



LACDA

Los Angeles County Development Authority

**ADMINISTRATIVE PLAN**

**EFFECTIVE JULY 1, 2020**



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## **CHAPTER 1: POLICIES AND OBJECTIVES**

### **1.1 INTRODUCTION**

In 1982, the Los Angeles County Board of Supervisors consolidated three entities – the Housing Authority, the Community Development Department, and the Redevelopment Agency – to form the Community Development Commission (CDC). On May 16, 2019, the agency was officially rebranded as the Los Angeles County Development Authority (LACDA). LACDA is part of the County family, but an independent agency not a County Department. The LACDA’s core pillars include affordable housing, and community and economic development. The agency’s wide-ranging programs benefit residents and business owners in the unincorporated Los Angeles County areas and in various incorporated cities that participate in different programs (these cities are called “participating cities”). According to the 2010 U.S. Census, more than one million of the County’s nearly ten million residents live in unincorporated areas.

Over 70% of LACDA’s funding comes from the U.S. Department of Housing and Urban Development to provide subsidized housing, housing development and preservation, community development, and economic development within Los Angeles County.

Under the LACDA organizational structure, the Housing Assistance Division administers all tenant-based and project-based Housing Choice Voucher rental assistance programs.

### **1.2 PURPOSE OF THE PLAN** **[24 CFR §982.54(a) – §982.54(d)]**

The purpose of the Administrative Plan is to clearly outline the policies and procedures that govern the LACDA’s administration of the Section 8 Housing Choice Voucher rental assistance programs. The plan includes program requirements established by the U.S. Department of Housing and Urban Development (HUD), as well as the discretionary policies established by the LACDA.

The policies and procedures in this Administrative Plan comply with applicable local, State, and HUD and other Federal regulations, relevant memos, notices and guidelines, including fair housing and equal opportunity requirements. If applicable regulatory changes conflict with this plan, regulations will have precedence.

The LACDA adheres to the Administrative Plan in administering its Section 8 rental assistance programs. The original plan and any changes must be approved by the Board of Commissioners of the agency (the Los Angeles County Board of Supervisors), and a copy of the plan must be provided to HUD.

As much as possible, revisions and additions are published to coincide with published changes in the LACDA’s Agency Plan. Interim changes, including Board mandates and administrative updates reflecting changes in law or regulatory requirements, will be made effective by memo from the Executive Director or designee.

### **1.3 LOCAL OBJECTIVES**

#### **[24 CFR §982.1(a)]**

The LACDA's rental assistance programs are designed to achieve three major objectives:

1. To provide improved living conditions and decent, safe, and sanitary housing for very low-income families while maintaining their rent payments at an affordable level;
2. To provide an incentive to private property owners to rent to lower income families by offering timely assistance payments; and
3. To promote freedom of housing choice and spatial deconcentration of lower income and minority families.

Additionally, the LACDA's mission statement is as follows:

- To promote adequate and affordable housing, economic opportunity and a suitable living environment free from discrimination.

### **1.4 JURISDICTION**

#### **[24 CFR §982.51 and 24 CFR §982.4(b)]**

HUD authorizes the LACDA to administer its Section 8 Housing Choice Voucher and other subsidized rental assistance programs within the corporate boundaries of Los Angeles County. The LACDA's jurisdiction includes:

1. The unincorporated areas of the County, and
2. Participating cities within the County. Participating cities are defined as cities in the Los Angeles County area that have authorized the LACDA to administer rental assistance programs within their city limits.

### **1.5 RENTAL ASSISTANCE PROGRAMS**

Section 8 of the Housing and Community Development Act of 1974 established the "Section 8 Program," the first permanent Federal program for rental assistance. The program authorized a basic certificate program, as well as targeted subprograms. As rental assistance programs developed, Congress authorized additional Section 8 programs, including a voucher program in 1987.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) required Public Housing Agencies (PHA's) to convert their certificates into vouchers and establish the Housing Choice Voucher Program as the primary rental assistance program. As a result of this conversion, the Housing Choice Voucher Program now encompasses all Section 8 rental assistance except for existing certificates under the previously offered Moderate Rehabilitation Program.

- **Moderate Rehabilitation Program**: A certificate-based rental assistance program incorporating financial options for owners doing moderate levels of rehab and upkeep to affordable housing rental units. Administration involves closing or extending expiring contracts. Chapter 20 (Moderate Rehabilitation Program) covers the details of this program.

- **Section 8 Pre-Pay/Preservation Program**: A voucher-based rental assistance program that enables existing participants, living in units in which owners have prepaid a HUD-insured mortgage loan, to remain in affordable housing. Chapter 19 (Pre-Pay/Preservation Program) covers the details of this program.
- **Project-Based Voucher Program**: The LACDA will utilize Project-Based vouchers to prevent the displacement of families and preserve affordable rents in the case of an unforeseen event.
- **Housing Choice Voucher Program**: The major rental assistance program administered by the LACDA.
  - **Note**: Unless otherwise noted, the procedures in this Administrative Plan are for the general Housing Choice Voucher Program.

As required by HUD regulations, the LACDA administers the Family Self-Sufficiency Program as a special program option for participants in the Housing Choice Voucher Program. See Chapter 18 (Special Programs) for details.

### **1.5.1 Targeted and Special Programs**

Periodically, the LACDA applies for special funding from HUD to assist targeted populations, within the Housing Choice Voucher Program.

Families admitted into a targeted program must meet all regular admission requirements with the exception of the residency requirement. Since the LACDA is required to work closely with other County departments that provide services through all of Los Angeles County, families residing outside of the LACDA's jurisdiction are allowed to participate in targeted programs. However, families may be required to move within the LACDA's jurisdiction for at least one year.

## **1.6 FAIR HOUSING AND EQUAL OPPORTUNITY POLICY**

### **[24 CFR §982.53 and California FEHA Act]**

It is the policy of the LACDA to comply fully with all Federal, State and local nondiscrimination laws and with the rules and regulations governing fair housing and equal opportunity in housing and employment.

The LACDA shall not deny any family or individual the opportunity to apply for or receive assistance under its rental assistance programs on the basis of race, color, sex, religion, gender, gender identity and expression, family status, national origin, marital status, ancestry, age, sexual orientation, disability, source of income, medical condition, military and veteran status, genetic information, arbitrary characteristics, or any other basis prohibited by law.

The LACDA will provide Federal, State, and local information to voucher holders during the family briefing session regarding discrimination, and the recourse available to them if they are victims of discrimination. Applicants and other voucher holders will be informed that they may file a fair housing complaint using the toll-free hotline at 1-800-669-9777 and that persons with hearing or speech impairments may access this number via TTY by calling the Federal Information

Relay Service at 1-800-887-8339. All fair housing information and discrimination complaint forms will be included in the voucher holder's briefing packet.

### **1.7 NON-DISCRIMINATION POLICY**

It is the policy of the Los Angeles County Development Authority (LACDA), formerly known as the Housing Authority of the County of Los Angeles, to comply with the 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.*, by ensuring that housing is available to all persons without regard to race, color, religion, national origin, disability, familial status (having children under age 18), or sex. This policy means that, among other things, LACDA and its agents or employees must not discriminate in any aspect of housing, including but not limited to denying persons access to housing, because of race, color, religion, national origin, disability, familial status, or sex. Such agents and employees may not:

- a. Make unavailable or deny a dwelling to any person because of race, color, religion, national origin, disability, familial status, or sex;
- b. Discriminate against any person in the terms, conditions, or privileges of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, national origin, disability, familial status, or sex;
- c. Make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, national origin, disability, familial status, or sex, or an intention to make any such preference, limitation, or discrimination, or
- d. Coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by the Fair Housing Act.

Any agent or employee who fails to comply with this non-discrimination policy will be subject to appropriate disciplinary action. Any action taken by an agent or employee that results in the unequal treatment of citizens on the basis of race, color, religion, national origin, disability, familial status, or sex, may constitute a violation of state and federal fair housing laws. An individual who believes that he or she is the victim of discrimination may contact the U.S. Department of Housing and Urban Development at 1-207-945-0467, or the U.S. Department of Justice at 1-800-896-7743.

## **1.8 OPERATING RESERVES**

The Board of Commissioners shall establish the permitted uses of earned administrative fees at the time of the Annual Consolidated Operating Budget approval. The approval shall consist of the use of administrative fees for the Housing Choice Voucher Program (Section 8) administration.

