.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if YCH determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, YCH will determine the documentation the family will be required to submit. The family must submit any required information or documents within fifteen (15) days of receiving a request from YCH. This time frame may be extended for good cause with YCH approval. YCH will accept required documentation by mail, by fax, or in person.

Effective Dates

YCH must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB, p. 12-10].

YCH Policy

If the family share of the rent is to *increase*:

- The increase generally will be effective on the first of the month following the thirty (30) days notice to the family.
- If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 17, Program Administration.

If the family share of the rent is to *decrease*:

- The decrease will be effective on the first day of the month following the month in which the change was reported and all required documentation was submitted. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively to the first day of the month following the month in which the change was reported.

PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

11-III.A. OVERVIEW

After gathering and verifying required information for an annual or interim reexamination, YCH must recalculate the family share of the rent and the subsidy amount, and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

In order to calculate the family share of the rent and HAP amount correctly, changes in Payment Standards, subsidy standards, or utility allowances may need to be updated and included in YCH's calculations.

Specific policies governing how subsidy standards, Payment Standards, and utility allowances are applied are discussed below.

Payment Standards [24 CFR 982.505]

The family share of the rent and HAP calculations must use the correct Payment Standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6, Income and Subsidy Determinations, for information on how to select the appropriate Payment Standard.

When YCH changes its Payment Standards or the family's situation changes, new Payment Standards are applied at the following times:

- If YCH's Payment Standard amount changes during the term of the HAP contract, the date on which the new Standard is applied depends on whether the Standard has increased or decreased:
    - If the Payment Standard amount has i*ncreased,* the increased Payment Standard will be applied at the *first annual* reexamination following the effective date of the increase in the Payment Standard.
    - If the Payment Standard amount has *decreased*, the decreased Payment Standard will be applied at the *second annual* reexamination following the effective date of the decrease in the Payment Standard.
- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current Payment Standard applicable to the family will be used when the new HAP contract is processed.

Subsidy Standards [24 CFR 982.505(c)(4)]

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in YCH's subsidy standards (see Chapter 5, Briefing and Voucher Issuance), the new family unit size must be used to determine the Payment Standard amount for the family at the family's *first annual* reexamination following the change in family unit size.

Utility Allowances [24 CFR 982.517(d)]

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in YCH's utility allowance schedule [HCV GB, p. 12-5].

When there are changes in the utility arrangement with the owner, YCH must use the utility allowances in effect at the time the new lease or lease amendment and HAP contract are executed. The HAP Contract and lease must contain identical information about tenant and landlord provided utilities.

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

> YCH Policy
>
> Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

YCH must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

- The amount and effective date of the new HAP payment.
- The amount and effective date of the new family share of the rent.

The family must be given an opportunity for an informal hearing regarding YCH's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 14).

11-III.D. DISCREPANCIES

During an annual or interim reexamination, YCH may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, YCH may discover errors made by YCH. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 17.

CHAPTER 12 Moving with Continued Assistance and Portability

INTRODUCTION

Freedom of choice is a hallmark of the housing choice voucher (HCV) program. Therefore, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and YCH policies governing moves within or outside YCH'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 YCH's HCV program, whether the family moves to another unit within YCH's jurisdiction or to a unit outside YCH'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 YCH's jurisdiction. This part also covers the special responsibilities that YCH has under portability regulations and procedures.

PART I. MOVING WITH CONTINUED ASSISTANCE

12-I.A. ALLOWABLE MOVES

HUD regulations list five conditions under which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 12-I.B.

- 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 YCH 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)].

  YCH Policy

  If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give YCH 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 YCH a copy of any owner eviction notice [24 CFR 982.551(g)].
- YCH has terminated the assisted lease for the family's unit for the owner's breach [24 CFR 982.314(b)(1)(i)].
- YCH 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, YCH must issue the family a new voucher, and the family must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, YCH 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 YCH gives notice to the owner. [24 CFR 982.403(a) and (c)]

12-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

YCH may deny a family permission to move and two ways in which YCH may restrict moves by a family.

Denial of Moves

HUD regulations permit YCH to deny a family permission to move under the following conditions:

Insufficient Funding

YCH may deny a family permission to move if YCH does not have sufficient funding for continued assistance [24 CFR 982.314(e)(1)].

YCH Policy

YCH will deny a family permission to move on grounds that YCH does not have sufficient funding for continued assistance if: (a) the move is initiated by the family, not the owner or YCH; (b) YCH can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) YCH can demonstrate, through a detailed cost-reduction plan based on reasonable assumptions, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs. This policy applies to moves within YCH's jurisdiction as well as to moves outside it under portability.

Grounds for Denial or Termination of Assistance

YCH has grounds for denying or terminating the family's assistance [24 CFR 982.314(e)(2)].

YCH Policy

If YCH has grounds for denying or terminating a family's assistance, YCH will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 13, respectively. In general, it will deny a family permission to move for this reason under special circumstances.

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

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

YCH Policy

YCH will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within YCH's jurisdiction or outside it under portability.

YCH 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, YCH will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).

12-I.C. MOVING PROCESS

Notification

If a family wishes to move to a new unit, the family must notify YCH 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 YCH's jurisdiction under portability, the notice to YCH must specify the area where the family wishes to move [24 CFR 982.314(d)(2), Notice PIH 2004-12]. The notices must be in writing [24 CFR 982.5].

Approval

YCH Policy

Upon receipt of a family's notification that it wishes to move, YCH will determine whether the move is approvable in accordance with the regulations and policies set forth in sections 12-I.A and 12-I.B. YCH will notify the family in writing of its determination within fifteen (15) days following receipt of the family's notification.

Reexamination of Family Income and Composition

YCH Policy

When a family wishes to move to another dwelling unit, a reexamination will be scheduled. The family's anniversary date will change.

For families moving into or families approved to move out of YCH's jurisdiction under portability, YCH will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

YCH Policy

For families approved to move to a new unit within YCH's jurisdiction, YCH will issue a new voucher within forty-five (45) days of YCH's approval to move. No briefing is required for these families. YCH 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 YCH approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of YCH's jurisdiction under portability, YCH 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, YCH 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 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 a duplicative housing subsidy.

However, YCH will not pay more than three days of overlap of HAP without special documented approval for extenuating circumstances, such as reasonable accommodation for the disabled, non-voluntary displacement of tenants due to landlord or City action.

PART II: PORTABILITY

12-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. YCH will follow the rules and policies in section 12-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 12-II.C when it is acting as the receiving PHA for a family.

12-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 YCH's jurisdiction under portability. YCH, in accordance with HUD regulations and YCH policy, determines whether a family qualifies.

Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside YCH's jurisdiction under portability. However, HUD gives YCH 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.

> <u>YCH Policy</u>
>
> In determining whether or not to deny an applicant family permission to move under portability because YCH lacks sufficient funding or has grounds for denying assistance to the family, YCH will follow the policies established in section 12I.B of this chapter.

In addition, YCH 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)].

YCH Policy

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

YCH will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2). However, any exception to this policy is subject to the approval of the receiving PHA [24 CFR 982.353(c)(3)].

Participant Families

The Initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease. [24 CFR 982.3539b).]

YCH Policy

YCH will determine whether a participant family may move out of YCH's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 12-I.A and 12-I.B of this chapter. YCH will notify the family of its determination in accordance with the approval policy set forth in section 12I.C of this chapter.

Determining Income Eligibility

Applicant Families

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(3)]. The family must specify the area to which the family wishes to move [Notice 2004-12].

The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.355(c)(1)]. If the applicant family is not income eligible in that area, the PHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2004-12].

Participant Families

The income eligibility of a participant family is not re-determined 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.

YCH Policy

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

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

YCH Policy

No formal briefing will be required for a participant family wishing to move outside YCH's jurisdiction under portability. However, YCH will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program (see Chapter 5). YCH may provide the name, address, and phone of the contact for the PHA in the jurisdiction to which they wish to move. YCH will advise the family that they will be under the receiving PHA's policies and procedures, including subsidy standards and payment standards.

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, YCH will follow the regulations and procedures set forth in Chapter 5. A new voucher is not required for portability purposes.

YCH Policy

For participant families approved to move under portability, YCH will issue a new voucher within forty-five (45) days of YCH's written approval to move.

The initial term of the voucher for a portability will be 120 days.

Voucher Extensions and Expiration

YCH Policy

YCH will approve no extensions to a voucher issued to an applicant or participant family porting out of YCH'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 YCH'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 YCH'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 YCH's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.)

Initial Contact with the Receiving PHA

After approving a family's request to move under portability, the initial PHA must promptly notify the receiving PHA to expect the family [24 CFR 982.355(c)(2)]. This means that the initial PHA must contact the receiving PHA directly on the family's behalf [Notice PIH 2004-12]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(2)].

YCH Policy

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

Sending Documentation to the Receiving PHA

YCH is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2004-12]
- A copy of the family's voucher [Notice PIH 2004-12]
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2004-12]
- Copies of the income verifications backing up the form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2004-12]

YCH Policy

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

- Documentation of Social Security Numbers for all family members age 6 and over
- Documentation of legal identity

- Documentation of citizenship or eligible immigration status
- Documentation of participation in the earned income disallowance (EID) benefit
- Documentation of participation in a family self-sufficiency (FSS) program

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

Initial Billing Deadline [Notice PIH 2004-12]

When the initial PHA sends form HUD-52665 to the receiving PHA, it specifies in Part I the deadline by which it must receive the initial billing notice from the receiving PHA. This deadline is 60 days following the expiration date of the voucher issued to the family by the initial PHA. If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must contact the receiving PHA to determine the status of the family. If the receiving PHA reports that the family is not yet under HAP contract, the initial PHA may refuse to accept a late billing submission. If the receiving PHA reports that the family is under HAP contract and the receiving PHA cannot absorb the family, the initial PHA must accept a late billing submission; however, it may report to HUD the receiving PHA's failure to comply with the deadline.

YCH Policy

If the receiving PHA reports that the family is not yet under HAP contract, YCH 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. YCH will send the receiving PHA a written confirmation of its decision by mail, fax, or e-mail.

YCH will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2004-12]

If the receiving PHA is administering the family's voucher, the initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be received by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of over-leasing or funding shortfalls. YCH must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

Annual Updates of Form HUD-50058

If the initial PHA is being billed on behalf of a portable family, it should receive an

updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family's annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family.

Subsequent Family Moves

Within the Receiving PHA's Jurisdiction [24 CFR 314(e)(1), Notice PIH 2005-1]

The initial PHA has the authority to deny subsequent moves by portable families whom it is assisting under portability billing arrangements if it does not have sufficient funding for continued assistance.

> YCH Policy
>
> If YCH determines that it must deny moves on the grounds that it lacks sufficient funding (see section 12-I.B), it will notify all receiving PHAs with which it has entered into portability billing arrangements that they, too, must deny moves to higher cost units by portable families from YCH's jurisdiction.
>
> YCH will allow exceptions to this policy for purposes of reasonable accommodation of a family member who is a person with disabilities.

Outside the Receiving PHA's Jurisdiction [Notice PIH 2004-12]

If the initial PHA is assisting a portable family under a billing arrangement and the family subsequently decides to move out of the receiving PHA's jurisdiction, the initial PHA is responsible for issuing the family a voucher while the family is either being assisted or has a voucher from the receiving PHA and, if the family wishes to port to another jurisdiction, sending form HUD-52665 and supporting documentation to the new receiving PHA. Any extensions of the initial PHA voucher necessary to allow the family additional search-time to return to the initial PHA's jurisdiction or to move to another jurisdiction would be at the discretion of the initial PHA.

Denial or Termination of Assistance [24 CFR 982.355(c)(9)]

If the initial PHA has grounds for denying or terminating assistance for a portable family that has not been absorbed by the receiving PHA, the initial PHA may act on those grounds at any time. (For YCH policies on denial and termination, see Chapters 3 and 13, respectively.)

12-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(12)].

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(12)]. However, the family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(7)], and the amount of the family's housing assistance payment is determined in the same manner as for other families in the receiving PHA's voucher program [24 CFR 982.355(e)(2)].

Initial Contact with Family

When a family moves into YCH's jurisdiction under portability, the family is responsible for promptly contacting YCH and complying with YCH's procedures for incoming portable families [24 CFR 982.355(c)(3)].

If the voucher issued to the family by the initial PHA has expired, the receiving PHA does not process the family's paperwork but instead refers the family back to the initial PHA [Notice PIH 2004-12].

When a portable family requests assistance from the receiving PHA, the receiving PHA must promptly inform the initial PHA whether the receiving PHA will bill the initial PHA for assistance on behalf of the portable family or will absorb the family into its own program [24 CFR 982.355(c)(5)]. If the PHA initially bills the initial PHA for the family's assistance, it may later decide to absorb the family into its own program [Notice PIH 2004-12]. (See later under "Absorbing a Portable Family" for more on this topic.)

> YCH Policy
>
> Within fifteen (15) calendar days after receiving the portability packet, YCH will notify the initial PHA whether it intends to bill the initial PHA on behalf of the portable family or absorb the family into its own program.

If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2004-12]. (For more on this topic, see later under "Denial or Termination of Assistance.")

Briefing

HUD allows the receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search [Notice PIH 2004-12].

> YCH Policy
>
> YCH will not require the family to attend a briefing. YCH will provide the family with a briefing packet (as described in Chapter 5) and, in an individual meeting, will orally inform the family about YCH's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

Income Eligibility and Reexamination

HUD allows the receiving PHA to conduct its own income reexamination of a portable family [24 CFR 982.355(c)(4)]. However, the receiving PHA may not delay voucher issuance or unit approval until the reexamination process is complete unless the reexamination is necessary to determine that an applicant family is income eligible for admission to the program in the area where the family wishes to lease a unit [Notice PIH 2004-12, 24 CFR 982.201(b)(4)]. The receiving PHA does not re-determine income eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program [24 CFR 982.355(c)(1)].

> YCH Policy
>
> For any family moving into its jurisdiction under portability, YCH will conduct a

reexamination of family income and composition. However, YCH will not delay issuing the family a voucher for this reason. Nor will YCH delay approving a unit for the family until the re-examination process is complete unless the family is an applicant and YCH cannot otherwise confirm that the family is income eligible for admission to the program in the area where the unit is located.

In conducting its own reexamination, YCH will rely upon any verification documents provided by the initial PHA to the extent that they: (a) accurately reflect the family's current circumstances; and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

Voucher Issuance

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 CFR 982.355(b)(6)]. The family must submit a Request for Tenancy Approval to the receiving PHA during the term of the receiving PHA's voucher [24 CFR 982.355(c)(6)].

Timing of Voucher Issuance

HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family's paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures [Notice PIH 2004-12].

YCH Policy

When a family ports into its jurisdiction, YCH will issue the family a voucher based on the paperwork provided by the family unless the family's paperwork from the initial PHA is incomplete, the family's voucher from the initial PHA has expired or the family does not comply with YCH's procedures. YCH will update the family's information when verification has been completed.

Voucher Term

The term of the receiving PHA's voucher may not expire before the term of the initial PHA's voucher [24 CFR 982.355(c)(6)].

YCH Policy

The voucher issued by YCH will expire on the same date as the initial PHA's voucher.

Voucher Extensions [24 CFR 982.355(c)(6), Notice 2004-12]

The receiving PHA may provide additional search time to the family beyond the expiration date of the initial PHA's voucher. However, if it does so, it must inform the initial PHA of the extension. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a Request for Tenancy Approval, execute a HAP contract, and deliver the initial billing to

the initial PHA.

YCH Policy

YCH generally will not extend the term of the voucher that it issues to an incoming portable family unless YCH plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.

YCH will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

Notifying the Initial PHA

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a Request for Tenancy Approval for an eligible unit within the term of the receiving PHA's voucher [24 CFR 982.355(c)(8)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [24 CFR 982.355(e)(5), Notice PIH 2004-12].

(For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher,")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA's voucher is only valid for the family's search in the receiving PHA's jurisdiction. [Notice PIH 2004-12]

Administering a Portable Family's Voucher

Initial Billing Deadline

If a portable family's search for a unit is successful and the receiving PHA intends to administer the family's voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665): (a) no later than fifteen (15) calendar days following the date the receiving PHA executes a HAP contract on behalf of the family; and (b) in time that the notice will be received no later than 60 days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2004-12]. A copy of the family's form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or e-mail.

YCH Policy

YCH will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If the receiving PHA fails to send the initial billing within 15 calendar days following the

date the HAP contract is executed, it is required to absorb the family into its own program unless: (a) the initial PHA is willing to accept the late submission; or (b) HUD requires the initial PHA to honor the late submission (e.g. because the receiving PHA is over leased) [Notice PIH 2004-12].

Ongoing Notification Responsibilities [Notice PIH 2004-12, HUD-52665]

Annual Reexamination. The receiving PHA must send the initial PHA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

YCH Policy

YCH will send a copy of the updated HUD-50058 by regular mail at the same time the participant and owner are notified of the reexamination results.

Change in Billing Amount. The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments
- Termination of the HAP contract
- Payment of a damage/vacancy loss claim for the family
- Termination of the family from the program

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 15 calendar days following the effective date of the change in the billing amount.

Late Payments [Notice PIH 2004-12]

If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving PHA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request by memorandum to the director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

Overpayments [Notice PIH 2004-12]

In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

At HUD's discretion, the receiving PHA will be subject to the sanctions spelled out in Notice PIH 2004-12.

Denial or Termination of Assistance

At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(9), 24 CFR 982.355(c)(10)].

In the case of a termination, the PHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than 15 calendar days following the effective date of the termination of the billing arrangement. [Notice PIH 2004-12]

<u>YCH Policy</u>

If YCH elects to deny or terminate assistance for a portable family, YCH will notify the initial PHA within fifteen (15) days after the informal review or hearing if the denial or termination is upheld. YCH will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. YCH will furnish the initial PHA with a copy of the review or hearing decision.

Absorbing a Portable Family

The receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that: (a) the PHA has funding available under its annual contributions contract (ACC); and (b) absorbing the family will not result in over leasing [24 CFR 982.355(d)(1), Notice PIH 2004-12].

If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving PHA [24 CFR

982.201(b)(2)(vii)].

If the receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the initial PHA, HUD encourages the receiving PHA to provide adequate advance notice to the initial PHA to avoid having to return an overpayment. The receiving PHA must specify the effective date of the absorption of the family. [Notice PIH 2004-12]

YCH Policy

If YCH decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, YCH will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If YCH decides to absorb a family after that, it will provide the initial PHA with 30 days' advance notice.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA's voucher program [24 CFR 982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability.

CHAPTER 13 Termination Of Assistance And Tenancy

HUD regulations specify the reasons for which a PHA can terminate a family's assistance, and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter presents the policies that govern voluntary and involuntary terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part discusses various reasons that a family's assistance may be terminated, including voluntary termination by the family, termination because the family no longer qualifies to receive subsidy, and termination by YCH based on the family's behavior.

Part II: Approach to Termination of Assistance. This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that YCH may consider in lieu of termination, the criteria YCH must use when deciding what action to take, and the steps YCH must take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part presents the policies that govern the owner's right to terminate an assisted tenancy.

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

13-I.A. OVERVIEW

HUD requires YCH to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits YCH to terminate assistance for certain other actions family members take or fail to take. In addition, a family may decide to stop receiving HCV assistance at any time by notifying YCH.

13-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE

[24 CFR 982.455]

As a family's income increases, the amount of YCH subsidy goes down. If the amount of HCV assistance provided by YCH drops to zero and remains at zero for ONE HUNDRED-EIGHTY (180) consecutive calendar days the family's assistance terminates automatically.

YCH Policy

If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the family must notify YCH of the changed circumstances and request an interim reexamination before the expiration of the one hundred-eighty (180) -day period.

13-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that YCH terminate the family's assistance at any time.

YCH Policy

The request to terminate assistance should be made in writing and signed by the head of household. Before terminating the family's assistance, YCH will follow the notice requirements in Section 13-II.E.

13-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires YCH to terminate assistance in the following circumstances.

Eviction [24 CFR 982.552(b)(2)]

YCH must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. Incidents of actual or threatened violence, dating violence, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

YCH Policy

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has filed an unlawful detainer against the family, but before a legal eviction order has been issued, termination of

assistance is not mandatory. However, YCH will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in Section 13-II.C and other factors as described in Sections 13-II.E. Upon consideration of such alternatives and factors, YCH may, on a case-by-case basis, choose not to terminate assistance.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, unauthorized household members, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity.

Failure to Provide Consent [24 CFR 982.552(b)(3)]

YCH must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a reexamination. See Chapter 7 for a complete discussion of consent requirements.

Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]

YCH must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by YCH, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

Failure to Provide Social Security Documentation [24 CFR 5.218(c)]

YCH must terminate assistance if a participant family fails to provide the documentation or certification required for any family member who obtains a Social Security number, joins the family, or reaches six (6) years of age.

Methamphetamine Manufacture or Production [24 CFR 983.553(b)(1)(ii)]

YCH must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5) and FR 4/10/06]

If a student enrolled at an institution of higher education is under the age of twenty-four (24), is not a veteran, is not married, does not have dependent children, and is not residing with his/her parents in an HCV assisted household, YCH must the terminate

the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and YCH policies, or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

13-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]

HUD requires YCH to establish policies that permit YCH to terminate assistance if YCH determines that:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member has violated the family's obligation not to engage in any drug-related criminal activity
- Any household member has violated the family's obligation not to engage in violent criminal activity

Use of Illegal Drugs and Alcohol Abuse

<u>YCH Policy</u>

YCH will terminate a family's assistance if any household member, or guest is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

YCH will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Currently engaged in is defined as any use of illegal drugs during the previous six months.

YCH will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

In making its decision to terminate assistance, YCH will consider alternatives as described in Section 13-II.C and other factors described in Section 13-II.D. Upon consideration of such alternatives and factors, YCH may, on a case-by-case basis, choose not to terminate assistance.

***Drug-Related and Violent Criminal Activity* [24 CFR 5.100]**

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

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

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

YCH Policy

YCH will terminate a family's assistance if any household member, live-in aide, or guest, has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

This includes drug related criminal activity, which may have occurred either on or off the premises and includes activities of any family member, live-in aide or guest.

Any family member who engages in drug-related criminal activity according to a preponderance of the evidence, or who allows a guest to engage in such activities, will have his or her assistance terminated. Evidence of such activity includes the following:

- Conviction of a felony involving drugs (e.g. felony possession of a controlled substance);
- Conviction of a misdemeanor for the same activity;
- A pattern of arrests for drug use or possession or sale; or
- A preponderance of evidence exists that a pattern of drug use or possession or use of alcohol that interferes with the health and safety or disturbs the peaceful enjoyment of the premises of others.

In making its decision to terminate assistance, YCH will consider alternatives as described in Section 13-II.C and other factors described in Section 13-II.D. Upon consideration of such alternatives and factors, YCH may, on a case-by-case basis, choose not to terminate assistance.

Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c)]

HUD permits YCH to terminate assistance under a number of other circumstances. It is left to the discretion of YCH whether such circumstances in general warrant consideration for the termination of assistance. The Violence Against Women Reauthorization Act of 2005 explicitly prohibits PHAs from considering incidents or actual threatened domestic violence, dating violence, or stalking as reasons for terminating the assistance of a victim of such violence.

YCH Policy

YCH **will not** terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency or Welfare to Work voucher programs.

YCH **will** terminate a family's assistance if:

- The family has failed to comply with any family obligations under the program. See Exhibit 13-1 for a listing of family obligations and related YCH policies.
- Any family member has been evicted from federally-assisted housing in the last three years.
- Any YCH has ever terminated assistance under the program for any member of the family.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- Any family member has committed any criminal activity which may threaten the health, safety or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity.
- The family currently owes rent or other amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs.
- The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- The family has breached the terms of a repayment agreement entered into with YCH.
- A family member has engaged in or threatened violent or abusive behavior toward YCH personnel.

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

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

If YCH determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program, the family's assistance will be terminated. Families will have their assistance terminated in reverse order of receiving assistance from the Housing Choice Voucher program. Those HAP contracts with the most recent dates will be terminated first.

Participants in the following programs will not be terminated due to over-leasing:

- Family Self-Sufficiency
- Families with Conversion Vouchers
- Project-Based Voucher Participants

In making its decision to terminate assistance, YCH will consider alternatives as described in Section 13-II.C and other factors described in Section 13-II.D and Section 13-II.E. Upon consideration of such alternatives and factors, YCH may, on a case-by-case basis, choose not to terminate assistance.

Family Absence from the Unit [24 CFR 982.312]

The family may be absent from the unit for brief periods. YCH must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no adult member of the family is residing in the unit.

YCH Policy

If the family is absent from the unit for more than 90 consecutive calendar days, the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 13-II.E.

A family may be absent for a period of less than 30 calendar days without notifying YCH unless the absence will interfere with the scheduled annual recertification or annual unit inspection in which case the family must call and make appropriate arrangements. When an absence will be for 30 calendar days or more, the family must notify YCH in accordance with the following:

Planned Absences: The family must provide fifteen (15) days advance written notice of planned absences (e.g. vacations, stays in convalescent care facilities).

Unplanned Absences: The family must advise YCH within the first fifteen (15) days of the absence if the absence is expected to last 30 calendar days or more (e.g. hospital stays, jail or prison sentences).

Notification must include the reason for the absence, the anticipated date of return to the unit, and an address and telephone number where the family can be reached during the absence. A reason must be given if the family is unable to anticipate a date of return to the unit. Within fifteen (15) days of receipt of this notice, Yolo County Housing will send to the family a written notification that the family must advise YCH within three calendar days of the family's return to the unit and will advise the family that housing assistance payments will terminate if the family is absent for more than 90 calendar consecutive days.

YCH also may require additional information or certification that the family is absent from the unit or has returned to it. Failure to provide written notification or other requested information to YCH related to a family's absence or return to the

assisted unit are grounds for termination of housing assistance. The family may only have one long-term absence, i.e. of 90 days, away from the unit per year.

YCH must terminate the Housing Assistance Payment (HAP) contract for an assisted unit if the family is absent from the assisted unit for more than 90 consecutive calendar days. The family must request to be recertified within fifteen (15) days of the termination of the HAP contract to continue to be a Section 8 participant. If a request is not received, the family will be notified that the family has been deemed to have voluntarily given up their Section 8 assistance.

If the family's HAP contract was terminated for an absence due to special circumstances, which include, but are not limited to, hospitalization, convalescent care, or disability, (but not including incarceration), the family may submit a new Request for Tenancy Approval or request readmission or resumption of assistance for the previously assisted unit if the family is recertified and able to return to the unit prior to the expiration of the Voucher.

PART II: APPROACH TO TERMINATION OF ASSISTANCE

13-II.A. OVERVIEW

YCH is required by the code of federal regulations to terminate a family's assistance if certain program rules are violated. For other types of offenses, the regulations give YCH the discretion to either terminate the family's assistance or to take another action. This part discusses the various actions YCH may choose to take when it has discretion, and outlines the criteria YCH will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notice that must be provided before terminating assistance.

13-II.B. METHOD OF TERMINATION

[24 CFR 982.552(a)(3)]

The way in which YCH terminates assistance depends upon individual circumstances. HUD permits YCH to terminate assistance by:

- Terminating housing assistance payments under a current HAP contract,
- Refusing to approve a request for tenancy or to enter into a new HAP contract, or
- Refusing to process a request for or to provide assistance under portability procedures.

13-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE

Change in Household Composition

As a condition of continued assistance, YCH may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].

YCH Policy

As a condition of continued assistance, the head of household must certify in-writing that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon YCH request.

Repayment of Family Debts

YCH Policy

If a family owes amounts to YCH, as a condition of continued assistance, YCH will require the family to repay the full amount or to enter into a repayment agreement, within 30 calendar days of receiving notice from YCH of the amount owed. See Chapter 17 for policies on repayment agreements.

13-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

Evidence

For criminal activity, HUD permits YCH to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

YCH Policy

YCH will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

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

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

YCH is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

YCH Policy

YCH will consider the following factors when making its decision to terminate assistance:

- The seriousness of the case, especially with respect to how it would affect other residents.
- The effects that termination of assistance may have on other members of the family who were not involved in the action or failure.
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or (as discussed further in Section 13-II.E) a victim of domestic violence, dating violence, or stalking.
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future.
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.
- YCH may require the family to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

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

If the family includes a person with disabilities, YCH's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with

24 CFR Part 8.

YCH Policy

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

13-II.E. TERMINATING THE ASSISTANCE OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING VICTIMS AND PERPETRATORS

[Pub.L. 109-162, Pub.L. 109-271]

The Violence Against Women Reauthorization At 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 Yolo County Housing the authority to "terminate assistance of 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 Yolo County Housing to terminate the assistance of any participant if YCH "can demonstrate n actual and imminent threat to other tenants or those employed at or providing service to the property f that tenant is not evicted or terminated from assistance."

YCH Policy

When a participant family is facing termination of assistance because of the actions of a participant, household member, guest or other person under the participant's control and a participant or immediate family member of the participant's family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, or stalking, YCH will require the individual to submit documentation affirming that claim.

The documentation must include:

- A signed statement by the victim that provides the name of the perpetrator and certifies that the incidents in question are bona fide incidents of actual or threatened domestic violence, and dating violence or stalking

- A police or court record documenting the actual or threatened abuse, or
- A statement signed by an employee, agent, or volunteer of a victim service provider; an attorney; a medical professional; or another knowledgeable professional from whom the victim has sought assistance in addressing the actual or threatened abuse. The professional must attest under penalty of perjury that the incidents in question are bona fide incidents of abuse, and the victim must sign or attest to the statements.

The required certification and supporting documentation must be submitted to YCH within fifteen (15) days after YCH issues their written request. The fifteen-day deadline may be extended at YCH's discretion. If the individual does not provide the required certification and supporting documentation within fifteen (15) days, or the approved extension period, YCH may proceed with termination of assistance.

If YCH can demonstrate an actual and imminent threat to other participants or those employed at or providing service to the property if the participant's tenancy is not terminated, YCH will bypass the standard process and proceed with the immediate termination of the family's assistance.

Although VAWA provides assistance termination protection for victims of domestic violence, it does not provide protection for perpetrators. VAWA gives YCH 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." This authority supersedes any local, state, or other federal law to the contrary. If YCH chooses to exercise this authority, however, it will follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance [Pub.L. 109-271].

<u>YCH Policy</u>

When the actions of a participant or other family member result in a YCH decision to terminate the family's assistance and another family member claims that the actions involve criminal acts of physical violence against family members or others, YCH will request that the victim submit the above required certification and supporting documentation in accordance with the stated time frame. If the certification and supporting documentation are submitted within the required time frame, or any approved extension period, YCH will terminate the perpetrator's assistance. If the victim does not provide the certification and supporting documentation, as required, YCH will proceed with termination of the family's assistance. If YCH can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if the participant's tenancy is not terminated, YCH will bypass the standard process and proceed with the immediate termination of the family's assistance.

YCH Confidentiality Requirements

All information provided to YCH 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 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.

13-II.F. TERMINATION NOTICE

[HCV GB, p. 15-7]

If a family's assistance is to be terminated, whether voluntarily or involuntarily, YCH must give the family and the owner written notice that specifies:

- The reasons for which assistance has been terminated,
- The effective date of the termination,
- The family's right to an informal hearing as described in Chapter 17

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

YCH Policy

When termination is initiated by YCH, the notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination. However, if a family vacates the unit without informing YCH, 30 days notice will not be given. In these cases, the notice to terminate will be sent at the time YCH learns the family has vacated the unit.

When a family requests to be terminated from the program they must do so in writing to YCH (see section 13-I.C.). YCH will then send a confirmation notice to the family and the owner within fifteen (15) days of the family's request, but no later than the termination effective date (as requested by the family).

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

YCH must terminate assistance if: (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or eligible immigration status; (2) evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a family; or (3) YCH 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 a proration of their housing 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 YCH either upon completion of the USCIS appeal or in-lieu of the USCIS appeal. Informal hearing procedures are contained in Chapter 14.

YCH 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.

13-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].

PART III: TERMINATION OF TENANCY BY THE OWNER

13-III.A. OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the family; YCH 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.

13-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.

Serious or Repeated Lease Violations

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease. This includes failure to pay rent or other amounts due under the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, or stalking against that participant. However, YCH's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

Criminal Activity or Alcohol Abuse

The owner may terminate tenancy during the term of the lease if any *covered person*, meaning any member of the household, a guest or another person under the tenant's control commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;
- Any violent criminal activity on or near the premises; or
- Any drug-related criminal activity on or near the premises. The owner may terminate tenancy during the term of the lease if any member of the household is:

    Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of

New Jersey, is a high misdemeanor; or

- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy for criminal activity by a household member in accordance with this section if the owner determines that the household member has committed the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in the 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; except when the violations are related to incidents of actual or threatened domestic violence, dating violence, or stalking against that participant.

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for “other good cause” unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, “other good cause” for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

13-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 YCH a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give YCH a copy of any eviction notice.

YCH Policy

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

13-III.D. DECIDING WHETHER TO TERMINATE TENANCY

[24 CFR 982.310(h)]

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The 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 has 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 Reauthorization Act of 2005 (VAWA). (See Section 13-II.E.)

13-III.E. EFFECT OF TERMINATION OF TENANCY ON THE FAMILY'S ASSISTANCE

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

Exhibit 13-1: 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 YCH 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 YCH 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.

  <u>YCH Policy</u>

  Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.
- The family must allow YCH 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(s) of the lease.

  <u>YCH Policy</u>

  YCH will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict.

  Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity.

  Generally, the criteria to be used is whether the reason for the eviction was through no fault of the tenant or guests.
- The family must notify YCH and the owner before moving out of the unit or terminating the lease.

  <u>YCH Policy</u>

  The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to YCH at the same time the owner is notified.
- The family must promptly give YCH a copy of any owner eviction notice.

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

  YCH Policy

  The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. YCH will determine eligibility of the new member in accordance with the policies in Chapter 3.
- The family must promptly notify YCH in writing if any family member no longer lives in the unit.
- If YCH has given approval, a foster child or a live-in aide may reside in the unit. YCH has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when YCH consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

  YCH Policy

  Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
- The family must supply any information requested by YCH to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify YCH when the family is absent from the unit.