The Board of Commissioners must approve the expenditure of Section 8 operating reserves in excess of \$100,000. The Executive Director may authorize allowable use of Section 8 operating reserve funds not in excess of \$100,000. The Deputy Executive Director may authorize allowable use of Section 8 operating reserve funds not in excess of \$30,000.

## **1.9 SERVICE POLICY**

### **[24 CFR §8.24]**

This policy is applicable to all situations described in this Administrative Plan when a family initiates contact with the LACDA, when the LACDA initiates contact with a family including when a family applies, and when the LACDA schedules or reschedules any kind of appointments.

It is the policy of the LACDA to be service-directed in the administration of its rental assistance programs, and to exercise and demonstrate a high level of professionalism while providing housing services to all families.

The LACDA's policies and practices are designed to provide assurances that all persons with disabilities will be provided reasonable accommodation so that they may fully access and utilize the housing program and related services.

### **1.9.1 Providing Greater Accessibility to Persons with Disabilities**

The LACDA provides reasonable accommodations to persons with disabilities. The following is a non-exhaustive list of reasonable accommodations that may be available to a disabled person:

1. Providing office facilities which meet the requirements of Federal, State and local law with regard to accommodations for persons with disabilities;
2. Providing notice to applicants and participants that they may request a reasonable accommodation if a family member is a person with a disability;
3. Allowing the assistance of mechanical or electronic devices by applicants and participants as may be needed to facilitate communication at appointments;
4. Providing assistance in completing forms and other documents which are required by program regulations;
5. Encouraging families to utilize assistance from outside agencies in the completion of forms and documents required by the program;
6. Providing reasonable extensions of time for the completion of program requirements to the extent not prohibited by HUD regulations;

7. Providing extensions to the amount of time a family has to search for a unit with their voucher (see section 8.7.3);
8. Conducting in-home visits (or, where appropriate, telephone interviews) for persons who are unable to travel to LACDA offices due to medical conditions;
9. Maintaining Telecommunication Devices for the Deaf (TDD) phone services and publicizing their availability;
10. Providing an American Sign Language interpreter at the request of clients with a hearing impairment;
11. Providing documents in Braille, upon request;
12. Providing program documents in large font sizes upon request;
13. Providing, upon request, an appropriate meeting or conference room to accommodate a service and/or support animal;
14. Requesting HUD approval of an exception to the Fair Market Rent (FMR) or the Voucher Payment Standard, at the family's request, if a family contains a member with a disability and has a verifiable need to rent an accessible or otherwise appropriate specific unit in a specific area, but only if the unit meets the rent reasonableness requirements of the program;
15. Allow advocates to provide information as needed, but only with the permission of the person with the disability.

The following is a list of actions LACDA will take to affirmatively further fair housing for disabled persons. The LACDA is not limited only to those actions listed below to affirmatively further fair housing and may take other actions when deemed necessary and reasonable:

1. Actively and consistently examining the LACDA's programs, and proposed programs to identify any impediments to fair housing choice within the programs;
2. Resolving impediments to fair housing choice in a reasonable and timely fashion given resources available;
3. Soliciting information on the accessibility of owners' units to persons with disabilities and providing information on amenities the unit may provide persons with disabilities;
4. Providing a free internet-based housing search that lists available, accessible units;
5. Soliciting the assistance of outside agencies to provide services to persons with disabilities and to assist persons with disabilities in meeting the requirements of the Section 8 and other assisted housing programs;
6. Actively working with the County and participating cities to implement any initiatives to affirmatively further fair housing where involvement by the LACDA is necessary;

7. Providing to its Section 8 landlords information concerning their legal obligations to permit “reasonable modifications” to a rental unit at the participant’s expense if the family has a member with a disability and if the modification is necessary for the person with a disability to fully enjoy the unit;
8. Requiring all outside agencies who have agreements or contracts with the LACDA to abide by Federal, State and local laws and ordinances which require accommodation for persons with disabilities and not to reject any applicant or participant on the basis of a disability;
9. Providing training to all employees on how to accommodate applicants and participants with disabilities.

The LACDA will maintain documentation of all efforts to affirmatively further fair housing.

### **1.9.2 Requests for Reasonable Accommodation** **[24 CFR §8.28]**

The LACDA is required to make reasonable adjustments to rules, policies, practices and procedures of its programs, in order to enable a disabled applicant or participant to have an equal opportunity to use and enjoy their unit, including common areas, and to comply with program obligations.

The LACDA approves reasonable accommodation requests on a case-by-case basis, upon determination that:

- The requested accommodation is reasonable (i.e., it does not result in a fundamental alteration in the nature of the program or an undue financial and administrative burden), and
- There is an identifiable relationship between the requested accommodation and the individual’s disability.

Requests for reasonable accommodation do not have to be made in writing, however it is preferred if the request is in writing to ensure the request is understood by all parties. Most requests for accommodation are verified with a reliable, knowledgeable professional so that the LACDA can properly accommodate the need presented by the disability (see Chapter 7 for Verification of Reasonable Accommodations). Families requesting a reasonable accommodation will be notified in writing of the decision. The written decision will also include a statement informing the family of their right to dispute the decision.

### **1.9.3 Persons with an Obvious and/or Visible Disability**

Most reasonable accommodation requests are considered in accordance with the policies found in section 7.11.10. However, in accordance with the Joint Statement of the Department of Housing and Urban Development and the Department of Justice regarding Reasonable Accommodations under the Fair Housing Act, dated May 17, 2004 an Assistant Manager, Manager, Director or the ADA/504 Coordinator in the Housing Assistance Division may approve a family member’s self-certification of a need for a reasonable accommodation, but only if:

- 1) The individual has an obvious and/or visible disability (such as an individual who regularly uses a wheelchair or an individual with a hearing or visual impairment);
- 2) The accommodation requested is clearly related to the individual's disability (for example, a hearing-impaired person requests a sign language interpreter).

If a person's disability is obvious, or otherwise visible, and if the need for the requested accommodation is also readily apparent or known, Supervisory staff will not request any additional information about the requester's disability or the disability related need for the accommodation.

If Supervisory staff cannot determine whether there is a clear relationship (nexus) between the obvious disability and the need for an accommodation, the relationship (nexus) and need for the accommodation must be verified by a health care or service provider.

Supervisory staff must document the file with facts and reasoning to support acceptance of the family member's self-certification. The supervisor's approval of the self-certification takes the place of a third party verification of need for the accommodation.

#### **1.9.4 General Guidelines for Exception Rents in Excess of the Regular Payment Standard**

Under no circumstances may a family initially rent a unit if the family share will exceed the affordability limits stipulated by HUD. A family may rent a unit with a lower payment standard amount while its request for an exception rent or payment standard is pending so long as the family share does not exceed the affordability limitation. If approval for an exception payment standard is provided after the start date of the HAP Contract, the payment standard is revised effective the first of the month following the date of the final written approval.

#### **1.9.5 Exceptions Payment Standard (120% of the FMR or Less)**

These exceptions may be granted only by a Manager or the Director of the Housing Assistance Division.

The rent for the unit must be reasonable. The family must have at least one member who qualifies as a person with a disability for the purpose of reasonable accommodation. The unit must in some specific way accommodate the disability, such as the unit's physical amenities (grab-bars, ramps, special features for the blind), structure (elevator building, ground floor unit), location (near a medical facility, place of treatment, school providing special education, close location to bus lines or other facilities) or because of other circumstances or needs attested to by the health care or service provider.

The need for the accommodation must be verified in accordance with section 7.11.10 of this Plan.



### **1.9.6 Exceptions in Excess of 120% of the FMR**

All requests for exceptions to the payment standard which exceed 120 % of the Fair Market Rent must be reviewed and approved by the Director. Requests above 120% of the FMR will require a HUD Headquarters waiver of 24 CFR 982.505(d).

Approval of exception payment standards may occur only if the family share will exceed 40% of the family's Adjusted Monthly Income (AMI), and the resulting exception payment standard will be premised on the family continuing to pay 40% of AMI as the family share. The exception payment standards remain in effect until and unless a higher exception payment standard is warranted, requested and subsequently approved.

### **1.9.7 Payment Standard Exceptions During the Contract Term**

During the term of a HAP Contract, the LACDA may provide an exception to the payment standard to allow the unit to remain affordable to the family so long as the unit provides an accommodation for the disability. The exception cannot be retroactive and cannot take effect until after the date of the LACDA's (or HUD's) written approval.

### **1.9.8 Denials & Terminations - Discretion to Consider Circumstances**

In determining whether to deny admission or terminate assistance because of action or failure to act by members of the family, the LACDA may consider mitigating circumstances relating to the disability of a family member and the effects of denial or termination of assistance on other family members who were not involved in the action or failure to act.

If the family includes a person with a disability, the LACDA's decision concerning termination or denial is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

### **1.9.9 Re-verifying the Need for Reasonable Accommodations**

Once the need for a reasonable accommodation has been verified, staff does not re-verify the need for reasonable accommodation except when there is another change in circumstances.

Examples:

- A disabled person leaves the household,
- A family member listed as disabled can no longer verify s/he is disabled,
- At inspection no medical equipment is observed in an additional room granted as an accommodation to store or use the equipment,
- The health care or service provider approving a need for a live-in aide or other reasonable accommodation has indicated that the need or the disability will be of short duration,
- The family member loses his/her disabled status, for example when a person on State disability returns to work.

### **1.9.10 Resolving Complaints Regarding Reasonable Accommodation**

Complaints or issues regarding the provision of reasonable accommodation for a person with a disability which are not resolved by the case manager are referred to the Housing Assistance Division ADA/Section 504 Coordinator who provides a preliminary review, conducts investigations, and resolves complaints and issues determinations.

### **1.10 LIMITED ENGLISH PROFICIENCY**

In accordance with federal, state and local law, specifically Executive Order 13166, HUD LEP Guidance and Sections 7290 et seq. of the California Government Codes (“Dymally-Alatore Act”) the LACDA will provide meaningful access to its programs and activities by persons with Limited English Proficiency (LEP) and undertake reasonable efforts to provide or arrange free language assistance for LEP applicants or participants of the Housing Choice Voucher program and all other rental assistance programs administered by the Housing Assistance Division.

### **1.11 MEANINGFUL ACCESS; FOUR-FACTOR ANALYSIS**

Meaningful access is free language assistance in accordance with federal guidelines. The LACDA is required to provide LEP services based on the balancing of the following four-factor analysis:

1. The number or proportion of LEP persons served or likely to be encountered by the LACDA.
2. The frequency with which with LEP persons using a particular language come into contact with the LACDA.
3. The nature and importance of the LACDA program, activity or service to the person’s life.
4. The LACDA’s resources and the cost of providing meaningful access.

The LACDA will annually assess and update the four-factor analysis in accordance with Section 1.17 Monitoring.

### **1.12 DEFINITIONS**

1. “Applicant” includes applicants for any program administered by the Housing Assistance Division.
2. “Competent” refers to a person who is proficient and has knowledge of program terminology in both the English language and the non-English language being used.
3. “Interpretation” is competently taking oral or spoken information provided in one language and accurately communicating that information orally in another language.
4. “Interpreter” is a person (not a minor) able to speak fluently and read with full understanding both in the English language and the language of the LEP applicant or participant.

5. "Language services" or "Language Assistance" is the provision of free, competent language interpretation (oral) or translation services (written).
6. "LEP Individual" is a person who identifies as a LEP person, does not speak English as a primary language, and who has a limited ability to read, write, speak or understand English.
7. "Oral Translation" means the oral translation of a document from English into a second language. Oral translation involves the translation of every word, not summarization. However, in oral translation, because of cultural and technical issues, further explanation may also be required and is encouraged.
8. "Participant" includes persons receiving assistance under any rental assistance program administered by the Housing Assistance Division.
9. "Threshold Language" is a language spoken by 5% or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered to determine the need for bilingual staff and translation of documents.
10. "Translation" means converting written material from one language to another in written form.
11. "Vital documents" are those that are critical for ensuring meaningful access by LEP persons to the rental assistance programs administered by the LACDA.

### **1.13 LANGUAGE ASSISTANCE**

A Limited English Proficient (LEP) applicant or participant is entitled to language assistance with respect to the programs and activities of the LACDA.

LACDA staff will provide language assistance to LEP applicants and participants who have difficulty communicating in English, who identify themselves as LEP or who request language assistance.

Applicants will be asked at the time of application and participants will be asked at the time of annual reexamination to designate their primary language for both oral and written services and whether LEP services are needed. This information will be recorded in the electronic case file.

### **1.14 INTERPRETIVE (ORAL) SERVICES**

LEP applicants and participants have the right to free interpreter services when the individual states a need or staff observes difficulty in communicating in English, whether or not the language they speak is considered a threshold language. Once a person is identified as LEP, interpreter services will be made available in all communication with or from the LACDA.

#### **1.14.1 Formal Interpreters**

To provide meaningful access for LEP applicants and participants, the LACDA will provide qualified interpreters, including agency bilingual staff and outside vendors to all identified LEP individuals or upon request.

The LACDA may require an interpreter to certify that he/she understood the matter communicated and rendered a competent interpretation.

- Only formal interpreters will be used at Voucher issuance briefings; and
- Informal hearings.

Informal interpreters will not be used in lieu of formal interpreters provided by the LACDA.

For informal hearings, a LACDA staff interpreter may not be a subordinate to the person making the decision.

The LACDA maintains a list of qualified, bilingual employees who have applied for, and tested for proficiency in interpreting and/or translating languages from English into a language other than English. Those employees receive additional compensation for demonstrating non-English language proficiency and can provide assistance to LACDA staff and LEP clients as part of their regular job duties.

#### **1.14.2 Informal Interpreters**

Informal interpreters may include the family members, friends, legal guardians, service representatives or advocates of the LEP individual. The use of informal interpreters is strongly discouraged. Minor children may not act as informal interpreters.

If the LEP individual wishes to rely solely on an informal interpreter, the LACDA staff will determine whether it is appropriate, depending upon the circumstances and subject matter of the communication. However, in many circumstances, informal interpreters may not be an appropriate option to provide accurate interpretations. There may be issues of confidentiality, competency or conflict of interest. In those cases, the LACDA may require the use of a formal interpreter despite the wish of the LEP individual to rely solely on his or her informal interpreter.

The LACDA will always offer a free interpreter. A LEP person may use an informal interpreter of his/her own choosing and at his/her expense, either in place of or as a supplement to the free language assistance offered by the LACDA. If possible, the LACDA will accommodate a LEP individual's request to use an informal interpreter in place of a formal interpreter.

If a LEP individual prefers an informal interpreter, after the LACDA has offered free interpreter services, the informal interpreter may interpret. In these cases, the LEP individual and interpreter will be asked to sign a waiver, in the LEP individual's preferred language or through oral translation, refusing interpreter services.

If a LEP individual wants to use his/her own informal interpreter, the LACDA reserves the right to also have a formal interpreter present.

### **1.14.3 Outside Resources**

Outside resources may include competent community volunteers or competent Housing Choice Voucher participants.

Outside resources may be used for interpreting services at public or informal meetings or events if a timely request has been made.

The LACDA will establish and maintain relationships with organizations that assist specific cultural and ethnic groups living in Los Angeles County. To help their clients obtain or keep housing assistance through the LACDA, these organizations may provide qualified interpreters for LEP persons.

## **1.15 TRANSLATION OF DOCUMENTS**

The LACDA will consider the following factors in determining whether a document requires translation:

- a. The document meets the threshold of a “vital document”. Per the HUD guidance, “vital documents” are those that are critical for ensuring meaningful access by beneficiaries or potential beneficiaries generally and LEP persons specifically.
- b. The costs and benefits of translating documents for potential LEP groups, the barriers to meaningful translation or interpretation of technical housing information, the likelihood of frequent changes in documents, the existence of multiple dialects within a single language group, the literacy rate in an LEP group and other relevant factors. The LACDA will undertake this examination when an eligible LEP group constitutes 5 percent of an eligible group of beneficiaries or potential beneficiaries (for example, 5 percent of households receiving Section 8 assistance) or 1,000 persons, whichever is less.

Documents deemed “vital” by the LACDA will be translated in to threshold languages.

In consideration of the above, the LACDA will annually assess its documents to identify any additional vital documents that need to be translated. The LACDA will then translate a portion of those documents identified every year as financially feasible. If the vital document has not been translated, the LACDA will provide the applicant or participant with oral translation.

As opportunities arise, the LACDA may work with other local public housing authorities (PHAs) to share the costs of translating common documents.

As HUD continues to translate standard housing documents in multiple languages, the LACDA will replace its translated versions with the official HUD versions.

### **1.15.1 Audiovisual Materials**

The LACDA will make reasonable efforts to produce multiple translations of audiovisual materials it may use to inform or educate applicants, participants and

other client groups. For example, the LACDA will translate material to be presented at voucher issuance briefings into the threshold languages.