  YCH Policy

  Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to YCH at the start of the extended absence.
- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the

premises. See Chapter 12 for HUD and YCH policies related to drug-related and violent criminal activity.

- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and YCH policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.

A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless YCH has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

PART I: INFORMAL REVIEWS AND HEARINGS

14-I.A. OVERVIEW

When YCH makes a decision that has a negative impact on a family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal review; for participants, or for applicants denied admission because of citizenship issues, the appeal takes the form of an informal hearing.

YCH is required to include in the administrative plan, informal review procedures for applicants, and informal hearing procedures for participants [24 CFR 982.54(d)(12) and (13)].

14-I.B. INFORMAL REVIEWS

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

Decisions Subject to Informal Review

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

- Denying listing on YCH waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures.

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

- Discretionary administrative determinations by YCH
- General policy issues or class grievances
- A determination of the family unit size under YCH subsidy standards
- A YCH determination not to grant approval of the tenancy
- A YCH determination that the unit is not in compliance with the HQS
- A YCH determination that the unit is not in accordance with the HQS due to family size or composition

YCH Policy

YCH will only offer an informal review to applicants for whom assistance is being

denied. Denial of assistance includes: denying listing on YCH waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

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

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

Scheduling an Informal Review

YCH Policy

A request for an informal review must be made in writing and delivered to YCH either in person or by first class mail, by the close of the business day, no later than fifteen (15) calendar days from the date of YCH's denial of assistance.

YCH must schedule and send written notice of the informal review within fifteen (15) calendar days of the family's request.

Informal Review Procedures [24 CFR 982.554(b)]

YCH Policy

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

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

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

Informal Review Decision [24 CFR 982.554(b)]

YCH must notify the applicant of YCH's final decision, including a brief statement of the reasons for the final decision.

YCH Policy

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

- Whether or not the grounds for denial were stated factually in the Notice.
- The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.
- The validity of the evidence. YCH will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts

prove that there are grounds for denial, and the denial is required by HUD, YCH will uphold the decision to deny assistance.

- If the facts prove the grounds for denial, and the denial is discretionary, YCH will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

YCH will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within fifteen (15) calendar days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

14-I.C. INFORMAL HEARINGS FOR PARTICIPANTS

[24 CFR 982.555]

YCH must offer an informal hearing for certain YCH determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to YCH's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether YCH's decisions related to the family's circumstances are in accordance with the law, HUD regulations and YCH policies.

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

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

Decisions Subject to Informal Hearing

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

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment.
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from YCH utility allowance schedule.
- A determination of the family unit size under YCH's subsidy standards.
- A determination to terminate assistance for a participant family because of the family's actions or failure to act.

- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under YCH policy and HUD rules.
- A determination to terminate a family's Family Self-Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)].

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

- Discretionary administrative determinations by YCH;
- General policy issues or class grievances;
- Establishment of YCH schedule of utility allowances for families in the program;
- An YCH determination not to approve a unit or tenancy;
- An YCH determination that a unit selected by the applicant is not in compliance with the HQS;
- An YCH determination that the unit is not in accordance with HQS because of family size;
- A determination by YCH to exercise or not to exercise any right or remedy against an owner under a HAP contract;

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

When YCH makes a decision that is subject to informal hearing procedures, YCH must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

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

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

<u>YCH Policy</u>

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

- The proposed action or decision of YCH.

- A brief statement of the reasons for the decision including a reference to the code of federal regulations that the decision is based upon.
- The date the proposed action will take place.
- A statement of the family's right to an explanation of the basis for YCH's decision.
- A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.
- A deadline for the family to request the informal hearing.
- To whom the hearing request should be addressed.
- A copy of YCH's hearing procedures.

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

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

YCH Policy

A request for an informal hearing must be made in writing and delivered to YCH either in person or by first class mail, by the close of the business day, no later than fifteen (15) days from the date of YCH's decision or notice to terminate assistance.

YCH must schedule and send written notice of the informal hearing to the family within fifteen (15) days of the family's request.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict, which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, YCH may request documentation of the "good cause" prior to rescheduling the hearing.

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

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

Participants and YCH are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any YCH documents that are directly relevant to the informal hearing. The family must be allowed to copy any such documents at their own expense. If YCH does not make the document available for

examination upon request of the family, YCH may not rely on the document at the hearing.

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

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

YCH Policy

The family will be allowed to copy any documents related to the hearing. The family must request discovery of YCH documents no later than five (5) calendar days prior to the scheduled hearing date

The family must be given an opportunity to examine at YCH offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, YCH may request a copy of all documents that the participant intends to present or utilize at the hearing. If requested, the participant must make the documents available no later than five (5) calendar days prior to the scheduled hearing date.

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

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

Recording of the Hearing

All informal hearings will be recorded by audiotape. YCH will not provide a transcript of an audio taped hearing. The tape will be retained in the office of YCH for up to three years at which time the tape may be destroyed.

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

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

Attendance at the Informal Hearing

YCH Policy

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

- A YCH representative and any witnesses for YCH
- The participant and any witnesses for the participant
- The participant's counsel or other representative

- Any other person approved by YCH as a reasonable accommodation for a person with a disability

Conduct at Hearings

The person who conducts the hearing may regulate the conduct of the hearing in accordance with YCH's hearing procedures [24 CFR 982.555(4)(ii)].

YCH Policy

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

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

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

YCH Policy

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

Oral evidence: the testimony of witnesses

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

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

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

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

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

Other than the failure of a party to comply with discovery, the hearing officer has

the authority to overrule any objections to evidence.

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of YCH will take effect.

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

The person who conducts the hearing must issue a written decision, stating the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family, within fifteen (15) calendar days of the hearing.

YCH Policy

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

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

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

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

The hearing officer will issue a written decision promptly to the family and YCH, no later than fifteen (15) calendar days after the hearing. The report will contain the following information:

Hearing information:

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

Background: An impartial statement of the reason for the hearing

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness

produced in support of his/her testimony and that are admitted into evidence.

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

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

Order: The hearing report will include a statement of whether YCH's decision is upheld or overturned. If it is overturned, the hearing officer will instruct YCH to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct YCH to restore the participant's program status.

Procedures for Rehearing or Further Hearing

YCH Policy

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

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

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

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

YCH Policy

YCH will mail a "Notice of Final Decision" including the hearing officer's report, to the participant and their representative. This Notice will be sent by first-class mail, postage pre-paid with an affidavit of mailing enclosed. The participant will

be mailed the original "Notice of Final Decision" and a copy of the proof of mailing. A copy of the "Notice of Final Decision" along with the original proof mailing will be maintained in YCH's file.

Once the "Notice of Final Decision" has been sent, the family's time to obtain a judicial review of that decision is limited to 30 calendar days after service of the "Notice of Final Decision."

14-I.D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]

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

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while a YCH 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 YCH informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

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

As discussed in previous Chapters, the notice of denial or termination of assistance for non-citizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of their 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 YCH either upon completion of the USCIS appeal or in-lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the construction of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

United States Citizen and Immigration Service (USCIS) Appeal Process [24 CFR 5.514(e)]

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

> YCH Policy
> YCH will notify the family in writing of the results of the USCIS secondary verification within fifteen (15) calendar days of receiving the results.
>
> The family must provide YCH with a copy of the written request for appeal and proof of mailing within fifteen (15) calendar 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 YCH, of its decision. When the USCIS notifies YCH of the decision, YCH must notify the family of its right to request an informal hearing.

> YCH Policy
> YCH will send written notice to the family of its right to request an informal hearing within fifteen (15) days of receiving notice of the USCIS decision regarding the family's immigration status.

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

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

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

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

YCH 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 16I.C. for a listing of positions that serve as informal hearing officers.

Evidence

The family must be provided the opportunity to examine, at a reasonable time in

advance of the hearing, any documents in the possession of YCH 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.

YCH Policy

The family will be allowed to copy any documents related to the hearing. The family must request discovery of YCH documents no later than five (5) calendar days 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 YCH, and to confront and cross-examine all witnesses on whose testimony or information YCH 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 request an interpreter to attend the hearing as may be agreed upon by the two parties.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. YCH may, but is not required to provide a transcript of the hearing.

YCH Policy

YCH will not provide a transcript of an audio taped hearing. YCH will retain the audio tape in the participant file.

Hearing Decision

YCH must provide the family with a written final decision, based solely on the facts presented at the hearing, within fifteen (15) calendar days of the date of the informal hearing. The decision must state the basis for the decision.

Retention of Documents [24 CFR 5.514(h)]

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

- The application for assistance;
- The form completed by the family for income reexamination;
- Photocopies of any original documents, including original USCIS documents;
- The signed verification consent form;
- The USCIS verification results;

- The request for an USCIS appeal;
- The final USCIS determination;
- The request for an informal hearing; and
- The final informal hearing decision.

CHAPTER 15 Project-Based Vouchers

INTRODUCTION

This chapter describes HUD regulations and PHA policies related to the project-based voucher (PBV) program in nine parts:

Part I: General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Owner Proposals. This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the factors the PHA will consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, the cap on assistance at projects receiving PBV assistance, subsidy layering requirements, site selection standards, and environmental review requirements.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Rehabilitated and Newly Constructed Units. This part describes requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.

Part V: Housing Assistance Payments Contract. This part discusses HAP Contract requirements and policies including the execution, term, and termination of the HAP Contract. In addition, it describes how the HAP Contract may be amended and identifies provisions that may be added to the HAP Contract at the PHA's discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

Part VII: Occupancy. This part discusses occupancy requirements related to the lease, and describes under what conditions families are allowed or required to move. In addition, exceptions to the occupancy cap (which limits PBV assistance to twenty-five percent (25%) of the units in any project) are also discussed.

Part VIII: Determining Rent to Owner. This part describes how the initial rent to owner is determined, and how rent will be re-determined throughout the life of the HAP Contract. Rent reasonableness requirements are also discussed.

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.

PART I: GENERAL REQUIREMENTS

15-I.A. OVERVIEW
[24 CFR 983.5]

The project-based voucher (PBV) program allows YCH, which already administers a tenant-based voucher program under an annual contributions contract (ACC) with HUD, to operate a PBV program using up to twenty percent (20%) of its voucher program budget authority and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6].

YCH Policy

YCH will only operate a PBV program consistent with its Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing [24 CFR 983.52]. If PBV units are already selected for project-based assistance either under an "Agreement to Enter into HAP Contract" (AHAP) or a HAP Contract, YCH is not required to reduce the number of these units under HAP Contract if the amount of budget authority is subsequently reduced. It is noted that while the number of units does not need to be reduced, HAP Contracts cannot be renewed if more than twenty percent (20%) of the base allocation is utilized for PBV. YCH, however, is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC [24 CFR 983.6].

15-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE
[24 CFR 983.2]

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, YCH policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

15-I.C. RELOCATION REQUIREMENTS
[24 CFR 983.7]

Any persons displaced as a result of implementation of the PBV program will be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)[42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. YCH will not use voucher program funds to cover relocation costs, except that YCH may use their administrative fee reserve to pay for relocation expenses after all other program

administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes also will be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of YCH to ensure the owner and any representatives of the owner, such as a property manager, comply with these requirements.

15-I.D. EQUAL OPPORTUNITY REQUIREMENTS

[24 CFR 983.8]

YCH, owners and property managers must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, YCH will comply with YCH Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

PART II: PBV OWNER PROPOSALS

15-II.A. OVERVIEW

In this document, YCH will;

- Describe the procedures for owner or owner's designee for submission of PBV proposals:
- Describe YCH selection of PBV proposals:
- Explain how YCH will determine that PBV proposals comply with HUD program regulations and requirements;
- Describe how proposals comply with the cap on the number of PBV units per project:
- Describe how units meet site selection standards.

15-II.B. OWNER PROPOSAL SELECTION PROCEDURES

[24 CFR 983.51]

YCH will select PBV proposals in accordance with the selection procedures in this YCH Administrative Plan. YCH will select PBV proposals by either of the following two methods.

- <u>YCH request for PBV Proposals.</u> YCH may solicit proposals by using a Request For Proposals (RFP) to select proposals on a competitive basis in response to YCH request. YCH may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.
- <u>YCH selection of Proposal previously selected based on a competition.</u> This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance.

Solicitation and Selection of PBV Proposals [24 CFR 983.51(b) and (c)]
YCH procedures for selecting PBV proposals are designed and operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by YCH.

YCH Request for Proposals for Rehabilitated and Newly Constructed Units
YCH will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in one of the following newspapers:

- Daily Democrat
- Davis Enterprise
- West Sac Newsledger
- Winters Express

In addition, YCH will post the RFP and proposal submission and selection procedures on its website (http://www.ycha.org).

YCH will publish its notice at least once in the newspapers and trade journals mentioned above. The notice will specify the number of units YCH estimates that it will be able to assist under the funding YCH is making available. Proposals will be due in YCH office by close of business no less than three weeks from the date of publication.

In order for the proposal to be considered, the owner or owner's designee (hereinafter referred to as "owner") must submit the proposal to YCH by the published deadline date and time, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

YCH will rate and rank proposals for **rehabilitated** and **newly constructed** housing using the following criteria:

- Owner experience and capability to build or rehabilitate housing as identified in the RFP;

- Extent to which the project furthers YCH goal of deconcentrating poverty and expanding housing and economic opportunities;

- If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and

- Projects with less than twenty-five percent (25%) of the units assisted will be rated higher than projects with twenty-five percent (25%) of the units assisted. In the case of projects for occupancy by the elderly, persons with disabilities or families needing other services, YCH will rate partially-assisted projects on the

percent of units assisted. Projects with the lowest percent of assisted units will receive the highest score.

YCH Requests for Proposals for Existing Housing Units

YCH will advertise its request for proposals (RFP) for existing housing in at least one of the following newspapers:

- Daily Democrat
- Davis Enterprise
- West Sac Newsledger
- Winters Express

In addition, YCH will post the notice inviting such proposal submission and the rating and ranking procedures on its electronic web site (www.ycha.org). YCH will periodically publish its notice in the newspapers and trade journals mentioned above. The notice will specify the number of units YCH estimates that it will be able to assist under the funding YCH is making available. Owner proposals will be accepted on an ongoing basis with an evaluation taking place when YCH has received a minimum of five proposals or four weeks have past, whichever comes first.

The proposals will be evaluated using the following criteria:

- Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;
- Extent to which the project furthers YCH goal of deconcentrating poverty and expanding housing and economic opportunities;
- If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and
- Extent to which units are occupied by families that are eligible to participate in the PBV program.

YCH Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

YCH will accept proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits (LIHTC) on an ongoing basis. YCH will ensure that the Previous Competitive Selection which is the basis for selection for PBV assistance is made without regard to the possibility of PBV assistance.

YCH may periodically advertise that it is accepting proposals, specifying the number of vouchers available for this purpose in one of the following newspapers:

- Daily Democrat
- Davis Enterprise
- West Sac Newsledger

- Winters Express

Proposals will be reviewed on a first-come first-served basis. YCH will evaluate each proposal on its merits using the following factors:

- Extent to which the project furthers YCH goal of deconcentrating poverty and expanding housing and economic opportunities; and
- Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community.

YCH-owned Units [24 CFR 983.51(e) and 983.59]
If YCH submits a proposal for project-based housing that is owned or controlled by YCH, YCH will:

- Seek HUD approval to have the County of Yolo or local city review the proposal and determine if YCH's proposal should be selected. If HUD does not approve of the County of Yolo or the local city as an independent entity, YCH will seek approval of another entity that meets HUD approval (e.g., another housing authority).
- Use an independent entity which meets HUD approval to perform Housing Quality Standards (HQS) inspections.
- Use an independent entity which meets HUD approval to determine rents and rent reasonableness.
- Obtain HUD approval for the services of these entities prior to selecting the proposal for YCH-owned housing.

YCH will only compensate the independent entity, which is responsible for obtaining the services of an appraiser, from YCH ongoing administrative fee income (including amounts credited to the administrative fee reserve). YCH will not use other program receipts to compensate the independent entity and appraiser for their services. YCH, independent entity, and appraiser may not charge the family any fee for the appraisal or the services provided by the independent entity.

YCH Notice of Owner Selection [24 CFR 983.51(d)]
<u>YCH Policy</u>
Within fifteen (15) days of YCH making a selection, YCH will notify the selected owner, in writing, of the owner's selection for the PBV program. YCH will also notify, in writing, all owners that submitted proposals that were not selected and advise such entities of the name of the selected owner.

In addition, YCH will publish its notice for selection of PBV proposals in the same newspapers and trade journals YCH used to solicit the proposals. The announcement

will include the name of the owner and address of units selected for the PBV program. YCH will also post the notice of owner selection on its website.

YCH will make available to any interested party its rating and ranking sheets and the documents that identify YCH basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after publication of the notice of owner selection. YCH will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner. YCH will make these documents available for review at YCH during normal business hours. The cost for reproduction of allowable documents will be ten cents (10¢) per page.

15-II.C. HOUSING TYPE

[24 CFR 983.52]

YCH will attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into a housing assistance payments contract that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program if, at the time of notice of YCH selection, the units exist and substantially comply with HQS. "Substantially" is defined as any unit that has an accumulation of items that would cost less than $1,000 and take less than one month's time to comply fully with HQS requirements. Units for which new construction or rehabilitation was started in accordance with PBV program requirements do not qualify as existing housing.