#### **1.16 MONITORING**

The LACDA will review and revise this LEP policy annually. The review will include:

- a. Reports from the LACDA's software system on the number of LEP clients. Such reports may be supplemented by staff observations.
- b. A determination as to whether 5 percent or 1,000 participants from LACDA-administered programs or persons from the waiting list speak a specific language, which triggers consideration of document translation needs as described above.
- c. Review of demographic data that indicates prevalent languages in Los Angeles County.
- d. Analysis of staff requests for formal interpreters: the number of requests, the languages requested the costs, etc.

#### **1.17 LEP PLAN DISTRIBUTION AND TRAINING**

The LACDA will ensure the LEP policy is distributed to the public and complied with by all staff by:

1. Distributing to all LACDA staff.
2. Posting on the LACDA's website at [www.lacda.org](http://www.lacda.org).
3. Posting at the LACDA's Administrative Offices in appropriate threshold languages.
4. Including notices summarizing the rights of LEP individuals under this policy in application and reexamination packets.
5. Conducting in-depth training for staff that interacts directly with applicants and participants. All other staff will receive at least a condensed training on LEP policies and procedures.

#### **1.18 FAMILY OUTREACH**

Each time the LACDA enters into an Annual Contributions Contract (ACC) with HUD for new Section 8 existing units, it will be publicized in accordance with the specification in the criteria of the Equal Opportunity Housing Plan.

The LACDA will communicate the status of housing availability to other service providers in the community; advise them of housing eligibility factors and guidelines in order that they can make proper referrals for housing assistance.

Information regarding the program directed at prospective applicants/tenants will be disseminated in accordance with Equal Opportunity Housing Plan and HUD guidelines for fair housing.

### **1.19 OWNER OUTREACH**

#### **[24 CFR §982.1(a)]**

The LACDA encourages owners of decent, safe and sanitary housing units to lease to families participating in its rental assistance programs. The LACDA maintains and regularly updates a list of interested landlords and available units for its rental assistance programs. When listings from owners are received, they are compiled by LACDA staff and made available through the phone hotline, by mail, or by Internet at [www.lacda.org](http://www.lacda.org).

Ongoing marketing efforts to recruit suburban owners for participation include, but are not limited to:

1. Brochures for owners;
2. Realty Board presentations;
3. Apartment Owner Association presentations;
4. Community Center presentations; and
5. Presentation to organizations serving the disabled and other similar organizations.

The LACDA periodically evaluates the distribution of assisted families to identify areas within the jurisdiction where owner outreach should be targeted. Special outreach efforts will be used in order to encourage participation of those groups who would not normally apply or participate.

### **1.20 PRIVACY RIGHTS**

#### **[24 CFR §5.212]**

Applicants and participants, including all adults in each household, are required to sign the HUD-9886 Form (Authorization for the Release of Information). This document incorporates the Federal Privacy Act Statement and describes the conditions under which HUD will release family information.

A statement of the LACDA's policy on release of information to prospective landlords will be included in the briefing packet that is provided to the family.

The LACDA's practices and procedures are designed to safeguard the privacy of applicants and program participants. All applicant and participant files are stored in a secure location that is only to be accessed by authorized staff.

LACDA staff will not discuss family information contained in files unless there is a business or legal reason to do so. Inappropriate discussion of family information or improper disclosure of family information will result in disciplinary action.

## 1.21 **MONITORING PROGRAM PERFORMANCE**

### **[24 CFR §985]**

In order to ensure quality control, supervisory staff will review the following functions:

1. At Least 10 percent of all work completed by their staff, and
2. 100 percent of work completed by new staff for a minimum of 30 calendar days.

The LACDA's Quality Assurance Unit conducts audits of:

1. 5 percent of annual re-examinations/interim re-examinations, and
2. Minimum Housing Quality Standards (HQS) quality control inspections as dictated by Section 8 Management Assessment Program (SEMAP) Indicator #5.

The LACDA's Program Enforcement/Investigations Unit uses credit checks, and other similar tools to ensure program integrity, on a case-by-case basis.

## 1.22 **TERMINOLOGY**

### **[24 CFR §982.4(b); §5.100 §5.2003 and §8.3; and Cal. Gov. Code 12926]**

- **“Affiliated Individual”** is defined to mean with respect to an individual,
  - A spouse, parent, brother, sister, or child of that individual, or a person whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or
  - Any individual, tenant, or lawful occupant living in the household of that individual.
- **“Bifurcate”** means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.
- **“Covered Person”** is defined as a tenant, any member of the tenant's household, a guest or another person under the tenant's control.
- **“Covered Housing Provider”** refers to the individual or entity under a covered housing program, and as defined by each program in its regulation, that has responsibility for the administration and/or oversight of VAWA protections and includes PHAs, sponsors, owners, mortgagors, managers, State and local governments or agencies thereof, nonprofit or for-profit organizations or entities.
- **“Dating Violence”** is defined as 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;
  - Type of relationship; and
  - Frequency of interaction between persons involved in the relationship.
- **“Domestic Violence”** is defined as felony or misdemeanor crimes of violence committed by:
  - A current or former spouse or intimate partner of the victim;
  - A person with whom the victim shares a child in common;
  - A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
  - A person similarly situated to a spouse of the victim under local and state domestic or family violence laws;
  - Any other person against an adult or youth victim who is protected from that person’s acts under local and state domestic or family violence laws.

The term “spouse or intimate partner of the victim” includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

- **“Elderly family”** means a family whose head (including co-head), spouse, or sole member is a person who is at least 62 years of age. It may include 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 aids.
- **“Family”** refers to a single person or group of persons, who may include an elderly person(s), displaced person(s), disabled person(s), near-elderly person(s) or any other single person(s), or the remaining members of a tenant family; and is used interchangeably with “applicant” or “participant” and can refer to a single person family. “Tenant” refers to participants in terms of their relation to landlords See section 2.3 for full definition.
- **“Financial Aid”** means any assistance that an individual receives:
  - Under the Higher Education Act of 1965;
  - From private sources;
  - From an institute of higher education.

Such financial aid may include federal, state, and local grants and scholarships (athletic and academic), fellowships and student educational financial assistance from parents, guardians, or other persons residing outside of the student family household.

Types of financial aid under the Higher Education Act of 1965 would include: the Pell Grant, the Federal Supplemental Education Opportunity Grant (FSEOG), Academic Achievement Incentive Scholarships, State assistance under the Leveraging Educational Assistance Partnerships Program, the Robert C. Byrd Honors Scholarship Program, and federal Work-Study (FWS) programs.

- **“Gender expression”** – means a person’s gender-related appearance or behavior, or the perception of such appearance or behavior, whether or not stereotypically associated with the person’s sex assigned at birth. (Cal. Gov. Code §12926(q)(C)(2))
- **“Gender identity”** - means the gender with which a person identifies, regardless of the sex assigned to that person at birth and regardless of the person’s perceived gender identity. Perceived gender identity means the gender with which a person is perceived to identify based on that person’s appearance, behavior, expression, other gender related characteristics, or sex assigned to the individual at birth or identified in documents.
- **“Genetic Information”** - means, with respect to any individual, information about any of the following (Cal. Gov. Code §12926(g)(1)):
  - i. The individual’s genetic tests;
  - ii. The genetic tests of family members of the individual;
  - iii. The manifestation of a disease or disorder in family members of the individual.
- **“Guest”** is defined as any person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.
- **“Illegal Drugs”** are defined as any controlled substance, in any amount, as defined by the United States Code, Title 21, section 802, including but not limited to narcotics, amphetamines, hallucinogens, cocaine, marijuana, medical marijuana, designer drugs, or other intoxicants. This definition also specifically includes over the counter medications used in the manufacture of illegal drugs or for the purposes of becoming intoxicated, and pharmaceutical medications which are used either without being prescribed by a licensed physician or in excess of the amount prescribed by a physician for the purposes of becoming intoxicated.
- **“Independent Student Status”** is when the income of the student’s parents is not relevant or the student can demonstrate the absence of, or his or her independence from, parents. These criteria include but are not limited to the following:
  - The individual is 24 years of age or older by December 31 of the award year;
  - The individual is an orphan, in foster care, or a ward of the court or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older;

- The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence;
  - The individual is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1) of HEA) or is currently serving on active duty in the Armed Forces for other than training purposes;
  - The individual is a graduate or professional student;
  - The individual is a married individual;
  - The individual has legal dependents other than a spouse;
  - The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth (as such terms are defined in section 725 of the McKinney-Vento Homeless Assistance Act) (42 U.S.C. 11431 et seq.), or as unaccompanied, at risk of homelessness, and self-supporting, by—
    - (i) A local educational agency homeless liaison, designated pursuant to section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act;
    - (ii) the director of a program funded under the Runaway and Homeless Youth Act or a designee of the director;
    - (iii) the director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (relating to emergency shelter grants) or a designee of the director; or
    - (iv) a financial aid administrator; or
    - (v) The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.
- **“Juvenile Records”** means:
    - All documents filed in a juvenile court case.
    - All reports to the court prepared by probation officers, social workers, health care providers, court-appointed special advocate (“CASA”) volunteers, and other professionals that work with the child.
    - All documents made available to probation officers, social workers and CASA volunteers, in preparation of reports to the court, including, but not limited to, police reports, evaluations from counselors, evaluations from therapists, medical records, hospital records, and school records.
    - All documents, maintained in the office files of probation officers, social workers of child welfare service programs, and CASA volunteers that involve a child for whom a petition to declare a child a ward or dependent of the court has been filed.

- Transcripts, records, or reports relating to matters prepared or released by the court, probation department or child welfare service program.
  - All documents, video or audio tapes, photographs and other evidence admitted into evidence at juvenile court hearings.
  - All documents relating to juvenile contacts or investigations that are maintained by law enforcement agency, probation department, or Department of Family Services, which are part of the juvenile case file even if juvenile court proceedings have not been initiated.
- **“Landlord”** and **“owner”** are used interchangeably.
  - **“Other person under the tenant’s control”** is defined as a person, although not staying as a guest (as defined above) in the unit, is, or was at the time of activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily or infrequently on the premises solely for legitimate commercial purposes is not under the tenant’s control.
  - **“Person with a Disability”** or **“People with Disabilities”** refers to a person who has a physical or mental impairment that limits one or more major life activities such as caring for oneself, manual tasks, walking, seeing, hearing, speaking, breathing or learning; has a record of such impairment; or is regarded as having such an impairment, and includes all people covered by either federal or state law.
  - **“Sex”** also includes, but is not limited to, a person’s gender. “Gender” means sex, and includes a person’s gender identity and gender expression. “Gender expression” means a person’s gender-related appearance and behavior whether or not stereotypically associated with the person’s assigned sex at birth. (Cal. Gov. Code §12926(r)(2))
  - **“Sexual Assault”** is defined as any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.
  - **“Sexual orientation”** - means one’s emotional or physical attraction to the same and/or opposite sex (e.g., homosexuality heterosexuality, or bisexuality).
  - **“Stalking”** is defined:
    - To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; 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 serious emotional harm to that person, the spouse or intimate partner of that person, or a member of the immediate family of that person.

- **“Student”** is defined to mean all students enrolled either full-time or part-time at an institution of higher education.
- **“Tuition”** is defined as the amount of money charged per term, per course, or per credit. Tuition may include fees, which represents the amount covering a full academic most frequently charged to students. Required fees include all fixed sum charges that are required of such a large proportion of all students that the student who does not pay the charges is an exception.
- **“Zero Income Family”** is when a family reports to have no source of income, which includes “excluded income” such as foster care. A family that receives income such as child support and/or family support is not considered to have a zero income status.



## **CHAPTER 2: ADMISSION ELIGIBILITY FACTORS AND APPLICANT REQUIREMENTS**

### **2.1 INTRODUCTION**

#### **[24 CFR §982.54(d)]**

This chapter defines the criteria used by the LACDA to determine program eligibility, and the requirements that families and family members must meet in order to receive assistance under the program. This chapter also clarifies the circumstances that may lead to a denial of admission, and the process for notifying families if they are denied admission.

Family members being added to households that are currently receiving assistance are considered new applicants and are subject to the LACDA's admission and eligibility requirements.

The intent of these policies is to maintain consistency and objectivity in evaluating the eligibility of families who apply for the programs. The criteria listed in this chapter are the only factors used to review eligibility, to minimize the possibility of bias or discrimination. Selection shall be made without regard to race, color, sex, religion, gender, gender identity and expression, family status, national origin, marital status, ancestry, age, sexual orientation, disability, source of income, medical condition, military and veteran status, genetic information, arbitrary characteristics, or any other basis prohibited by law.

### **2.2 ELIGIBILITY FACTORS AND REQUIREMENTS**

#### **[24 CFR §982.201 and 24 CFR §982.552]**

In accordance with HUD regulations, the LACDA has established the following eligibility criteria, which are detailed throughout this chapter. To be eligible for admission, an applicant family must:

1. Meet the definition of a "family;"
2. Be within the appropriate income limits;
3. Be a citizen, or a non-citizen with eligible immigration status [24 CFR §5.508]; and
4. Furnish and verify valid Social Security numbers for all family members [24 CFR §5.216].

The LACDA will also deny admission as follows:

1. If applicant fails to submit required consent forms, or any other LACDA-required information to verify family eligibility, composition, or income (including birth certificates and valid state identification);
2. If applicant is in violation of other criteria listed in Section 2.8 of this chapter;
3. If the applicant is a member, officer or employee of the LACDA who formulates policy or influences decisions with respect to federally funded

rental assistance programs or a public official or a member of the local governing body or member of Congress; or

4. If applicant is a student enrolled in an institution of higher learning and meets all the criteria listed in Section 2.5 of this chapter.

The LACDA's procedures regarding notification and informal reviews for applicants who are denied assistance can be found at the end of this chapter.

## **2.3 FAMILY COMPOSITION**

### **[24 CFR §982.201(c) and 24 CFR §5.403]**

The applicant must qualify as a family. The LACDA defines a family as a single person or a group of persons as follows, regardless of actual or perceived sexual orientation, gender identity, or marital status.

1. **An elderly family:** A family whose head, co-head, spouse, or sole member is a person who is at least 62 years of age. It may include 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.
2. **A disabled family:** A family whose head, co-head, spouse, or sole member is a person with disabilities. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.
3. **The remaining member of a tenant family:** The remaining member of a tenant family will be reassigned another bedroom size voucher, provided there is funding available.

The remaining member of a tenant family does not include a live-in aide of the former family whose service was necessary to care for the well-being of an elderly, disabled or handicapped head of household, co-head, or spouse and whose income was not included for eligibility purposes.

4. **A group of persons:** Two or more persons sharing residency, who are not categorized as an elderly or disabled family, whose income and resources are available to meet family needs.
5. **A single person:** A person who lives alone, or intends to live alone, who is not categorized as elderly, disabled, or the remaining member of a tenant family.

A child who is temporarily away from home due to placement in foster care is considered a member of the family.

### **2.3.1 Head of Household**

#### **[24 CFR §5.504]**

The head of household is considered to be the adult member of the household who is designated by the family or the LACDA as head, is wholly or partly responsible for paying the rent, to sign program-related documents, and has the legal capacity to enter into a lease under State/local law. However, since rental



assistance is provided to the entire family, it is expected that every family member will uphold the LACDA's rules and regulations. Emancipated minors who qualify under State law will be recognized as head of household.

### **2.3.2 Spouse of Head**

Spouse means the husband or wife of the head of household. The marriage partner who, in order to dissolve the relationship would have to be divorced. It includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

### **2.3.3 Co-Head**

A co-head is an individual in the household who is equally responsible for the lease with the head of household. A family may have a spouse or co-head, but not both. A co-head never qualifies as a dependent.

### **2.3.4 Live-In Aides**

#### **[24 CFR §982.316 and 24 CFR §5.403]**

A family may include a live-in aide if the live-in aide meets the following stipulations. The live-in aide:

1. Is determined by the LACDA to be essential to the care and well-being of an elderly person or a person with a disability;
2. Is not obligated for the support of the person(s);
3. Would not be living in the unit except to provide care for the person(s); and
4. Must submit a signed Criminal Background Consent Form.

**Note:** Occasional, intermittent, multiple or rotating care givers do not meet the definition of a live-in aide. Live-in aides must reside with a family permanently for the family unit size to be adjusted in accordance with the subsidy standards. An additional bedroom should not be approved for these caregivers, except when the family's composition or circumstances warrant the provision of an extra bedroom to permit disability-related overnight care and allow the family equal use and enjoyment of the unit.

A live-in aide is different from a family member in the following:

1. An aide's income will not be used to determine eligibility of family;
2. An aide is not subject to citizenship/eligible immigrant requirements;
3. An aide is not considered a remaining member of the tenant family, which means that they are not entitled to retain the voucher if the eligible family member(s) voluntarily leave the program, are terminated from the program, or have a voucher that expires.