YCH choice of housing type will be reflected when it solicits proposals.

Use of PBV in Cooperative Housing and Elevator Projects.

The Housing And Economic Recovery Act of 2008 (HERA) Section 2835(a)(1)(F)8(o)(13)(L)

Allows PHAs to enter into PBV HAP contracts with respect to units in cooperative housing and in high-rise elevator projects.

15-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

Ineligible Housing Types [24 CFR 983.53]

YCH will not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes or pads; cooperative housing; and transitional housing. In addition, YCH will not attach or

pay PBV assistance for a unit occupied by an owner and YCH will not select or enter into an AHAP or enter into a HAP Contract for a unit occupied by a family ineligible for participation in the PBV program.

Subsidized Housing [24 CFR 983.54]

YCH will not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 236 rental assistance payments (except that YCH could attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance;
- A unit with any other duplicative federal, state, or local housing subsidy determined by HUD or YCH, in accordance with HUD requirements.

15-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55]

YCH will provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements.

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

YCH will submit the necessary documentation to HUD for a subsidy layering review. YCH will not enter into an AHAP Contract or a HAP Contract until HUD (or an independent entity approved by HUD) has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements. Subsidy layering reviews are not required for projects that have undergone a review conducted by the applicable state or local agency for funding on the project.

The HAP Contract will contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP Contract) any public

assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

15-II.F. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT

Twenty-Five Percent (25%) per Project Cap [24 CFR 983.56(a)]

In general, YCH may not select a proposal to provide PBV assistance for units in a project or enter into an AHAP or a HAP Contract to provide PBV assistance for units in a project, if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP Contract, is more than twenty-five percent (25%) of the number of dwelling units (assisted or unassisted) in the project.

Section 2835(a)(1) of HERA defines a "Project" to mean a single building, multiple contiguous buildings or multiple buildings on contiguous parcels of land.

Exceptions to Twenty-Five Percent (25%) per Project Cap [24 CFR 983.56(b)]

Exceptions are allowed and PBV units are not counted against the twenty-five percent (25%) per project cap if:

- The units are in a single-family project, defined by HUD as any project with one to four units;
- The units are *excepted units* in a multifamily project because they are specifically made available for elderly or disabled families or families receiving supportive services (also known as *qualifying families*).

Supportive Services

The types of supportive services offered to families for a project to qualify for the exception are those intended to promote self-sufficiency, including:

- Outreach;
- Case management, counseling;
- Health care, psychiatric and mental health care, substance abuse treatment;
- Life skills, parenting skills;
- Child care, transportation, housing search assistance, budgeting;
- Employment assistance, job training/placement;
- Education, vocational opportunities.

Supportive services do not have to be provided at the project site. When supportive services are provided, whether or site or not, the following conditions apply:

The statement of family responsibility in the lease must contain the family's obligation to participate in the designated service program. Failure of the family to comply is good cause to terminate the family from the program.

Participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers is not required as a condition of living in an excepted unit.

YCH will ensure that only families receiving supportive services and complying with the service requirements are assisted. To qualify, a family must have at least one member receiving at least one qualifying supportive service. YCH will not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered. If a family at the time of initial tenancy is receiving, and while the resident of an excepted unit, has received, FSS supportive services or any other supportive services as defined above, and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit. YCH will monitor the excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. Monitoring will be accomplished by requiring the owner to provide quarterly reports on the family's participation and confirming this information by interviewing the tenant at the annual re-examination.

YCH will provide PBV assistance for the following types of excepted units – units limited to use by "qualifying families":
Units in a multifamily project specifically made available for elderly or disabled families;
Units for families receiving supportive services.

Elderly, disabled, and families receiving supportive services are all "qualifying families."

Promoting Partially-Assisted Projects [24 CFR 983.56(c)]
YCH is not setting a cap on the number of PBV units assisted per project beyond the twenty-five percent (25%) cap for non-excepted units.

15-II.G. SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]
YCH will not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an AHAP Contract or HAP Contract for units on the site, unless YCH has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities will be consistent with the Agency Plan under 24 CFR 903 and this Administrative Plan.

In addition, prior to selecting a proposal, YCH will determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR 982.401(l).

<u>YCH Policy</u>

It is YCH's goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal YCH will limit approval of sites for PBV housing in census tracts that have family poverty concentrations of twenty percent (20%) or less.

YCH will grant exceptions to the twenty percent (20%) standard where YCH determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than twenty percent (20%), such as sites census tracts where:

The proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;

The concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;

The proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;

New market rate units are being developed where such market rate units will positively impact the poverty rate in the area;

There has been an overall decline in the poverty rate within the past five years; or

There are meaningful opportunities for educational and economic advancement.

Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]

YCH will not enter into an AHAP for units that will be rehabilitated, nor execute a HAP Contract for existing units until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

New Construction Site and Neighborhood Standards [24 CFR 983.57(e)]

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD-required site and neighborhood standards:
The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;

- The site must have adequate utilities and streets available to service the site;

- The site must not be located in an area of minority concentration unless YCH determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;

- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.

- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low income persons;

- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;

The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and

- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

15-II.H. ENVIRONMENTAL REVIEW
[24 CFR 983.58]

YCH's activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The *responsible entity* (i.e., County of Yolo) is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). YCH will not enter into an AHAP Contract nor enter into a HAP Contract until it has complied with the environmental review requirements.

In the case of existing housing, the County of Yolo, responsible for the environmental review under 24 CFR part 58, must determine whether or not PBV assistance is

categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5. YCH will not enter into an agreement to enter into a HAP Contract or a HAP contract with an owner, and YCH, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed. YCH will supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. YCH requires the owner to carry out mitigating measures required by the County of Yolo (or HUD, if applicable) as a result of the environmental review.

PART III: DWELLING UNITS

15-III.A. OVERVIEW

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

15-III.B. HOUSING QUALITY STANDARDS

[24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, cooperative housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

Lead-based Paint [24 CFR 983.101(c)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, the Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

15-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

Housing will comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. YCH will ensure that the percentage of accessible dwelling units complies with the requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, will comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

15-III.D. INSPECTING UNITS

Pre-selection Inspection [24 CFR 983.103(a)]

YCH will examine the proposed site before the proposal selection date. If the units to be assisted already exist, YCH will inspect all the units before the proposal selection date, and will determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection

date. YCH, however, will not execute the HAP Contract until the units fully comply with HQS.

Pre-HAP Contract Inspections [24 CFR 983.103(b)]
YCH will inspect each contract unit before execution of the HAP Contract. YCH will not enter into a HAP Contract covering a unit until the unit fully complies with HQS.

Turnover Inspections [24 CFR 983.103(c)]
Before providing assistance to a new family in a contract unit, YCH will inspect the unit. YCH will not provide assistance on behalf of the family until the unit fully complies with HQS.

Annual Inspections [24 CFR 983.103(d)]
At least annually during the term of the HAP Contract, YCH will inspect a random sample, consisting of at least twenty-percent (20%) of the contract units in each project to determine if the contract units and the premises are maintained in accordance with HQS. The sample will be selected at random. A database of the units will be maintained which can be exported to Excel. This software program has a Random Number Generation Tool that will allow twenty-percent (20%) of the total units to be selected at random. Turnover inspections are not counted toward meeting this annual inspection requirement.

If more than twenty-percent (20%) of the annual sample of inspected contract units in a project fails the initial inspection, YCH will reinspect one-hundred percent (100%) of the contract units in the project.

Other Inspections [24 CFR 983.103(e)]
YCH will inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP Contract. YCH will take into account complaints and any other information coming to its attention in scheduling inspections.

YCH will conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and will conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violations of HQS.

In conducting YCH supervisory quality control HQS inspections, YCH will include a representative sample of both tenant-based and project-based units.

Inspecting YCH-owned Units [24 CFR 983.103(f)]
In the case of YCH-owned units, the inspections will be performed by an independent agency designated by YCH and approved by HUD. The independent entity will furnish a copy of each inspection report to YCH and to the HUD San Francisco field office. YCH will take all necessary actions in response to inspection reports from the independent

agency, including exercise of contractual remedies for violation of the HAP Contract by YCH-owner.

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS

15-IV.A. OVERVIEW

[24 CFR 983.151]

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance. Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

15-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT

In order to offer PBV assistance in rehabilitated or newly constructed units, YCH will enter into an agreement to enter into an AHAP Contract with the owner of the property. The Agreement will be in the form required by HUD [24 CFR 983.152(a)].

In the AHAP, the owner agrees to develop the PBV contract units to comply with HQS, and YCH agrees that, upon timely completion of such development in accordance with the terms of the Agreement, YCH will enter into a HAP Contract with the owner for the contract units [24 CFR 983.152(b)].

Content of the Agreement [24 CFR 983.152(c)]

At a minimum, the AHAP will describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (size) and number of bedrooms and bathrooms;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;
- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements will be included in the description of work to be performed under the Agreement;
- Estimated initial rents to owner for the contract units;
- Description of the work to be performed under the Agreement. For rehabilitated units, the description will include the rehabilitation work, write up and, where determined necessary by YCH, specifications and plans. For new construction units, the description will include the working drawings and specifications.
- Any additional requirements for quality, architecture, or design over and above HQS.

Execution of the AHAP [24 CFR 983.153]

The AHAP will be executed “promptly” after YCH notice of proposal selection to the selected owner. YCH, however, will not enter into the AHAP with the owner until the

subsidy layering review is completed. Likewise, YCH will not enter into the AHAP until the environmental review is completed and YCH has received environmental approval. Promptly, in this case, requires the selected owner to have completed the necessary reviews for the project and be ready to enter into an AHAP within one year from the date of notification that the project is awarded PBV assistance.

YCH Policy
YCH has the option to grant up to two six-month extensions to this one year limit provided the owner can demonstrate that progress is being made and that the project will go to AHAP within the extended time frame.

15-IV.C. CONDUCT OF DEVELOPMENT WORK

Labor Standards [24 CFR 983.154(b)]

If an AHAP covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. YCH will monitor compliance with labor standards.

Equal Opportunity [24 CFR 983.154(c)]

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

Owner Disclosure [24 CFR 983.154(d) and (e)]

The AHAP and HAP Contracts must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the AHAP and HAP Contracts or HUD regulations.

15-IV.D. COMPLETION OF HOUSING

The AHAP will specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The AHAP will also specify the deadline for submission by the owner of the required evidence of completion.

Evidence of Completion [24 CFR 983.155(b)]
At a minimum, the owner must submit the following evidence of completion to YCH in the form and manner required by YCH:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the AHAP;

- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing; and

- Certificate of Occupancy (for new construction) or Final Building Permit cards (for rehabilitation projects) from the County of Yolo.

YCH Acceptance of Completed Units [24 CFR 983.156]
Upon notice from the owner that the housing is completed, YCH will inspect the housing to determine if has been completed in accordance with the AHAP, including compliance with HQS and any additional requirements imposed under the AHAP. YCH also will determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the AHAP, YCH will not enter into the HAP Contract.

If YCH determines the work has been completed in accordance with the AHAP and that the owner has submitted all required evidence of completion, YCH will submit the HAP Contract for execution by the owner and must then execute the HAP Contract.

PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

15-V.A. OVERVIEW

YCH will enter into a HAP Contract with an owner for units that are receiving PBV assistance. The purpose of the HAP Contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP Contract term. The HAP Contract will be in the form required by HUD [24 CFR 983.202].

15-V.B. HAP CONTRACT REQUIREMENTS

Contract Information [24 CFR 983.203]

The HAP Contract will must specify the following information:

- The total number of contract units by number of bedrooms;
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the project;
- The number of contract units in each project, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;
- The HAP Contract term;
- The number of units in any project that will exceed the twenty-five percent (25%) per project cap, which will be set-aside for occupancy by qualifying families; and The initial rent to owner for the first twelve (12) months of the HAP Contract term.

Execution of the HAP Contract [24 CFR 983.204]

YCH will not enter into a HAP Contract until each contract unit has been inspected and YCH has determined that the unit complies with Housing Quality Standards (HQS).

For existing housing, the HAP Contract will be executed "promptly" after the YCH selects the owner proposal and inspects the housing units. "Promptly," in this case, means that the owner must be ready and willing to sign the HAP Contract within two (2) months from the date YCH has completed HQS inspections, found the units in compliance, and has notified the owner of its selection decision.

For newly constructed or rehabilitated housing, the HAP Contract will be executed after YCH has inspected the completed units, determined that the units have been completed in accordance with the AHAP, and the owner furnishes all required evidence of completion. Also, for rehabilitated or newly constructed housing, the HAP Contract will be executed within two months of YCH determining that the units have been completed in accordance with the AHAP, all units meet HQS, and the owner has submitted all required evidence of completion.

Term of HAP Contract [24 CFR 983.205]
YCH will enter into a HAP Contract with an owner for an initial term of no less than one year and no more than fifteen (15) years.

YCH Policy
The term of all PBV HAP Contracts will be negotiated with the owner on a case-by-case basis within HUD parameters.

At the time of the initial HAP contract or any time before expiration of the HAP Contract, YCH may extend the term of the contract for an additional term of up to fifteen (15) years if YCH determines an extension is appropriate to continue providing affordable housing for low-income families. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension.

Contacts or contract extensions may not exceed fifteen years cumulatively. A PHA must determine that the extension of the contract is appropriate to achieve long-term affordability of the housing or to expand housing opportunities.

YCH Policy
When determining whether or not to extend an expiring PBV contract, YCH will consider several factors including, but not limited to:

- The cost of extending the contract and the amount of available budget authority;
- The condition of the contract units;
- The owner's record of compliance with obligations under the HAP Contract and lease(s);
- Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and
- Whether the funding could be used more appropriately for tenant-based assistance.

Termination by YCH [24 CFR 983.205(c)]
The HAP Contract will provide that the term of YCH's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by YCH in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to

make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP Contract. If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP Contract, the YCH may terminate the HAP Contract by notice to the owner. The termination will be implemented in accordance with HUD instructions.

Termination by Owner [24 CFR 983.205(d)]
If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP Contract term, the owner may terminate the HAP Contract by giving notice to the YCH. In this case, families living in the contract units must be offered tenant-based assistance.

Remedies for HQS Violations [24 CFR 983.207(b)]
YCH will not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS.

YCH Policy
If YCH determines that a contract does not comply with HQS, YCH will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

15-V.C. AMENDMENTS TO THE HAP CONTRACT

Substitution of Contract Units [24 CFR 983.206(a)]
YCH will amend the HAP Contract to substitute a different unit, if the unit has the same number of bedrooms in the same project, is HQS compliant, and meets all PBV requirements for a previously covered contract unit. Before any such substitution can take place, YCH will inspect the proposed unit and determine the reasonable rent for the unit.

Addition of Contract Units [24 CFR 983.206(b)]
At YCH's discretion and subject to the restrictions on the number of dwelling units that can receive PBV assistance per project and on the overall size of YCH's PBV program, a HAP Contract may be amended during the three-year period following the execution date of the HAP Contract to add additional PBV units in the same project. This type of amendment is subject to all PBV program requirements except that a new PBV proposal is not required.

YCH Policy
YCH will consider adding contract units to the HAP Contract when YCH determines that additional housing is needed to serve eligible low-income families.

Circumstances may include, but are not limited to:

- The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and
- Voucher holders are having difficulty finding units that meet program requirements.

15-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES

[24 CFR 983.206(c) and 983.302(e)]

The HAP Contract year is the period of twelve (12) calendar months preceding each annual anniversary of the HAP Contract during the HAP Contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP Contract term.

The annual anniversary of the HAP Contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP Contract, even in cases where contract units are placed under the HAP Contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

15-V.E. OWNER RESPONSIBILITIES UNDER THE HAP

[24 CFR 983.209]

When the owner executes the HAP Contract, the owner certifies that at such execution and at all times during the term of the HAP Contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP Contract and the leases;
- Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by YCH, and the lease is in accordance with the HAP Contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP Contract;

- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit; and
- The family does not own or have any interest in the contract unit.

15-V.F. ADDITIONAL HAP REQUIREMENTS

Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.207(a)]

The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP Contract with YCH and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the project as established by the owner.

YCH may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the RFP, AHAP Contract and the HAP Contract. These requirements must be in addition to, not in place of, compliance with HQS.

<u>YCH Policy</u>

YCH will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. YCH will specify any special design standards or additional requirements in the invitation for PBV proposals, the AHAP Contract, and the HAP Contract.

Vacancy Payments [24 CFR 983.352(b)]

Vacancy Payments will be paid to the owner in accordance with the terms of the HAP Contract.

PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS

15-VI.A. OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

15-VI.B. ELIGIBILITY FOR PBV ASSISTANCE

[24 CFR 983.251(a) and (b)]

YCH will select families for the PBV program from those who have applied for admission to the voucher program. A separate PBV Waiting List will be maintained. Eligibility for admission will be determined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and YCH, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide Social Security information for family members [24 CFR 5.216 and 5.218] and consent to YCH's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. An applicant family also must meet HUD requirements related to current or past criminal activity. In addition families who will reside in "Excepted" units must meet the appropriate criteria as a "qualified" family.

<u>YCH Policy</u>

YCH will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3.

In-Place Families [24 CFR 983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by YCH is considered an "in-place family." These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family will be placed on YCH's waiting list. Once the family's continued eligibility is determined (YCH may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family will be given an absolute selection preference and YCH must refer these families to the project owner for an appropriately-sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

15-VI.C. ORGANIZATION OF THE WAITING LIST

[24 CFR 983.251(c)]

YCH will use separate waiting lists for the tenant-based Housing Choice Voucher Program and the PBV Program.

15-VI.D. SELECTION FROM THE WAITING LIST

[24 CFR 983.251(c)]

Applicants who will occupy units with PBV assistance will be selected from YCH's waiting list. YCH will place families referred by the PBV owner on its PBV waiting list when the waiting list is open.

Income Targeting [24 CFR 983.251(c)(6)]

At least seventy-five percent (75%) of the families admitted to YCH's tenant-based and project-based voucher programs during YCH fiscal year from the waiting list will be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs.

Units with Accessibility Features [24 CFR 983.251(c)(7)]

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, YCH will must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d)]

YCH will use the same selection preferences that are used for the tenant-based voucher program. YCH provides an absolute selection preference for eligible in-place families as described in Section 15-VI.B. All preferences that apply to the Housing Choice Voucher Program also apply to the PBV program or for particular PBV projects or units. When vacancies in PBV units of a specific size (i.e., number of bedrooms) or excepted units, YCH will select only qualified families of the correct and family composition size according to YCH's subsidy standards for those units in the correct order from the waiting list.

If YCH has projects with more than twenty-five percent (25%) of the units receiving project-based assistance because those projects include "excepted units" (units specifically made available for elderly or disabled families, or families receiving supportive services), the YCH will give preference to such families when referring families to these units [24 CFR 983.261(b)].

15-VI.E. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]
YCH is prohibited from taking, and will not take, any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance;
- Deny any admission preference for which the applicant qualifies;
- Change the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under YCH's selection policy;
- Remove the applicant from the tenant-based voucher waiting list.

Disapproval by Landlord [24 CFR 983.251(e)(2)]
If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

Acceptance of Offer [24 CFR 983.252]

Family Briefing
When a family accepts an offer for PBV assistance, YCH will give the family an oral briefing. The briefing will include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, YCH will provide a briefing packet that explains how YCH determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

Persons with Disabilities
If an applicant family's head or spouse is disabled, YCH will assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, YCH will have a mechanism for referring a family that includes a member with mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency
YCH will take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

***Violence Against Women Act* (VAWA)**
No applicant for the PBV program who has been a victim of domestic violence, dating violence, or stalking shall be denied admission into the program if they are otherwise qualified.

An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence, and shall not be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence.

YCH may terminate the assistance to remove a lawful occupant or tenant who engages in criminal acts or threatened acts of violence or stalking to family members or others without terminating the assistance or evicting victimized lawful occupants.

There is no limitation on the ability of YCH to terminate assistance for other good cause unrelated to the incident or incidents of domestic violence, dating violence or stalking, other than the victim may not be subject to a "more demanding standard" than non-victims.

There is no prohibition on YCH terminating assistance if it "can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's (victim's) assistance is not terminated."

Any protections provided by law which give greater protection to the victim are not superseded by these provisions.

Definitions

The same definitions of "domestic violence," "dating violence," and "stalking," and of "immediate family member" are provided in Sections 606 and 607. While definitions of domestic and dating violence refer to standard definitions in the Violence Against Women Act, the definition of stalking provided in Title VI is specific to the housing provisions.

These are:

1. *Domestic Violence* – [As defined in Section 40002 of VAWA 1994] which states as follows: SEC 40002(a)(6) – "DOMESTIC VIOLENCE" - 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 cohabiting with or has cohabited 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.

2. *Dating Violence* – [As defined in Section 40002 of VAWA 1994] which states as follows: SEC 40002(a)(8) – "DATING VIOLENCE"- The term 'dating violence' means violence committed by a person— (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - (i) The length of the relationship.
    - (ii) The type of relationship.

(iii) The frequency of interaction between the persons involved in the relationship.

3. *Stalking* – means - (A) (i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and (ii) to place under surveillance with the intent to kill, injure, harass or intimidate another person; and (B) in the course of, or as a result of, such following, pursuit, surveillance or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to –
   (i) that person;
   (ii) a member of the immediate family of that person; or
   (iii) the spouse or intimate partner of that person; …

Immediate Family Member - means, with respect to a person – (A) a spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands in loco parentis; or (B) any other person living in the household of that person and related to that person by blood or marriage.

15-VI.F. OWNER SELECTION OF TENANTS

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(b)].

Leasing [24 CFR 983.253(a)]

During the term of the HAP Contract, the owner must lease contract units to eligible families that are selected and referred by YCH from YCH's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on YCH's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify YCH of any vacancy or expected vacancy in a contract unit. After receiving such notice, YCH will make every reasonable effort to refer promptly a sufficient number of families for the owner to fill such vacancies. The YCH and the owner will make reasonable efforts to minimize the likelihood and length of any vacancy.

<u>YCH Policy</u>

The owner must notify YCH in writing (mail, fax, or e-mail) within seven (7) calendar days of learning about any vacancy or expected vacancy.

YCH will make every reasonable effort to refer families to the owner within fifteen (15) days of receiving such notice from the owner.

Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]
If any contract units have been vacant for 120 or more days since owner notice of the vacancy, YCH will give notice to the owner amending the HAP Contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period.

YCH Policy
YCH will provide the notice to the owner within fifteen (15) days of the 120th day of the vacancy. Unless the owner can give adequate reason for YCH not to reduce the number of contract units within fifteen (15) days of the date of YCH's notice, the amendment to the HAP Contract will be effective the 1st day of the month following the date of YCH's notice.

15-VI.G. TENANT SCREENING
[24 CFR 983.255]

YCH Responsibility
YCH is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy.

YCH Policy
YCH will not conduct screening to determine a PBV applicant family's suitability for tenancy unless the applicant is to move into a YCH-owned or managed unit. YCH may deny applicants based on such screening. YCH will provide the owner with an applicant family's current and prior address (as shown in YCH records) and the name and address (if known by YCH) of the family's current landlord and any prior landlords.

YCH will inform owners of their responsibility to screen prospective tenants. Upon request, owners may request and YCH will provide specific information about the family being considered for tenancy. YCH will provide the following information:

- The family's current address as provided by the Applicant; and
- The name and address, if known, of the owner/landlord of the family's current and prior places of residence.

YCH will respond only to specific questions asked by owners and only when YCH has documentation to confirm the accuracy of the information being provided. YCH will provide applicant families a description of its policy on providing information to owners and give the same types of information to all owners.

Owner Responsibility

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families, the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of other residents to the peaceful enjoyment of their housing;
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and
- Compliance with other essential conditions of tenancy.

The owner must notify YCH in writing within fifteen (15) days when rejecting an applicant and give the grounds for such rejection.

PART VII: OCCUPANCY

15-VII.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by the YCH, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit may begin.

15-VII.B. LEASE

[24 CFR 983.256]

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

Form of Lease [24 CFR 983.256(b)]

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease.

<u>YCH Policy</u>

YCH may review the owner's lease for compliance with state or local law.

Lease Requirements [24 CFR 983.256(c)]

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

- The program tenancy requirements;

- The composition of the household as approved by YCH (the names of family members and any YCH-approved live-in aide);
- All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

Initial Term and Lease Renewal [24 CFR 983.256(f) and 983.257(b)]
The initial lease term must be for at least one year. Upon expiration of the lease, an owner may renew the lease, refuse to renew the lease for "good cause," or refuse to renew the lease without good cause. If the owner refuses to renew the lease without good cause, YCH will provide the family with a tenant-based voucher and remove the unit from the PBV HAP Contract.

Changes in the Lease [24 CFR 983.256(e)]
If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give YCH a copy of all changes.

The owner must notify YCH in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by YCH and in accordance with the terms of the lease relating to its amendment. YCH will re-determine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The re-determined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy [24 CFR 983.257]
With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Non-Compliance with Supportive Services Requirement [24 CFR 983.257(c)]
If a family is living in a project-based unit that is excepted from the twenty-five percent (25%) per project cap on project-basing because of participation in a supportive services program (e.g., Family Self-Sufficiency), and the family fails to complete its supportive services requirement without good cause, such failure is grounds for lease termination by the owner.

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]
The owner may specify in the lease a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by YCH policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than one hundred-eighty (180) consecutive days.

Security Deposits [24 CFR 983.258]
The owner may collect a security deposit from the tenant. The security deposit must not exceed the following:

- Unfurnished Unit: Two months contract rent (this includes any amount labeled as last month's rent)
- Furnished Unit: Three months contract rent (this includes any amount labeled as last month's rent)

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. YCH has no liability or responsibility for payment of any amount owed by the family to the owner.

15-VII.C. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.259]

YCH Policy
If YCH determines that a family is occupying a unit that is too small or too big, based on YCH's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, YCH will notify the family and the owner within fifteen (15) days of YCH's determination of the family's need to move. YCH will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

- PBV assistance in the same project;
- PBV assistance in another project; and
- Tenant-based voucher assistance.

If YCH offers the family a tenant-based voucher, YCH will terminate the housing assistance payments for a wrong-sized or accessible unit at expiration of the term of the family's voucher (including any extension granted by YCH).

YCH Policy
When YCH offers a family another form of assistance that is not a tenant-based voucher, the family will be given thirty (30) calendar days from the date of the offer to

accept the offer and move out of the PBV unit. If the family does not move out within this thirty-day time frame, YCH will terminate the housing assistance payments at the expiration of this thirty-day period.

YCH may make exceptions to this thirty-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

Family Right to Move [24 CFR 983.260]

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to YCH. If the family wishes to move with continued tenant-based assistance, the family must contact YCH to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, YCH will offer the family the opportunity for continued tenant-based assistance, in the form of a Housing Choice Voucher. If a voucher is not immediately available upon termination of the family's lease in the PBV unit, YCH will give the family priority to receive the next available voucher.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the Housing Choice Voucher assistance.

15-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.261]

YCH will not pay housing assistance under a PBV HAP Contract for more than twenty-five percent (25%) of the number of dwelling units in a project unless the units are [24 CFR 983.56]:

- In a single-family project;
- Specifically made available for elderly or disabled families; or
- Specifically made available for families receiving supportive services as defined by YCH. At least one member must be receiving at least one qualifying supportive service.

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined as defined by YCH and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a “qualifying family” in connection with the twenty-five percent (25%) per project cap exception (e.g., the family does not successfully complete supportive services requirements, or due to a change in family composition the family is no longer elderly or disabled), must vacate the unit, and YCH will cease paying housing assistance payments on behalf of the non-qualifying family.

If the family is moving to a non-excepted PBV unit, the family will have sixty (60) days in which to complete the move. If the family will move with a Housing Choice Voucher, as is likely to be the case with a non-elderly or non-disabled surviving spouse, then the term of the voucher will apply. YCH may grant extensions if the family can demonstrate good cause as outlined in Chapter 5, Section II-E of this Administrative Plan. If the family fails to vacate the unit within the established time, the unit must be removed from the HAP Contract. It is possible for the HAP Contract to be amended to substitute a different unit in the project in accordance with program requirements; or the owner terminates the lease and evicts the family. YCH will terminate housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements.

PART VIII: DETERMINING RENT TO OWNER

15-VIII.A. OVERVIEW

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP Contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP Contract term.

During the tem of the HAP Contract, the rent to owner is re-determined at the owner's request in accordance with program requirements, and at such time that there is a five percent or greater decrease in the published FMR.

15-VIII.B. RENT LIMITS

[24 CFR 983.301]

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by YCH, not to exceed 110 percent of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

Certain Tax Credit Units [24 CFR 983.301(c)]

For certain tax credit units, the rent limits are determined differently than for other PBV units. In general, the rent to owner must not exceed the lowest of the tax credit rent minus any utility allowance; the reasonable rent; or the rent requested by the owner. Under provisions of the Housing and Economic Recovery Act of 2008, PHAs are permitted to use the higher section 8 rent for a tax credit unit if the LIHTC rent is less than the amount that would be permitted under Section 8. YCH will follow the rules and regulations promulgated by HUD and in effect at the time the HAP Contract is executed.

Definitions

A **qualified census tract** is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least fifty percent (50%) of households have an income of less than sixty percent (60%) of Area Median Gross Income (AMGI), or where the poverty rate is at least twenty-five percent (25%) and where the census tract is designated as a qualified census tract by HUD.

Tax credit rent is the rent charged for comparable units of the same unit size (i.e., number of bedrooms) in the project that also receive the low-income housing tax credit

but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]

When determining the initial rent to owner, YCH will use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When re-determining the rent to owner, YCH will use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. YCH will not use an earlier FMR for initial rent determination or for redeterminations.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

Redetermination of Rent [24 CFR 983.302]

YCH will redetermine the rent to owner upon the owner's request or when there is a five percent (5%) or greater decrease in the published FMR.

Rent Increase

If an owner wishes to request an increase in the rent to owner from YCH, it must be requested sixty (60) days prior to the annual anniversary of the HAP Contract and include the requested amount of rent being proposed (see Section 15-V.D.). YCH will only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

<u>YCH Policy</u>

YCH will not approve any increase of rent to owner until and unless the owner has complied with requirements of the HAP Contract, including compliance with HQS. The owner will not receive any retroactive increase of rent for any period of noncompliance.

Rent Decrease

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner will be decreased regardless of whether the owner requested a rent adjustment.

Notice of Rent Change

The rent to owner is re-determined by written notice by YCH to the owner specifying the amount of the re-determined rent. YCH notice of rent adjustment constitutes an

amendment of the rent to owner specified in the HAP Contract. The adjusted amount of rent to owner applies for the period of twelve (12) calendar months from the annual anniversary of the HAP Contract.

YCH Policy
YCH will provide the owner with at least thirty (30) days written notice of any change in the amount of rent to owner.

YCH-owned Units [24 CFR 983.301(g)]
For YCH-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP Contract are determined by the independent entity approved by HUD. YCH will use the rent to owner established by the independent entity.

15-VIII.C. REASONABLE RENT

[24 CFR 983.303]
At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit will not exceed the reasonable rent for the unit as determined by YCH.

When Rent Reasonable Determinations are Required
YCH will re-determine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a five percent (5%) or greater decrease in the published FMR in effect sixty (60) days before the contract anniversary (for the unit sizes specified in the HAP Contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- YCH approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP Contract is amended to add or substitute a different contract unit in the same project; or
- There is any other change that may substantially affect the reasonable rent.

How to Determine Reasonable Rent
The reasonable rent of a unit receiving PBV assistance will be determined by comparison to rent for other comparable unassisted units. When making this determination, YCH will consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services, maintenance, and utilities to be provided by the owner.

Comparability Analysis
For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that are

receiving project-based assistance. The analysis will show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and will be retained by YCH. The comparability analysis may be performed by YCH staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses will not have any direct or indirect interest in the property.

YCH-owned Units
For YCH-owned units, the amount of the reasonable rent will be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent entity will provide a copy of the determination of reasonable rent for YCH-owned units to YCH and to the HUD field office where the project is located.

Owner Certification of Reasonable Rent
By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, YCH may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

15-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL

In addition to the rent limits discussed in Section 15-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance (see Section 15-II.D).

Other Subsidy [24 CFR 983.304]
At its discretion, YCH may reduce the initial rent to owner because of other governmental subsidies, including tax credit or tax exemption, grants, or other subsidized financing.

For units receiving assistance under the HOME program, rents will not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner will not exceed the subsidized rent (basic rent) as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- Administrative Plan Page 15-33 June 2008
- A Section 515 project of the Rural Housing Service;
- A project receiving low-income housing tax credits;
- Any other type of federally subsidized project specified by HUD.

Combining Subsidy
Rent to owner will not exceed any limitation required to comply with HUD subsidy layering requirements.

Rent Control [24 CFR 983.305]
In addition to the rent limits set by PBV program regulations, the amount of rent to owner also may be subject to rent control or other limits under local, state, or federal law.

PART IX: PAYMENTS TO OWNER

15-IX.A. HOUSING ASSISTANCE PAYMENTS

[24 CFR 983.351]

During the term of the HAP Contract, YCH will make housing assistance payments to the owner in accordance with the terms of the HAP Contract. During the term of the HAP Contract, payments will be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment will be paid to the owner on or about the first day of the month for which payment is due, unless the owner and YCH agree on a later date.

YCH will not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit). The amount of the housing assistance payment by YCH is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP Contract. Unless the owner complies with all provisions of the HAP Contract, the owner does not have a right to receive housing assistance payments.

15-IX.B. VACANCY PAYMENTS

[24 CFR 983.352]

<u>YCH Policy</u>

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. YCH will not make vacancy payments.

15-IX.C. TENANT RENT TO OWNER

[24 CFR 983.353]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by YCH in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in YCH notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by YCH is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by YCH. The owner must immediately return any excess payment to the tenant.