Relatives are not automatically excluded from being live-in aides, but they must meet all the stipulations in the live-in aide definition described above to qualify for the income exclusion as a live-in aide.

A relative who does not qualify for income exclusion as a live-in aide may qualify for other exclusions, including if a family receives income from a state agency to offset the cost of services and equipment needed to keep a developmentally disabled family member at home. For a complete list of income exclusions, refer to Section 6.4 (Income Inclusions and Exclusions).

A live-in aide may only reside in the unit with the approval of the LACDA. The LACDA will require written verification from a reliable, knowledgeable professional, such as a doctor, social worker, or caseworker. The verification provider must certify that a live-in aide is needed for the care of the family member who is elderly, and/or disabled. The verification must include the hours of care that will be provided.

The live-in aide will be subject to a criminal background check and must meet the same standard as an applicant. Please see Section 2.8 (Screening for Drug Abuse and Other Criminal Activity) for more information.

With authorization from the assisted family, the landlord and the LACDA, a live-in aide may have a family member live in the assisted unit as long as it does not create overcrowding in the unit. The LACDA will not increase the family's subsidy to accommodate the family of a live-in aide.

### **2.3.5 Changes to the Household Prior to Program Admission**

The LACDA may only transfer Head of household status to a person listed on the waiting list or application as spouse or co-head under the following circumstances:

In the event of the death of the head of household, a person already listed as the Spouse or Co-Head on the waiting list or application may request a change of the Head of Household status by submitting a signed, written request along with a copy of the death certificate of the original head of household.

In all other cases (including but not limited to divorce, separation, abandonment, medical incapacity) the head of Household status will be changed only when the original Head of Household submits to the LACDA a written release of the application to the Spouse or Co-Head, or if the Spouse or Co-Head requesting a transfer of Head of Household status submits to the LACDA legal documentation of his/her right to the application.

### **2.3.6 Multiple Families in the Same Household**

When families consisting of two families living together, (such as a mother and father, and a daughter with her own husband or children), apply together as a family, they will be treated as one-family unit.

### **2.3.7 Joint Custody of Children**

Children who are subject to a joint custody agreement but live with one parent at least 51 percent of the time will be considered members of that household. If both parents on the waiting list are trying to claim the child, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

Where court orders exist and provide guidance on custody issues, the LACDA will follow the directives outline in the court documents.

## **2.4 INCOME LIMITATIONS**

### **[24 CFR §982.201(b) and 24 CFR §5.603(b)]**

In order to be eligible for assistance, an applicant must be:

1. An extremely low-income family (a family whose gross annual income does not exceed 30 percent of the HUD-established median income for the Los Angeles-Long Beach Primary Metropolitan Statistical Area); **or**
2. A very low-income family (a family whose gross annual income does not exceed 50 percent of the median income for the Los Angeles-Long Beach Primary Metropolitan Statistical Area).
3. A low-income family (a family whose gross annual income does not exceed 80 percent of the median income for the Los Angeles-Long Beach Primary Metropolitan Statistical Area) who meets at least one of the following criteria:
  - i. Is “continuously assisted” (meaning the applicant has been receiving assistance under a program covered by the 1937 Housing Act, i.e. public housing); or
  - ii. Is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing; or
  - iii. Qualifies for assistance as a non-purchasing family residing in a HOPE 1 or HOPE 2 project; or
  - iv. Qualifies for assistance as a non-purchasing family residing in a project subject to a resident homeownership program under 24 CFR §248.101.

As required by HUD regulations, 75 percent of all new admissions will be required to meet the definition of an extremely low-income family. To achieve the required balance, it may be necessary to skip over an otherwise eligible family. If this occurs, families that have been skipped over will retain the time and date of application and will be admitted as soon as an appropriate opening becomes available.

Families whose annual incomes exceed the income limit will be denied admission and offered an informal review.

#### **2.4.1 Income Limits for Other Programs**

Periodically, HUD has provided funding to the LACDA for projects involving preservation opt-outs and/or the expiration of a project based Section 8 contract. HUD provides the income limits applicable to those projects through specific regulation. The LACDA will follow HUD directives in determining admissions for such programs.

## **2.5 ELIGIBILITY OF STUDENTS**

### **[24 CFR §5.612]**

The student rule applies to all individuals enrolled as a full or part-time student at an institution of higher education for the purpose of obtaining a degree, certificate, or other program leading to a recognized educational credential, except for a student who is living with his/her parents who are applying for or receiving section 8 assistance.

No assistance shall be provided to any individual that meets the following criteria:

- Is enrolled as a student at an institution of higher education, as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002);
- Is under 24 years of age;
- Is not a veteran of the United States military;
- Is unmarried;
- Does not have a dependent child;
- Is not a person with disabilities, as such term is defined in section 3(b)(3)(F) of the United States Housing Act of 1937 and was not receiving assistance under such section 8 as of November 30, 2005; and
- Is not otherwise individually eligible (determined independent from his or her parents. See section 1.22 Terminology, Independent Student Status definition), or has parents, who individually or jointly, are not eligible on the basis of income to receive assistance.

Unless the student is determined independent from his or her parents, the eligibility of a student seeking assistance will be based on both the student and the parents being determined income eligible for assistance or whether the student's parents, individually or jointly, are income eligible for assistance. Both the student's income and the parents' income must be separately assessed for income eligibility.

## **2.6 CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS**

### **[24 CFR §982.201(a) and §5.508]**

Eligibility for assistance is contingent upon a family's submission of evidence of citizenship or eligible immigration status. In order to receive assistance, a family member must be a U.S. citizen or eligible immigrant. Each family member, regardless of age, must submit a signed declaration of U.S. citizenship or eligible immigration status. The LACDA may request verification of the declaration according to verification guidelines detailed in Chapter 7.

The citizenship/eligible immigration status of each member of the family is considered individually before the family's status is defined.

This requirement does not apply to foster children or live-in aides.

### **2.6.1 Mixed Families**

#### **[24 CFR §5.504]**

An applicant family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. A family that includes eligible and ineligible individuals is called a “mixed family.” Mixed family applicants will be given notice that their assistance will be prorated and that they may request a hearing if they contest this determination.

### **2.6.2 No Eligible Members**

#### **[24 CFR §982.552(b)(4)]**

The LACDA is required to deny admission if no member of the family is a U.S. citizen or eligible immigrant. Families will be provided the opportunity to appeal the decision in an informal review.

## **2.7 SOCIAL SECURITY NUMBER VERIFICATION REQUIREMENTS**

### **[24 CFR §5.216(a)]**

Applicant families are required to provide verification of Social Security numbers for all family members prior to admission. If the applicant family is unable to comply with this requirement, they may retain their place on the waiting list but cannot become a participant until it can provide Social Security numbers for each member of the household.

If a child under the age of 6 years was added to the applicant household within the 6-month period prior to voucher issuance, the applicant may become a participant, so long as Social Security number verification is provided within 90-calendar days from the date of admission (HAP effective date). One additional 90-day extension must be granted, if the PHA determines (in its discretion) that the delay in providing verification is a result of uncontrollable circumstances.

The social security number verification requirement also applies to persons joining the family after the admission to the program.

The following individuals are exempt from the Social Security requirement:

- Individuals that were 62 years of age as of January 31, 2010 and that were determined eligible for the program on or before that date.
- Individuals not contending eligible immigration status.

Families who refuse to furnish verification of Social Security numbers will be denied admission to the program.

## **2.8 DENIALS OF ASSISTANCE**

### **[24 CFR §982.552 – §982.553]**

This section includes HUD-required mandatory screening standards that lead to the denial of assistance, as well as discretionary standards allowed by HUD to deny assistance.

These guidelines apply to applicant families, and new members being added to the household of a family currently participating in a rental assistance program administered by the LACDA. The LACDA also screens families transferring under

the portability option into its jurisdiction from other housing authorities, as authorized at 24 CFR §982.355(c)(9) and §982.355(c)(10).

### **2.8.1 Mandatory Denial of Assistance**

#### **[24 CFR §982.553(a)]**

HUD regulations requires that the LACDA deny assistance in the following cases:

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

As permitted by HUD, the LACDA will make an exception under the following circumstances:

- If the LACDA is able to verify that the household member who engaged in the criminal activity has successfully completed a supervised drug rehabilitation program after the date of the eviction.
  - If the individual that committed the crime is no longer living in the household.
  - If the circumstances leading to the eviction no longer exist (i.e. the individual responsible for the original eviction is imprisoned or is deceased).
2. 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.
  3. The LACDA determines that any household member is currently engaging in the illegal use of a drug.
  4. The LACDA 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.
  5. Applicant(s) subject to a lifetime sex offender registration requirement.