Tenant and YCH Responsibilities
The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by YCH. Likewise, YCH is responsible only for making the housing assistance payment to the owner in accordance with the HAP Contract. YCH is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. YCH will not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

Utility Reimbursements
YCH Policy
If the amount of the utility allowance exceeds the total tenant payment, YCH will pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

15-IX.D. OTHER FEES AND CHARGES

[24 CFR 983.354]
Meals and Supportive Services
With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges will not be included in the rent to owner, nor will the value of meals and supportive services be included in the calculation of the reasonable rent. Non-payment of such charges, however, is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner
The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

CHAPTER 16 HCV Homeownership Program

[24 CFR 982.625 through 982.643]

Yolo County Housing has established a Section 8 tenant-based homeownership option in Yolo County, USA, pursuant to the U.S. Department of Housing and Urban Development's (HUD) final rule dated October 12, 2000 and Section 555 of the Quality Housing and Work Responsibility Act of 1998 under Section 8(y), Homeownership Option.

Participant Qualification

[24 CFR 982.626, 982.627]

Any Section 8 eligible program participant who has been issued a Section 8 Housing Choice Voucher may utilize the subsidy to purchase rather than rent a home, subject to the following:

1) A family must meet the requirements for continued participation in the YCH Tenant-based HCV Program.

2) The homeownership option will be included in all Briefing and Re-Housing classes as well as media and community announcements. Current HCV participants must be in compliance with their lease and program requirements and must terminate their current lease arrangement in compliance with the lease.

3) A family in which the head of household or co-head has previously received assistance and has defaulted on a mortgage obtained through the Homeownership Option is barred from participation.

4) Participant families must be any of the following: "first-time homeowners," in which no family member owned any present ownership interest in a residence of any family member in the last three years; residents of limited equity cooperatives; or, a family of which a member is a person with disabilities, and use of the Homeownership Option is needed as a reasonable accommodation. (Title to a mobile home is not considered as homeownership for purposes of this option.)

5) Participants in the HCV Homeownership Option must attend and satisfactorily complete the pre-purchase homeownership counseling program and be deemed to be "mortgage ready" before a homeownership voucher will be issued. Participants are also required to attend and complete post-purchase, ongoing homeownership counseling. At a minimum, the counseling will cover the following:

- Home maintenance

- Budgeting and money management
- Credit counseling
- Negotiating the purchase price of a home
- Financing
- Locating the home
- De-concentration issues
- Family must only purchase a home that passes HQS inspection and has been satisfactory according the independent inspection

6. The head of household and/or co-head must be currently employed on a full-time basis (as defined by HUD to average 30 hours per week) and have been continuously so employed during the year before commencement of homeownership assistance. Families in which the head of household, spouse or co-head is disabled or elderly are exempted from this requirement. Families that include a person with disabilities may request an exemption as a reasonable accommodation.

7. The family's income must be equal to or exceed the HUD minimum income requirement, currently set at 2000 hours times the Federal minimum wage or $13,500. Welfare assistance will not be counted (used) for meeting the income requirement, except for households in which the head or co-head is elderly or disabled and for households that include a disabled person other than head or co-head. ("Welfare assistance" includes federal housing assistance or the housing component of a welfare grant; Jobs and Family Services assistance; SSI that is subject to an income eligibility test; food stamps; general assistance or other assistance provided under a federal, state or local program that provides assistance available to meet family living or housing expenses.)

8. Participants may be enrolled in the Family Self-Sufficiency (FSS) Program but are not required to do so for qualifying in the program. Participants enrolled in the FSS will have a preference over non-FSS families. Funds accumulated in the escrow account may be advanced for purchase of the home or home maintenance, subject to the guidelines of the FSS Program.

9. YCH requires the applicant for the program to be a current participant of Section 8 and must have been in the program for at least one year, and be a participant in good standing.

Time Frame to Purchase a Home
[24 CFR 982.626(b), CFR 982.629(a)]

An applicant will have a maximum of 120 days from the date of issuance of a homeownership voucher to find a home and enter into a Purchase Agreement.

If an applicant is unable to enter into a Purchase Agreement before the end of the initial 120-day period, the applicant will be provided an extension of 60 days to either enter into a Contract of Sale or utilize the voucher to rent a unit.

Any additional extension will be at the discretion of YCH Executive Director or Assisted Housing Administrator.

Portability
[24 CFR 982.636]

Families determined eligible for homeownership assistance may exercise the Homeownership Option outside of YCH's jurisdiction if the receiving public housing authority is administering a HCV homeownership program and is accepting new families into its program.

Permitted Ownership Arrangements

The Homeownership Option may be utilized for three types of housing:

1) A single-family unit owned by the family, where one or more family members hold title to the home, or a home previously occupied under a lease-purchase agreement. Such unit may be a single family home, half of a duplex, or single unit within a condominium or multi-plex.

2) A cooperative unit, where one or more family members hold membership shares in the cooperative.

3) A manufactured home on a permanent foundation that the family owns the land in which the home sits in fee simple or if the family does not own the land which the home sits, but has the right to occupy the land for at least thirty years.

Contract of Sale and Home Inspections
[24 CFR 982.631]

Participants in the Homeownership Option Program must initially complete a Purchase Agreement with the owner of the property to be purchased.

The Purchase Agreement must include the seller's certification that the seller(s) has not been debarred, suspended, or subject to a limited denial of participation under any federal contract in accordance with 24 CFR part 24.

The Purchase Agreement must include the home's price and other terms of sale, YCH pre-purchase HQS inspection requirements (including a provision that the

participant will arrange for an independent pre-purchase inspection of the unit as set forth below), a provision that the participant is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser, and an agreement that the purchaser is not obligated to pay for any necessary repairs.

The participant must obtain an independent professional home inspection of the unit's major systems at the participant's expense. A member of the American Society of Home Inspectors (ASHI) or a regular member of the National Association of Home Inspectors (NAHI) must conduct the independent inspection. The inspector shall also be acceptable to the local lending institutions. In all cases the inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical and heating systems. The inspector must provide a copy of the inspection report both to the family and to YCH.

YCH will conduct a Housing Quality Standards (HQS) inspection first and then will require the independent inspection and then will review the independent professional inspection of the unit's major systems. YCH retains the right to disqualify the unit for inclusion in the Homeownership Option based on either the HQS inspection or the independent professional inspection report.

Financing
[24 CFR 982.632]

Mortgage instruments must meet at least one of the following criteria:

The household is solely responsible for obtaining financing. All loans must meet FHA, or acceptable terms by Fannie Mae, Freddie Mac, reputable secondary markets, or acceptable mortgage insurance credit underwriting requirements. YCH will review lender qualifications, loan terms, and other family debt and expenses to determine that the debt is affordable and reserves the right to disapprove the loan if it is unaffordable or the terms are considered predatory.

YCH requires a minimum homeowner down payment of at least 3 percent of the purchase price for participation in its HCV Homeownership Option Program, and requires that at least two percent (2%) of the purchase price come from the family's personal resources. YCH will consider waiving or reducing the minimum down payment requirement in cases where the family is using down payment assistance grants in excess of $3,500 to purchase the unit. Waivers will be granted on a case-by-case basis at the discretion of the Director of Programs and Leasing.

There is no prohibition against using local or state Community Development Block Grant (CDBG) or other subsidized financing in conjunction with the Homeownership program. YCH will consider waiving or reducing the minimum downpayment requirement in cases where down payment assistance grants in excess of $3,500 are

being used by the family to purchase the unit. Waivers will be granted on a case-by-case basis at the discretion of the Director of Programs and Leasing.

YCH prohibits seller financing.

YCH prohibits balloon financing or interest only financing.

In the event of an appeal, the Executive Director or Assisted Housing Administrator will appoint a review panel.

Length and Continuation of Assistance
[24 CFR 982.634]

HCV assistance will only be provided for the months the family is in residence in the home. The maximum term a family may receive homeownership assistance is fifteen years if the initial mortgage incurred to finance purchase of the home is 20 years or longer. In all other cases, the maximum term of assistance is ten years.

Elderly families that qualify as such at the start of homeownership assistance and disabled families that qualify as such at any time during receipt of homeownership assistance are exempt from this time limit. If an elderly or disabled family ceases to qualify as such during the course of homeownership assistance, the maximum term applies from the date the assistance commenced, except that the family will be provided at least 6 months of assistance after the maximum term becomes applicable.

Family Obligations
[24 CFR 982.633]

In addition to completing the pre- and post-purchase homeownership counseling program, the family must execute a statement of family obligations prior to the issuance of the homeownership voucher, agreeing to comply with all family obligations under the Homeownership Option, including:

1) The family must comply with the terms of any mortgage securing debt incurred to purchase the home or any refinancing of such debt.

2) At any time the family is receiving homeownership assistance, the family may not sell or transfer any interest in the home to any entity or person other than a member of the assisted family residing in the home.

3) A home equity loan or refinancing may not be acquired without the prior written consent of YCH.

4) The family must provide required information regarding income and family composition in order to calculate correctly total tenant payment and homeownership assistance, consistent with the HCV requirements and any other information requested by YCH concerning financing, the transfer of any interest in the home, or the family's homeownership expenses.

5) While receiving homeownership assistance, the family must notify YCH if the family defaults on a mortgage securing any debt incurred to purchase the home.

6) While receiving homeownership assistance, the family must notify YCH before the family moves out of the home.

7) The family must, at annual reexamination, document that the family is current on mortgage, insurance and utility payments.

8) The family is prohibited from moving more than one time in a one (1) year period. The family may be required to participate in pre- and post-purchase homeownership counseling prior to rehousing.

9) While receiving homeownership assistance, no family member may have any ownership interest in any other residential property.

Assistance Payment
[24 CFR 982.635]

YCH may provide, upon approval by HUD, one of two types of homeownership assistance paid directly to the lender on behalf of the family.

1. A monthly homeownership assistance payment

The family's HCV monthly housing assistance payment will be the lower of (1) the HCV payment standard minus the Total Tenant Payment or (2) the family's monthly homeowner expenses minus the Total Tenant Payment.

Homeownership expenses include principal and interest on mortgage debt, refinancing charges of mortgage debt, mortgage insurance premiums, real estate taxes and public assessments, home insurance, allowance for maintenance expenses, allowance for major repairs and replacements based on allowance recommended by YCH's designees, a utility allowance, and principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home (including expense of reasonable accommodation).

If a family's income increases to a level that they are no longer eligible to receive a housing assistance payment, eligibility for such payments will continue for 180

calendar days. At the end of a continuous period of 180 days without any assistance payments, eligibility for HCV assistance will automatically terminate.

2. A single down payment assistance grant- YCH cannot implement this type of assistance until approval for funding is made by Congress.

If approved by HUD and the family chooses to take the single down payment assistance grant, they will not be eligible for the monthly payment from YCH.

To be eligible to receive the down payment assistance grant, the family must meet all eligibility requirements for the homeownership option and must have been receiving tenant based rental assistance for a one-year period prior to receiving the down payment grant.

The maximum down payment grant "may not exceed the amount that is equal to the sum of the assistance payments that would be made during the first year of assistance on behalf of the family, based on the income of the family at the time the grant is made." The amount paid by YCH on behalf of the family will not exceed twelve (12) monthly payments that would be the payment standard minus the TTP times 12 months. Homeownership expenses will not be considered in making the determination. The down payment assistance grant will be paid at the time of closing on a home and must be applied toward the purchase price of the home. YCH will not implement the provisions on down payment assistance until HUD provides the necessary funding and authorization to implement.

Lease-to-Purchase

Lease-to-Purchase agreements are considered rental property and subject to the HCV tenant-based assistance rules. All regulations of the Homeownership Program will become effective at the time that the family exercises the option to use a homeownership voucher.

Default

If the family defaults on the home mortgage loan, the participant will not be able to use the Homeownership Voucher for rental housing but may reapply for the HCV waiting list.

Recapture
[24 CFR 982.640]

YCH will not recapture the Homeownership Voucher payments unless there was an act of fraud or misrepresentation of a material fact in order to obtain a benefit. The HCV Homeownership recapture provision does not apply to any other program funds that may be used in the transaction.

Denial or Termination of Assistance
[24 CFR 982.638]

YCH reserves the right to deny or terminate assistance for the family, and will deny voucher rental assistance for the family, in accordance with HUD regulations governing any failure to comply with family obligations, mortgage default or failure to demonstrate that the family has conveyed title to the home as required, or the family has moved from the home within the period established or approved.

Informal Hearings
[24 CFR 982.555]

An informal hearing will be provided for participants who are being terminated from the Program because of the family's action or failure to act as provided in 24 CFR 982.552. The rules and procedures set forth in the Housing Choice Voucher Administrative Plan, entitled “Informal Hearings,” will apply.

CHAPTER 17 Program Administration

INTRODUCTION

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

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

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

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

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

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

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

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

PART I: ADMINISTRATIVE FEE RESERVE

[24 CFR 982.155]

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

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

HUD requires YCH Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the administrative fee reserve without specific approval.

Expenditures from the administrative fee or other YCH reserves will be made in accordance with all applicable Federal requirements and YCH procurement policy. The Board of Commissioners through the YCH budget process must approve all expenditure line items. The supervisor of the Housing Choice Voucher Program can approve items up to $5,000. YCH's Board of Commissioners must approve contracts in excess of $50,000.

PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

17-II.A. OVERVIEW

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

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

YCH Policy

Copies of the Payment Standard and utility allowance schedules are available for review in YCH's offices during normal business hours.

YCH will maintain documentation to support its annual review of Payment Standards and utility allowance schedules. This documentation will be retained for at least 3 years.

17-II.B. PAYMENT STANDARDS

[24 CFR 982.503; HCV GB, Chapter 7]

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

YCH must establish a Payment Standard schedule that establishes Payment Standard amounts for each FMR area within YCH's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, YCH may establish a single Payment Standard amount for the whole FMR area, or may set different Payment Standards for different parts of the FMR area. Unless HUD grants an exception, the .YCH is required to establish a Payment Standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

Updating Payment Standards

When HUD updates its FMRs, YCH must update its Payment Standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require

YCH to make further adjustments if it determines that rent burdens for assisted families in YCH's jurisdiction are unacceptably high [24 CFR 982.503(g)].

YCH Policy

YCH will review the appropriateness of the Payment Standards on an annual basis when the new FMR is published. In addition to ensuring the Payment Standards are always within the "basic range" YCH will consider the following factors when determining whether an adjustment should be made to the Payment Standard schedule:

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

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

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

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

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

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

Payment Standards for new contracts will go into effect when a family moves or at the offer of a new lease. For ongoing contracts, if the Payment Standard increases, the new Payment Standard will be effective at the next annual reexamination. If the Payment Standard decreases, the new Payment Standard will be implemented at the time of the second annual reexamination after the

date the new Payment Standard is adopted.

Exception Payment Standards [982.503(c)]

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

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

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

When needed as a reasonable accommodation, YCH may make an exception to the Payment Standard without HUD approval if the exception amount does not exceed 110 percent of the applicable FMR for the unit size [HCV GB 7-9]. YCH may request HUD approval for an exception to the Payment Standard for a particular family if the required amount falls between one hundred-ten and one hundred-twenty percent (110% and 120%) of the FMR.

<u>YCH Policy</u>

A family that requires a reasonable accommodation may request a higher Payment Standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, YCH must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and
- The rent for the unit is reasonable.

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

If a substantial percentage of families have difficulty finding a suitable unit, YCH may request a "success rate Payment Standard" that applies to the entire jurisdiction. If approved by HUD, a success rate Payment Standard allows YCH to set its Payment

Standards at ninety to one hundred-ten percent (90$-110%) of a higher FMR (the 50th, rather than the 40th percentile FMR). To support the request, YCH must demonstrate that during the most recent six (6) -month period for which information is available:

- Fewer than seventy-five percent (75%) of families who were issued vouchers became participants;
- YCH had established Payment Standards for all unit sizes, and for the entire jurisdiction, at one hundred-ten percent (110%) of the published FMR; and
- YCH had a policy of allowing voucher holders who made sustained efforts to locate units at least ninety (90) days to search for a unit.

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

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

YCH must request HUD approval to establish a Payment Standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a Payment Standard lower than the basic range. HUD will not approve a lower Payment Standard if the family share for more than forty percent (40%) of program participants exceeds thirty percent (30%) of adjusted monthly income.

17-II.C. UTILITY ALLOWANCES

[24 CFR 982.517]

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

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

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

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

The cost of each utility and housing service must be stated separately by unit size and

type. Chapter 16 of the *HCV Guidebook* provides detailed guidance to YCH about establishing utility allowance schedules.

Air Conditioning

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

> YCH Policy
>
> Due to the number of housing units with air conditioning, YCH has included an allowance for air conditioning in its schedule.

Reasonable Accommodation

HCV program regulations require YCH to approve a utility allowance amount higher than shown on YCH's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, YCH will approve an allowance for a specific calculated amount, even if YCH has determined that an allowance for a specific calculated amount generally is not needed (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

Utility Allowance Revisions

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

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

PART III: INFORMAL REVIEWS AND HEARINGS

OVERVIEW

When YCH makes a decision that has a negative impact on a family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal review; for participants, or for applicants denied admission because of citizenship issues, the appeal takes the form of an informal hearing.

PHAs are required to include in their administrative plans, informal review procedures for applicants, and informal hearing procedures for participants [24 CFR 982.54(d)(12) and (13)]. For further information on the Informal Review and Informal Hearing processes, see Chapter 14.

PART IV: OWNER OR FAMILY DEBTS TO YCH

17-IV.A. OVERVIEW

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

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

YCH will enter into repayment agreements with participants in accordance with the policies contained in this part as a means to recover monies owed.

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

- Collection agencies
- Small claims court
- Civil law suit

17-IV.B. REPAYMENT POLICY

Owner Debts to YCH

YCH Policy

Any amount due to YCH by an owner will be deducted from the next HAP payment by the amount owed. If the amount owed is more than the HAP payment, the balance is due within thirty (30) days.

If the owner is not entitled to future HAP payments, the entire amount owed must be repaid by the owner within thirty (30) days of YCH determination of the debt.

If the owner refuses to repay the debt, YCH will ban the owner from future participation in the program and pursue other modes of collection.

Family Debts to YCH

YCH Policy

Any amount due to YCH by an HCV participant must be repaid by the family. If the family is unable to repay the debt within thirty (30) days, YCH may offer to enter into a repayment agreement in accordance with the policies below.

The family must be in good standing with YCH and the debt amount must be $3,000 or less. To be in good standing, a participant must not have any other outstanding debts related to an existing repayment agreement or be under the termination process for another program violation. If the amount owed is greater than $3,000 a repayment agreement may only be entered into with the Executive

Director's approval. If such an agreement is not approved, then the participant's assistance will be terminated.
If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, YCH will terminate the assistance upon notification to the family and pursue other modes of collection.

Repayment Agreement [24 CFR 792.103]
The term r*epayment agreement* refers to a formal document signed by a tenant or owner and provided to YCH in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

Repayment Agreement Guidelines

Down Payment Requirement

YCH Policy

Prior to the execution of a repayment agreement, the owner or family must pay ten percent (10%)of the balance owed to YCH.

Payment Thresholds

YCH Policy

The debt amount must be $3,000 or less. If the amount owed is greater than $3,000 a repayment agreement may only be entered into with the Executive Director's approval. If such an agreement is not approved, then the participant's assistance will be terminated. Full repayment must be made within 90 days. Debts not repaid within the ninety (90) day period are referred to a collection agency.

Execution of the Agreement

YCH Policy

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

Due Dates

YCH Policy

All payments are due by the close of business on the first (1st) business day of the month.

Non-Payment

YCH Policy

A late or partial payment is considered a missed payment. YCH will issue a notice of termination to participants who miss more than one monthly installment under the payment agreement within a twelve (12) -month period. The balance

of the debt must be paid in full or the participant family will be terminated from the HCV program. The Executive Director must approve any exceptions to these guidelines.

Families, whose assistance is terminated, have the opportunity to request an informal hearing.

Applicants who have not repaid monies due YCH have the opportunity to request an informal review.

No Offer of Repayment Agreement

YCH Policy

YCH will not enter into a repayment agreement if there is already a repayment agreement in place with the family.

PART V: MANAGEMENT ASSESSMENT (SEMAP)

17-V.A. OVERVIEW

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

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

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

YCH must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by Yolo County Housing board resolution and signed by the executive director. The certification must be executed by the Section 8 program director.

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

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

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

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

HUD Verification Method

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

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

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

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

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

SEMAP Indicators
Indicator 1: Selection from the waiting list **Maximum Score: 15** • This indicator shows whether YCH has written policies in its administrative plan for selecting applicants from the waiting list and whether YCH follows these policies when selecting applicants for admission from the waiting list. • Points are based on the percent of families that are selected from the waiting list in accordance with YCH's written policies, according to YCH's quality control sample.
Indicator 2: Rent reasonableness **Maximum Score: 20** • This indicator shows whether YCH has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units • Points are based on the percent of units for which YCH follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to YCH's quality control sample.
Indicator 3: Determination of adjusted income **Maximum Score: 20** • This indicator measures whether YCH verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent. • Points are based on the percent of files that are calculated and verified correctly, according to YCH's quality control sample.
Indicator 4: Utility allowance schedule **Maximum Score: 5** • This indicator shows whether YCH maintains an up-to-date utility allowance schedule.

- Points are based on whether YCH has reviewed the utility allowance schedule and adjusted it when required, according to YCH's certification.

Indicator 5: HQS quality control inspections
Maximum Score: 5

- This indicator shows whether the YCH supervisor reinspects a sample of units under contract during YCH's fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.
- Points are based on whether the required quality control reinspections were completed, according to YCH's certification.

Indicator 6: HQS enforcement
Maximum Score: 10

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

Indicator 7: Expanding housing opportunities
Maximum Points: 5

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

Indicator 8: FMR limit and payment standards
Maximum Points: 5 points

- This indicator shows whether YCH has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in YCH's jurisdiction, that are within the basic range of 90 to 110

percent of the published FMR.

- Points are based on whether YCH has appropriately adopted a payment standard schedule(s), according to YCH's certification.

Indicator 9: Annual reexaminations
Maximum Points: 10

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

Indicator 10: Correct tenant rent calculations
Maximum Points: 5

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

Indicator 11: Pre-contract HQS inspections
Maximum Points: 5

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

Indicator 12: Annual HQS inspections
Maximum Points: 10

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

Indicator 13: Lease-up
Maximum Points: 20 points

- This indicator shows whether YCH enters HAP contracts for the number of units or funding reserved under ACC for at least one year.

- Points are based on the percent of units leased during the last completed YCH fiscal year, or the percent of allocated budget authority that has been expended by YCH, according to data from YCH's last year-end operating statement that is recorded in HUD's accounting system.

Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances
Maximum Points: 10

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

Success Rate of Voucher Holders
Maximum Points: 5

- Only applies to PHAs that have received approval to establish success rate payment standard amounts, and isn't effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.
- This indicator shows whether voucher holders were successful in leasing units with voucher assistance.
- Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.

Deconcentration Bonus Indicator
Maximum Points: 5

- Submission of data for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50 percentile rent, starting with the second full PHA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50th percentile.
- Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.
- Points are based on whether the data that is submitted meets the requirements for bonus points.

PART VI: RECORD KEEPING

17-VI.A. OVERVIEW

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

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

17-VI.B. RECORD RETENTION

[24 CFR 982.158]

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

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

In addition, YCH must keep the following records for at least three (3) years:

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

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 17-III.D., Retention of Documents.

17-VI.C. RECORDS MANAGEMENT

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

<u>YCH Policy</u>

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

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

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

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

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

Upfront Income Verification (UIV) Records

PHAs that access UIV data through HUD's EIV System are required to adopt and follow specific security procedures to ensure that all UIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in *Upfront Income Verification (UIV) System PHA Security Procedures*, Version 1.1, issued April 4, 2004.

<u>YCH Policy</u>

YCH has adopted and implement EIV security procedures required by HUD.

Criminal Records

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

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

YCH must establish and implement a system of records management that ensures that any sex offender registration information received by YCH from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including

expiration of the period for filing a challenge to YCH action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a YCH other than under 24 CFR 5.905.

Medical/Disability Records

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

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

17-VII.A. OVERVIEW

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

17-VII.B. REPORTING REQUIREMENT

[24 CFR 35.1225(e)]

YCH must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

YCH Policy

YCH will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

17-VII.C. DATA COLLECTION AND RECORD KEEPING

[24 CFR 35.1225(f)]

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

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

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

YCH Policy

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

INTRODUCTION

YCH is committed to ensuring that subsidy funds made available to YCH are spent in accordance with HUD requirements.

This chapter covers HUD and YCH policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

> Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents YCH policies related to preventing, detecting, and investigating errors and program abuse.
>
> Part II: Corrective Measures and Penalties. This part describes the corrective measures YCH must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

18-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

YCH Policy

YCH anticipates that the vast majority of families, owners, and YCH employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that YCH's HCV program is administered effectively and according to the highest ethical and legal standards, YCH will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

YCH will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

YCH will provide each applicant and participant with the publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.

YCH will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key YCH forms and form letters that request information from a family or owner.

YCH staff will review and explain the contents of HCV Family Obligations and HUD- and YCH-required forms to program participants.

YCH will provide each YCH employee with the necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. P*rogram abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

18-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, YCH will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires YCH to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985]. (See Chapter 16 for additional information about SEMAP requirements).

YCH Policy

In addition to the SEMAP quality control requirements, YCH will employ a variety of methods to detect errors and program abuse.

YCH routinely will use available sources of up-front income verification to compare with family-provided information.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

YCH will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all PHAs that expend $500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

YCH Policy

YCH will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of YCH's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

YCH Policy

YCH will encourage staff, program participants, owners and the public to report possible program abuse.

18-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When YCH Will Investigate

YCH Policy

YCH will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for YCH to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

YCH will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

Consent to Release of Information [24 CFR 982.516]

YCH may investigate possible instances of error or abuse using all available YCH and

public records. If necessary, YCH will require HCV families to give consent to the release of additional information.

Analysis and Findings

YCH Policy

YCH will base its evaluation on a preponderance of the evidence collected during its investigation.

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

For each investigation YCH will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed YCH, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether YCH will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

YCH Policy

In the case of family-caused errors or program abuse, YCH will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, YCH will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

YCH Policy

YCH will inform the relevant party in writing of its findings and remedies within 14 calendar days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which YCH determined the error or program abuses, (3) the remedies to be employed, and (4) the families right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

PART II: CORRECTIVE MEASURES AND PENALTIES

18-II.A. SUBSIDY UNDER- OR OVERPAYMENTS

A subsidy under- or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, YCH must promptly correct the HAP, family share, and any utility reimbursement.

YCH Policy

Increases in the family share will be implemented only after the family has received 30 days notice.

Any decreases in family share will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family or owner is required to reimburse YCH or YCH is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

18-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows YCH to use incorrect information provided by a third party.

Family Reimbursement to YCH [HCV GB pp. 22-12 to 22-13]

YCH Policy

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. YCH may, but is not required to, offer the family a repayment agreement in accordance with Chapter 17. If the family fails to repay the excess subsidy, YCH will terminate the family's assistance in accordance with the policies in Chapter 13.

YCH Reimbursement to Family [HCV GB p. 22-12]

YCH Policy

YCH will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

Prohibited Actions

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to YCH [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

YCH Policy

Any of the following will be considered evidence of family program abuse:

- Payment to the owner in excess of amounts authorized by YCH for rent, security deposit, and additional services
- Offering bribes or illegal gratuities to YCH Board of Commissioners,
- employees, contractors, or other YCH representatives Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to YCH on the family's behalf
- Use of a false name or the use of falsified, forged, or altered documents
- Intentional misreporting of family information or circumstances (e.g. income, family composition) Omitted facts that were obviously known by a family member (e.g., not reporting employment income)
- Admission of program abuse by an adult family member

YCH may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family YCH may, at its discretion, impose any of the following remedies.

- YCH may require the family to repay excess subsidy amounts paid by YCH, as described earlier in this section.
- YCH may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants).
- YCH may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- YCH may refer the family for state or federal criminal prosecution as described in section 14-II.E.

18-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

Owner Reimbursement to YCH

In all cases of overpayment of subsidy caused by the owner, the owner must repay to YCH any excess subsidy received. YCH may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, YCH may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

YCH Policy

In cases where the owner has received excess subsidy, YCH will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to YCH [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

YCH Policy

Any of the following will be considered evidence of owner program abuse:

- Charging a security deposit other than that specified in the family's lease
- Charging the family rent above or below the amount specified by YCH
- Charging the family for services that are provided to unassisted tenants at no extra charge
- Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit
- Knowingly accepting incorrect or excess housing assistance payments
- Offering bribes or illegal gratuities to YCH Board of Commissioners,

- employees, contractors, or other YCH representatives
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to YCH
- Residing in the unit with an assisted family

Remedies and Penalties

When YCH determines that the owner has committed program abuse, YCH may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16.
- Terminate the HAP contract (See Chapter 13).
- Bar the owner from future participation in any YCH programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 18-II.E.

18-II.D. YCH-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of YCH staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of an YCH staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in YCH personnel policies.

YCH-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

Repayment to YCH

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by YCH staff [HCV GB. 22-12].

YCH Reimbursement to Family or Owner

YCH must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from YCH's administrative fee reserves [HCV GB p. 22-12].

Prohibited Activities

<u>YCH Policy</u>

Any of the following will be considered evidence of program abuse by YCH staff:

- Failing to comply with any HCV program requirements for personal gain

- Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to YCH
- Disclosing confidential or proprietary information to outside parties Gaining profit as a result of insider knowledge of YCH activities, policies, or practices
- Misappropriating or misusing HCV funds
- Destroying, concealing, removing, or inappropriately using any records related to the HCV program
- Committing any other corrupt or criminal act in connection with any federal housing program

18-II.E. CRIMINAL PROSECUTION

YCH Policy

When YCH determines that program abuse by an owner, family, or YCH staff member has occurred and the amount of overpaid subsidy meets or exceeds the .threshold for prosecution under local or state law, YCH will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

18-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES

YCH may retain a portion of program fraud losses that YCH recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

YCH must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits YCH to retain the greater of:

- Fifty percent (50%) of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that YCH incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of YCH related to the collection, these costs must be deducted from the amount retained by YCH.

GLOSSARY

ACRONYMS USED IN SUBSIDIZED HOUSING:

AAF Annual Adjustment Factor. A factor published by HUD in the Federal Register which is used to compute annual rent adjustment.

ACC Annual Contributions Contract

CFR Code of Federal Regulations. Commonly referred to as "the regulations".

The CFR is the compilation of Federal rules which are first published in the Federal Register and define and implement a statute.

ELI Extremely low income

FICA Federal Insurance Contributions Act - Social Security taxes

FMR Fair Market Rent

FY Fiscal Year

FYE Fiscal Year End

GR Gross Rent

HAP Housing Assistance Payment

HQS Housing Quality Standards

HUD The Department of Housing and Urban Development or its designee.

IRA Individual Retirement Account

MSA Metropolitan Statistical Area established by the U.S. Census Bureau

PHA Public Housing Agency

PMSA A Primary Metropolitan Statistical Area established by the U.S. Census Bureau

PS Payment Standard

QC Quality Control

RFTA Request for Tenancy Approval

Unfurnished Unit:	Two month's contract rent (this includes any amount labeled as last month's rent)
Furnished Unit:	Three month's contract rent (this includes any amount labeled as last month's rent)

SSMA

Standard Statistical Metropolitan Area. Has been replaced by MSA, Metropolitan Statistical Area.

TR Tenant Rent

TTP Total Tenant Payment

UA Utility Allowance

URP Utility Reimbursement Payment

SRO Single Room Occupancy

GLOSSARY OF TERMS IN SUBSIDIZED HOUSING:

1937 ACT. The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.)

ADMINISTRATIVE PLAN. The HUD required written policy of the PHA governing its administration of the Section 8 tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and a copy submitted to HUD as a supporting document to the PHA Plan.

ABSORPTION. In portability, the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

ACC RESERVE ACCOUNT (FORMERLY "PROJECT RESERVE"). Account established by HUD from amounts by which the maximum payment to the PHA under the consolidated ACC (during a PHA fiscal year) exceeds the amount actually approved and paid. This account is used as the source of additional payments for the program.

ADA. Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)

ADJUSTED INCOME. Annual income, less allowable HUD deductions.

ADMINISTRATIVE FEE. Fee paid by HUD to the PHA for administration of the program.

ADMINISTRATIVE FEE RESERVE (Formerly "Operating reserve"). Account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes.

ADMISSION. The effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program. This is the point when the family becomes a participant in the program.

ANNUAL BUDGET AUTHORITY. The maximum annual payment by HUD to a PHA for a funding increment.

ANNUAL CONTRIBUTIONS CONTRACT (ACC). A written contract between HUD and a PHA. Under the contract HUD agrees to provide funding for operation of the program, and the PHA agrees to comply with HUD requirements for the program

ANNUAL INCOME. The anticipated total Annual Income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

ANNUAL INCOME AFTER ALLOWANCES. The Annual Income (described above)

less the HUD-approved allowances.

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

ASSETS. (See Net Family Assets.)

ASSISTED TENANT. A tenant who pays less than the market rent as defined in the regulations. Includes tenants receiving rent supplement, Rental Assistance Payments, or Section 8 assistance and all other 236 and 221 (d)(3) BMIR tenants, except those paying the 236 market rent or 120% of the BMIR rent, respectively.

BUDGET AUTHORITY. An amount authorized and appropriated by the Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

CERTIFICATE. A Certificate issued by the PHA under the Section 8 pre-merger certificate program, declaring a family to be eligible for participation in this program and stating the terms and conditions for such participation. Will no longer be issued after October 1, 1999.

CERTIFICATE PROGRAM. Pre-merger rental certificate program.

CHILD CARE EXPENSES. Amounts paid by the family for the care of minors under 13 years of age where such care is necessary to enable a family member to be employed or for a household member to further his/her education.

CO-HEAD. An individual in the household who is equally responsible for the lease with the Head of Household. (A family never has a Co-head and a Spouse and; a Co-head is never a Dependent).

CONGREGATE HOUSING. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing.

CONSOLIDATED ANNUAL CONTRIBUTIONS CONTRACT. (Consolidated ACC). See 24 CFR 982.151.

CONTIGUOUS MSA. In portability, an MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

CONTINUOUSLY ASSISTED. An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program. A brief interruption in assistance does not constitute a break in the “continuously assisted” definition for

Special Admission. A brief interruption is defined only as an interruption that is not under the control of the applicant and does not exceed 30 days in length. For example continued assistance to residents of a Section 8 project after the HAP contract expires or is terminated for owner breach, and there may be a short delay in arranging for continued assistance for project residents.