The LACDA is required to deny admission if the applicant or any household member is subject to lifetime registration as a sex offender under a state registration program, regardless of longevity of conviction or completion of any rehabilitative program.

### **2.8.2 Other Permitted Reasons for Denial of Assistance**

The LACDA has the discretion to apply the following criteria, in addition to the HUD eligibility criteria, as grounds for denial of admission to the program.

1. Criminal Activity [24 CFR §982.553(a)(2)(ii)]

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

For Fiscal Year 2017-2018, the LACDA removed its discretionary Criminal Activity prohibitions permitted under 24 CFR 982.553 and deleted them from this section. The LACDA will reevaluate this policy to be consistent with Board adopted revisions to the LACDA's Homeless preference.

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

HUD authorizes the LACDA to deny assistance based on the family's previous behavior in assisted housing. The LACDA will screen applicants for the following behaviors as follows:

- The family, or any household member, must not have violated any family obligations during a previous participation in a federally assisted housing program. The LACDA will review situations, on a case-by-case basis, for violations that occurred in the last 12 months.
- The family, or any household member, must not have engaged in serious lease violations while a resident of federally assisted housing or within the past 5 years had been evicted from a federally assisted housing program.
- The family, or any household member, must not be a past participant of any Section 8 or public housing program who has failed to satisfy liability for rent, damages or other amounts to the LACDA or another public housing agency, including amounts paid under a HAP contract to an owner for rent, damages, or other amounts owed by the family under the lease.

On a case-by-case basis, the LACDA will consider the nature of the debt and the amount of the debt. The LACDA may provide the applicant the opportunity to repay any such debt in full as a condition of admissions. The LACDA will not enter into a repayment agreement for this purpose.

- No family household member may have engaged in or threaten abusive or violent behavior toward LACDA personnel.

**“Abusive or violent behavior”** includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate, may be cause for denial of admission.

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

Actual physical abuse or violence will always be cause for denial.

- The family, or any household member, must not supply false, inaccurate or incomplete information on any application for federal housing programs, including public housing and Section 8. The family

may be denied for a period not to exceed 2 years from the date of such a determination by the LACDA that information which was provided was false, inaccurate or incomplete, provided that no further cause for denial exists [24 CFR §982.552(c)(2)(i)].

- The LACDA will deny admission if the applicant or any household member has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program. The LACDA may make an exception in determining admission if the family member(s) who participated or were culpable for the action do not reside in the assisted unit.
- The LACDA will not deny admission to an otherwise eligible family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program.

### **2.8.3 Consideration of Circumstances**

#### **[24 CFR §982.553(C)(2)]**

HUD authorizes the LACDA 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 mandatory.

When considering the circumstances of the case, the LACDA will consider the following factors prior to making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents.
- 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 a victim of domestic violence, dating violence, sexual assault 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. The LACDA 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.

### **2.8.4 Criminal Background Checks**

#### **[24 CFR §982.552 – §982.553, §5.903 – §5.905]**

The LACDA requests a criminal background check for all applicant household members (including live-in aides) 18 years of age and older. The criminal background check is used as a factor in screening applicants for criminal activities that would prohibit admission to the LACDA's Section 8 rental assistance programs.

All adult members of an applicant household must submit a signed Criminal Background Consent Form [24 CFR §5.903(b)], authorizing the release of criminal



conviction records from law enforcement agencies. Failure to sign the consent form will result in the denial of assistance.

The LACDA is additionally authorized by HUD to obtain access to sex offender registration information, in order to prevent program admission to any household member (including live-in aides and minors) subject to a lifetime sex offender registration under a State sex offender registration program.

**2.8.5 Requests for Criminal Records by Owners of Covered Housing for the Purposes of Screening**

**[24 CFR §5.903(d)]**

Owners of covered housing may request that the LACDA obtain criminal records, on their behalf, for the purpose of screening applicants. The LACDA will charge a fee in order to cover costs associated with the review of criminal records. These costs could include fees charged to the LACDA by the law enforcement agency and the LACDA's own related staff and administrative cost.

Owners must submit the following items in order for the LACDA to process criminal records. Owner requests must include:

1. A copy of a signed consent form from each adult household members, age 18 years and older. Included in the consent form must be a legible name, the date of birth, a California Identification Number, and a Social Security number. This information will be used for the sole purpose of distinguishing persons with similar names or birth dates.
2. An owner's criteria or standards for prohibiting admission of drug criminals in accordance with HUD regulations (§ 5.854 of 24 CFR Parts 5 et al.), and for prohibiting admission of other criminals (§ 5.855 of 24 CFR Parts 5 et al.).

Once the LACDA obtains criminal records, a determination will be made as to whether a criminal act, as shown by a criminal record, can be used as a basis for applicant screening. The LACDA will base its determination in accordance with HUD regulations and the owner criteria. If the owner's criteria conflicts with HUD regulations, the regulations will have precedence.

It is important to note that the LACDA will not disclose the applicant's criminal conviction record or the content of that record to the owner.

**2.8.6 Request for Criminal Records by Section 8 Project-Based Owners for the Purposes of Lease Enforcement or Eviction**

Section 8 project-based owners may request that the public housing agency in the location of the project obtain criminal conviction records of a household member on behalf of the owner for the purpose of lease enforcement or eviction. The owner's request must include the following:

1. A copy of the consent form, signed by the household member, and
2. The owner's standards for lease enforcement and evicting due to criminal activity by members of a household.

### **2.8.7 Confidentiality of Criminal Records**

#### **[24 CFR §5.903(g)]**

Criminal records received by the LACDA are maintained confidentially, not misused, nor improperly disseminated and kept locked during non-business hours. All criminal records will be destroyed no later than 30 calendar days after a final determination is made.

### **2.8.8 Disclosure of Criminal Records to Family**

The applicant or family member requesting to be added to the household will be provided with a copy of the criminal record upon request and an opportunity to dispute the record. Applicants will be provided an opportunity to dispute the record at an informal review. Participants may contest such records at an informal hearing [24 CFR §982.553(d)].

### **2.8.9 Explanations and Terms**

#### **[24 CFR §5.100]**

The following terms are used to determine eligibility when an applicant or a family member is added to an already assisted household and is undergoing a criminal background check.

- **“Covered housing”** includes public housing, project-based assistance under Section 8 (including new construction and substantial rehabilitation projects), and tenant-based assistance under Section 8.
- **“Drug”** means a controlled substance as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802).
- **“Drug-related criminal activity”** means the illegal manufacture, dispensation, distribution, sale, use or possession of illegal drugs, with the intent to manufacture, dispense, distribute, sell or use the drug.
- **“Pattern”** is defined as the use of a controlled substance or alcohol if there is more than one incident during the previous 12 months. “Incident” includes but is not limited to arrests, convictions, no contest pleas, fines, and city ordinance violations.
- **“Premises”** is the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.
- **“Sufficient evidence”** may include all or a number of personal certification along with supporting documentation from the following sources 1) probation officer; 2) landlord; 3) neighbors; 4) social service workers; 5) review of verified criminal records.
- **“Violent criminal activity”** any 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)

## **2.9 SUITABILITY OF FAMILY**

### **[24 CFR §982.307(a)(2)]**

The LACDA may take into consideration any admission criteria listed in this chapter in order to screen applicants for program eligibility; however, it is the owner's responsibility to screen applicants for family behavior and suitability for tenancy.

The LACDA will assist and advise applicants on how to file a complaint if they have been discriminated against by an owner.

## **2.10 DENYING ADMISSION TO INELIGIBLE FAMILIES**

### **[24 CFR §982.201(f)(1) and §982.552(a)(2)]**

Denial of assistance for an applicant family may include denying placement on the waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; and refusing to process or provide assistance under portability procedures.

Families from the waiting list who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review if they do not agree with the decision. This policy also applies to incoming families from other housing authorities that have not yet received assistance in the LACDA's jurisdiction. Please refer to Chapter 16 for more information on the informal review process.

## **2.11 PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT AND STALKING.**

### **[24 CFR Part 5, Subpart L]**

The Violence against Women Reauthorization Act of 2005 and 2013 (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, sexual assault, or stalking.