CONTRACT. (See Housing Assistance Payments Contract.)

CONTRACT RENT. The total amount of rent specified in the HAP contract as payable to the owner by the tenant and by HUD or the PHA on the tenant's behalf.

COOPERATIVE. (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: See 24 CFR 982.619.

COVERED FAMILIES. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

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

DISABILITY ASSISTANCE EXPENSE. Anticipated costs for care attendants and auxiliary apparatus for disabled family members which enable a family member (including the disabled family member) to work.

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

DISABLED PERSON. See Person with Disabilities.

DISPLACED PERSON/FAMILY. A person or family displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized under federal disaster relief laws.

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

DRUG-RELATED CRIMINAL ACTIVITY. The illegal manufacture, sale, distribution,

use, or the possession with intent to manufacture, sell distribute or use, of a controlled substance (as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802).

DRUG TRAFFICKING. The illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

ECONOMIC SELF-SUFFICIENCY PROGRAM. Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603 (c).

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

ELDERLY HOUSEHOLD. A family whose head or spouse or whose sole member is at least 62 years of age; may include two or more elderly persons living together or one or more such persons living with another person who is determined to be essential to his/her care and wellbeing.

ELDERLY PERSON. A person who is at least 62 years old.

ELIGIBILITY INCOME. May 10, 1984, regulations deleted Eligibility Income, per se, because Annual Income is now used for eligibility determination to compare to income limits.

ELIGIBLE FAMILY (Family)**.** A family is defined by the PHA in the administrative Plan, which is approved by HUD.

EXCEPTIONAL MEDICAL OR OTHER EXPENSES. Prior to the regulation change in 1982, this meant medical and/or unusual expenses as defined in Part 889 which exceeded 25% of the Annual Income. It is no longer used.

EXCEPTION RENT. In the pre-merger certificate program, an initial rent (contract rent plus any utility allowance) in excess of the published FMR. See FMR/Exception rent.

EXCESS MEDICAL EXPENSES. Any medical expenses incurred by elderly or disabled families only in excess of 3% of Annual Income which are not reimbursable from any other source.

EXTREMELY LOW-INCOME FAMILY. A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30% of medical income for an area if HUD finds such variations are necessary due to unusually high or low family incomes.

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

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

FAMILY. "Family" includes but is not limited to:

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

FAMILY OF VETERAN OR SERVICE PERSON. A family is a "family of veteran or service person" when:

- The veteran or service person (a) is either the head of household or is related to the head of the household; or (b) is deceased and was related to the head of the household, and was a family member at the time of death.
- The veteran or service person, unless deceased, is living with the family or is only temporarily absent unless s/he was (a) formerly the head of the household and is permanently absent because of hospitalization, separation, or desertion, or is divorced; provided, the family contains one or more persons for whose support s/he is legally responsible and the spouse has not remarried; or (b) not the head of the household but is permanently hospitalized; provided, that s/he was a family member at the

time of hospitalization and there remain in the family at least two related persons.

FAMILY RENT TO OWNER. In the voucher program, the portion of the rent to owner paid by the family.

FAMILY SELF-SUFFICIENCY PROGRAM (FSS PROGRAM). The program established by a PHA to promote self-sufficiency of assisted families, including the provision of supportive services.

FAMILY SHARE. The amount calculated by subtracting the housing assistance payment from the gross rent.

FAMILY UNIT SIZE. The appropriate number of bedrooms for a family, as determined by the PHA under the PHA's subsidy standards.

FMR/EXCEPTION RENT. The fair market rent published by HUD headquarters. In the pre-merger certificate program the initial contract rent for a dwelling unit plus any utility allowance could not exceed the FMR/exception rent limit (for the dwelling unit or for the family unit size). In the voucher program the PHA adopts a payment standard schedule that is within 90% to 110% of the FMR for each bedroom size.

FOSTER CHILD CARE PAYMENT. Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

FULL-TIME STUDENT. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended).

FUNDING INCREMENT. Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

GROSS FAMILY CONTRIBUTION. Changed to Total Tenant Payment.

GROSS RENT. The sum of the Rent to Owner and the utility allowance. If there is no utility allowance, Rent to Owner equals Gross Rent.

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

HAP CONTRACT. (See Housing Assistance Payments contract.)

HEAD OF HOUSEHOLD. The head of household is the person who assumes legal and

financial responsibility for the household and is listed on the application as head.

HOUSING AGENCY. A state, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. ("PHA" and "HA" mean the same thing.)

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974. Act in which the U.S. Housing Act of 1937 (sometimes referred to as the Act) was re-codified, and which added the Section 8 Programs.

HOUSING ASSISTANCE PAYMENT. The monthly assistance payment by a PHA. The total assistance payment consists of:

- A payment to the owner for rent to owner under the family's lease.
- An additional payment to the family if the total assistance payment exceeds the rent to owner. The additional payment is called a "utility reimbursement" payment.

HOUSING ASSISTANCE PAYMENTS CONTRACT. (HAP contract). A written contract between a PHA and an owner in the form prescribed by HUD headquarters, in which the PHA agrees to make housing assistance payments to the owner on behalf of an eligible family.

HOUSING QUALITY STANDARDS (HQS). The HUD minimum quality standards for housing assisted under the tenant-based programs.

HUD. The Department of Housing and Urban Development.

HUD REQUIREMENTS. HUD requirements for the Section 8 programs. HUD requirements are issued by HUD headquarters as regulations. Federal Register notices or other binding program directives.

IMPUTED ASSET. Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

IMPUTED INCOME. HUD passbook rate x total cash value of assets. Calculation used when assets exceed $5,000.

IMPUTED WELFARE INCOME. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

INCOME. Income from all sources of each member of the household as determined in accordance with criteria established by HUD.

INCOME FOR ELIGIBILITY. Annual Income.

INITIAL PHA. In portability, the term refers to both:

- A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and
- A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

INITIAL PAYMENT STANDARD. The payment standard at the beginning of the HAP contract term.

INITIAL RENT TO OWNER. The rent to owner at the beginning of the HAP contract term.

INTEREST REDUCTION SUBSIDIES. The monthly payments or discounts made by HUD to reduce the debt service payments and, hence, rents required on Section 236 and 221 (d)(3) BMIR projects. Includes monthly interest reduction payments made to mortgagees of Section 236 projects and front-end loan discounts paid on BMIR projects.

JURISDICTION. The area in which the PHA has authority under State and local law to administer the program.

LANDLORD. This term means either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

LEASE. A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA. In cooperative housing, a written agreement between a cooperative and a member of the cooperative. The agreement establishes the conditions for occupancy of the member's family with housing assistance payments to the cooperative under a HAP contract between the cooperative and the PHA.

LEASE ADDENDUM. For pre-merger Certificate, pre-merger OFTO, and pre-merger Voucher tenancies, the lease language required by HUD in the lease between the tenant and the owner.

LIVE-IN AIDE. A person who resides with an elderly person or disabled person and who is determined to be essential to the care and well-being of the person, is not obligated for the support of the person, and would not be living in the unit except to provide necessary supportive services.

LOCAL PREFERENCE. A preference used by the PHA to select among applicant

families.

LOW-INCOME FAMILY. A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 80% for areas with unusually high or low income families.

MANUFACTURED HOME. A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. A special housing type. See 24 CFR 982.620 and 982.621.

MEDICAL EXPENSES. Those total medical expenses, including medical insurance premiums, that are anticipated during the period for which Annual Income is computed, and that are not covered by insurance. (A deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 3% of Annual Income.

MINOR. A member of the family household (excluding foster children) other than the family head or spouse who is under 18 years of age.

MIXED FAMILY. A family with citizens and eligible immigration status and without citizens and eligible immigration status as defined in 24 CFR 5.504(b)(3)

MONTHLY ADJUSTED INCOME. 1/12 of the Annual Income after Allowances or Adjusted Income.

MONTHLY INCOME. 1/12 of the Annual Income.

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

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

NECESSARY SUPPORTIVE SERVICES. These services are those that are required to live independently. They are the generally recognized medical/social standard of “Activities of Daily Living” and include cleaning, cooking, shopping, bathing, etc.

NEGATIVE RENT. Now called Utility Reimbursement. A negative Tenant Rent results in a Utility Reimbursement Payment (URP).

NET FAMILY ASSETS. Value of equity in savings, checking, IRA and Keogh accounts,

real property, stocks, bonds, and other forms of capital investment. The value of necessary items of personal property such as furniture and automobiles is excluded from the definition.

NET FAMILY CONTRIBUTION. Former name for Tenant Rent.

NON CITIZEN. A person who is neither a citizen nor a national of the United States.

OCCUPANCY STANDARDS. [Now referred to as Subsidy Standards] Standards established by a PHA to determine the appropriate number of bedrooms for families of different sizes and compositions.

OWNER. Any persons or entity having the legal right to lease or sublease a unit to a participant.

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

PAYMENT STANDARD. The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family.

PERSON WITH DISABILITIES. A person who has a disability as defined in 42 U.S.C 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means an "individual with handicaps" as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes).

PHA PLAN. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD in accordance with part 903 of this chapter.

PORTABILITY. Renting a dwelling unit with Section 8 tenant-based assistance outside the jurisdiction of the initial PHA.

PREMISES. The building or complex in which the dwelling unit is located, including common areas and grounds.

PROCESSING ENTITY. Entity responsible for making eligibility determinations and for

income reexaminations. In the Section 8 Program, the "processing entity" is the "responsible entity."

PROGRAM. The Section 8 tenant-based assistance program under 24 CFR Part 982.

PROGRAM RECEIPTS. HUD payments to the PHA under the consolidated ACC, and any other amounts received by the PHA in connection with the program.

PUBLIC ASSISTANCE. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

PUBLIC HOUSING AGENCY (PHA). PHA includes any State, county, municipality or other governmental entity or public body which is authorized to administer the program (or an agency or instrumentality of such an entity), or any of the following:

- A consortia of housing agencies, each of which meets the qualifications in paragraph (1) of this definition, that HUD determines has the capacity and capability to efficiently administer the program (in which case, HUD may enter into a consolidated ACC with any legal entity authorized to act as the legal representative of the consortia members):
- Any other public or private non-profit entity that was administering a Section 8 tenant-based assistance program pursuant to a contract with the contract administrator of such program (HUD or a PHA) on October 21, 1998; or
- For any area outside the jurisdiction of a PHA that is administering a tenant-based program, or where HUD determines that such PHA is not administering the program effectively, a private non-profit entity or a governmental entity or public body that would otherwise lack jurisdiction to administer the program in such area.

REASONABLE RENT. A rent to owner that is not more than rent charged for comparable units in the private unassisted market, and not more than the rent charged for comparable unassisted units in the premises.

RECEIVING PHA. In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

RE-CERTIFICATION. Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported. There are annual and interim re-certifications.

REGULAR TENANCY. In the pre-merger certificate program: A tenancy other than an over-FMR tenancy.

REMAINING MEMBER OF TENANT FAMILY. Person left in assisted housing after other family members have left and become unassisted.

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

RESIDENCY PREFERENCE. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area ("residency preference area"). A homeless person or family may be considered a resident if the person/family resides in a facility located in the area, which provides temporary or transitional shelter for homeless persons or if the family's last permanent address was in the area.

RESIDENCY PREFERENCE AREA. The specified area where families must reside to qualify for a residency preference.

RESPONSIBLE ENTITY. For the public housing and Section 8 tenant-based assistance, project-based certificate assistance and moderate rehabilitation program, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

SECRETARY. The Secretary of Housing and Urban Development.

SECTION 8. Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

SECURITY DEPOSIT. A dollar amount which can be applied to unpaid rent, damages or other amounts to the owner under the lease.

SERVICE PERSON. A person in the active military or naval service (including the active reserve) of the United States.

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

SINGLE PERSON. A person living alone or intending to live alone.

SINGLE ROOM OCCUPANCY (SRO) HOUSING. A unit for occupancy by a single eligible individual capable of independent living which does not contain food preparation and/or sanitary facilities in accordance with 24 CFR §882.109 and is located within a

multifamily structure consisting of more than 12 units.

SPECIAL ADMISSION. Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

SPECIAL HOUSING TYPES. See Subpart M of 24 CFR 982, which states the special regulatory requirements for SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

SPECIFIED WELFARE BENEFIT REDUCTION. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

SPOUSE. The husband or wife of the head of the household.

SUBSIDIZED PROJECT. A multi-family housing project (with the exception of a project owned by a cooperative housing mortgage corporation or association) which receives the benefit of subsidy in the form of:

- Below-market interest rates pursuant to Section 221(d)(3) and (5) or interest reduction payments pursuant to Section 236 of the National Housing Act; or
- Rent supplement payments under Section 101 of the Housing and Urban Development Act of 1965; or
- Direct loans pursuant to Section 202 of the Housing Act of 1959; or
- Payments under the Section 23 Housing Assistance Payments Program pursuant to Section 23 of the United States Housing Act of 1937 prior to amendment by the Housing and Community Development Act of 1974;
- Payments under the Section 8 Housing Assistance Payments Program pursuant to Section 8 of the United States Housing Act after amendment by the Housing and Community Development Act unless the project is owned by a Public Housing Agency; A Public Housing Project.

SUBSIDY STANDARDS. Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

SUBSTANDARD UNIT. Substandard housing is defined by HUD for use as a federal preference.

SUSPENSION/TOLLING. Stopping the clock on the term of a family's voucher, for such

period as determined by the PHA, from the time when the family submits a request for PHA approval to lease a unit, until the time when the PHA approves or denies the request. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension.

TENANCY ADDENDUM. For the Housing Choice Voucher Program, the lease language required by HUD in the lease between the tenant and the owner.

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

TENANT RENT. The amount payable monthly by the family as rent to the unit owner (Section 8 owner or PHA in public housing). For a tenancy in the pre-merger certificate program, tenant rent equals the total tenant payment minus any utility allowance.

TOTAL TENANT PAYMENT (TTP). The total amount the HUD rent formula requires the tenant to pay toward gross rent and utility allowance.

UNIT. Residential space for the private use of a family.

UTILITIES. Utilities means water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection and sewage services. Telephone service is not included as a utility.

UTILITY ALLOWANCE. If the cost of utilities (except telephone) including range and refrigerator, and other housing services for an assisted unit is not included in the Contract Rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of a reasonable consumption of such utilities and other services for the unit by an energy conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthy living environment.

UTILITY REIMBURSEMENT. In the voucher program, the portion of the housing assistance payment which exceeds the amount of the rent to owner.

UTILITY REIMBURSEMENT PAYMENT. In the pre-merger certificate program, the amount, if any, by which the Utility Allowance for the unit, if applicable, exceeds the Total Tenant Payment for the family occupying the unit.

VACANCY LOSS PAYMENTS. (For pre-merger certificate contracts effective prior to 10/2/95) When a family vacates its unit in violation of its lease, the owner is eligible for 80% of the Contract Rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies the PHA as soon as s/he

learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.

VERY LOW INCOME FAMILY. A Lower-Income Family whose Annual Income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the pre-merger certificate and voucher programs.

VETERAN. A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

VIOLENT CRIMINAL ACTIVITY. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

VOUCHER (rental voucher). A document issued by a PHA to a family selected for admission to the voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states the obligations of the family under the program.

VOUCHER HOLDER. A family holding a voucher with an unexpired term (search time).

VOUCHER PROGRAM. The Housing Choice Voucher program.

WAITING LIST. A list of families organized according to HUD regulations and PHA policy who are waiting for subsidy to become available.

WAITING LIST ADMISSION. An admission from the PHA waiting list.

WELFARE ASSISTANCE. Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. FOR THE FSS PROGRAM (984.103(b)), "welfare assistance" includes only cash maintenance payments from Federal or State programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.

WELFARE-TO-WORK (WTW) FAMILIES. Families assisted by a PHA with voucher funding awarded to the PHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).

C. GLOSSARY OF TERMS USED IN THE NONCITIZENS RULE

CHILD. A member of the family other than the family head or spouse who is under 18 years of age. **CITIZEN.** A citizen or national of the United States.

EVIDENCE OF CITIZENSHIP OR ELIGIBLE STATUS. The documents which must be submitted to evidence citizenship or eligible immigration status.

HEAD OF HOUSEHOLD. The adult member of the family who is the head of the household for purpose of determining income eligibility and rent.

HUD. Department of Housing and Urban Development.

INS. The U.S. Immigration and Naturalization Service.

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

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

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

PHA. A housing authority who operates Public Housing.

RESPONSIBLE ENTITY. The person or entity responsible for administering the restrictions on providing assistance to noncitizens with ineligible immigration status (the PHA).

SECTION 214. Section 214 restricts HUD from making financial assistance available for noncitizens unless they meet one of the categories of eligible immigration status specified in Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a).

SPOUSE. Spouse refers to the marriage partner, either a husband or wife, who is someone you need to divorce in order to dissolve the relationship. It includes the partner in a common-law marriage. It does not cover boyfriends, girlfriends, significant others, or "co-heads." "Cohead" is a term recognized by some HUD programs, but not by public and Indian housing programs.

USCIS United States Citizenship and Immigration Services