VAWA protections cover applicants when they are applying for admission to a covered housing program. VAWA protections are not limited to women. Victims of domestic violence, dating violence, sexual assault, or stalking are eligible without regard to sex, gender identity, or sexual orientation. Victims cannot be discriminated against on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age and HUD programs must also operate consistently with HUD's Equal Access Rule, which requires that HUD assisted programs are made available to all otherwise eligible individuals and families regardless of actual or perceived sexual orientation, gender identity, or marital status.

### **2.11.1 Determining Eligibility for VAWA Protections**

VAWA prohibits housing providers from denying assistance or admission, terminating participation in, or evicting a tenant based on an adverse factor, if the adverse factor is determined to be a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

An adverse factor refers to any factor that can be used as a basis for denying admission, terminating assistance, or evicting a tenant. However, if a denial or termination of assistance or eviction is required by a federal statute, based on a particular adverse factor, the LACDA must comply with that statute, even if the adverse factor is a direct result of domestic violence, dating violence, sexual assault or stalking.

### **2.11.2 Notification Requirement**

#### **[24 CFR §5.2005(a)(1)(i)(ii) and §5.2005(a)(2)(i)(ii)]**

The LACDA acknowledges that a victim of domestic violence, dating violence, sexual assault or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to a unit, a prior arrest record) that would warrant denial under the LACDA's regulations and policies. Therefore, the LACDA will provide all applicants with information about VAWA at the time they are denied housing assistance and at admission, specifically at the time the applicants are briefed for a voucher. provided an application for housing assistance. The LACDA will include information about VAWA in all notices of denial of assistance.

The VAWA information provided to applicants and participants will consist of the following documents:

- Form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation.
- Form HUD-5380, Notice of Occupancy Rights Under the Violence Against Women Act

### **2.11.3 Victim Documentation**

An applicant claiming that the cause of an unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, sexual assault or stalking must provide documentation (1) demonstrating the connection between the abuse and the unfavorable history and (2) naming the perpetrator of the abuse if safe to disclose. The documentation may consist of any of the following:

- A statement signed by the victim certifying that the information provided is true and correct and that it describes bona fide incident(s) of actual or threatened domestic violence, dating violence, sexual assault or stalking.
- A record of a Federal, State, tribal, territorial or local law enforcement agency (such as a police report), court, or administrative agency documenting the domestic violence, dating violence, sexual assault or stalking.

- Documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, a medical or mental health professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effect of the abuse in which the professional attests under penalty of perjury to the professional's belief that the incident or incidents in question are bona fide incidents of abuse, and that the victim of domestic violence, dating violence, sexual assault, or stalking has signed or attested to the documentation. The victim must also sign the documentation.

The LACDA reserves the right to waive the documentation requirement if it determines that a statement of other corroborating evidence from the individual will suffice.

#### **2.11.4 Perpetrator Documentation**

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

- A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the assisted unit.
- Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provide 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.

#### **2.11.5 Conflicting Documentation**

##### **[24 CFR §5.2007(b)(2)]**

In the case where the LACDA receives conflicting certification documents from two or more members of the household each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the LACDA will determine which is the true victim by requiring third-party documentation within 30 calendar days in order to resolve the conflict.

If the applicants fail or refuse to provide third-party documentation where there is conflicting evidence, the LACDA does not have to provide the tenant(s) with the protections contained in Form HUD-5380 "Notice of Occupancy Rights under the Violence Against Women Act".

#### **2.11.6 Time Frame for Submitting Documentation**

##### **[24 CFR §5.2007(a)(2)]**

The applicant must submit the required documentation with the request for an informal review. At the discretion of the LACDA, the 14-business day deadline

may be extended. The LACDA will postpone scheduling the applicant's informal review until after it has received the documentation or the extension period has lapsed.

If after reviewing the documentation provided by the applicant, the LACDA determines that the family is eligible for assistance, no informal review will be scheduled and the LACDA will move forward with the admission of the applicant family.

### **2.11.7 VAWA Confidentiality**

#### **[24 CFR §5.2007]**

All VAWA information provided to the LACDA, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault or stalking, shall be retained in confidence, and will not be entered into any shared database or provided to any related entity, except to the extent that disclosure is:

- Requested or consented to by the individual in writing to release the information on a time-limited basis;
- Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
- Otherwise required by applicable law.

This includes keeping confidential the new location of the dwelling unit of the participant, if one is provided, from the person(s) that committed a VAWA crime against the applicant/participant.

## **CHAPTER 3: ADMINISTRATION OF THE WAITING LIST**

### **3.1 INTRODUCTION**

#### **[24 CFR §982.54(d)(1)]**

This chapter describes the policies and procedures that govern the initial application, placement and denial of placement on the LACDA's waiting list. It is the LACDA's objective to ensure that the families are placed on the waiting list in the proper order so that an offer of assistance is not delayed to any family, or made to any family prematurely.

By maintaining an accurate waiting list, the LACDA will be able to perform the activities, which ensure that an adequate pool of qualified applicants will be available so that program funds are used in a timely manner.

### **3.2 HOW TO REGISTER**

Interested persons may apply online at [www.lacda.org](http://www.lacda.org), or by calling the LACDA at (626) 262-4510 or (800) 731-4663.

#### **3.2.1 Preliminary Registration Waiting List**

##### **[24 CFR §982.204(b)]**

All families wishing to receive rental assistance through a LACDA rental assistance program are initially placed on the Preliminary Registration Waiting List. This is essentially an interest list. Families are placed on the Preliminary Registration Waiting List according to the LACDA's local preferences and then by date and time of registration. Preliminary information regarding the family's address, income, family composition, and disability status is collected. However, this information is not verified until the family is placed on the Active Waiting List. Applicants receive a confirmation letter that their name has been placed on the Preliminary Registration Waiting List.

#### **3.2.2 Active Waiting List**

When the LACDA determines that there is sufficient funding to issue additional vouchers, a pool of potential new applicants is drawn from the Preliminary Registration Waiting List. Families move onto the Active Waiting List according to the LACDA's admission policies. Once a family has been placed on the Active Waiting List, they will be asked to complete an application and provide all the necessary income and eligibility forms. At this point, all information will be confirmed through a third-party. Families must meet all admissions requirements to be issued a voucher.

#### **3.2.3 Change in Circumstances**

##### **[24 CFR §982.204(b)]**

Applicants are required to notify the LACDA in writing, within 30 calendar days, when their circumstances change, including any change of address, income or family composition.

### **3.2.4 Opening the Waiting List**

#### **[24 CFR §982.206(a)]**

When the LACDA opens its waiting list, it will give public notice by advertising in one or more of the following newspapers, minority publications, and media entities.

- Los Angeles Times
- La Opinion
- The Daily News
- International Daily News
- L.A. Sentinel
- Press Telegram
- Eastern Group Publications
- Southwest Wave
- The Daily Breeze

The LACDA's public notice will contain:

- The dates, times, and locations where families may apply;
- The programs for which applications will be taken;
- A brief description of the program(s);
- A statement that public housing residents must submit a separate application if they want to apply to a rental assistance program;
- Any limitations on who may apply; and
- The Fair Housing Logo.

The notice will provide potential applicants with information that includes the LACDA's telephone number, website address, location address, information on eligibility requirements, and the availability of local preferences, if applicable. The notice will be made in an accessible format to persons with disabilities if requested.

Additional time for submission of an application after the stated deadline will be given as a reasonable accommodation at the request of a person with a disability.

### **3.2.5 Criteria Defining Who May Apply**

#### **[24 CFR §982.206(b)(1)]**

Upon opening the waiting list, the LACDA will disclose the criteria defining what families may apply for assistance under a public notice.



**3.2.6 Closing the Waiting List**

**[24 CFR §982.206(c)]**

When the LACDA closes the waiting list, the same advertising methods described above will be used.

Notification of impending closure will be provided to the public for a minimum of 30 calendar days.

**3.3 TIME OF SELECTION**

**[24 CFR §982.204(d)]**

When funding is available, families will be selected from the waiting list based on the LACDA's admission policies.

If the LACDA ever has insufficient funds to subsidize the unit size of the family at the top of the waiting list, the LACDA will not admit any other applicant until funding is available for the first applicant.

However, families may be skipped over to meet HUD-mandated income targeting requirements [24 CFR §982.201(b)]. See Section 2.4 (Income Limitations) for details.

**3.4 CROSS-LISTING OF PUBLIC HOUSING AND SECTION 8 WAITING LISTS**

**[24 CFR §982.205(a)]**

The LACDA does not merge the waiting lists for public housing and Section 8. However, if the Section 8 waiting list is open when the applicant is placed on the public housing list, the LACDA must offer to place the family on the Section 8 waiting list. If the public housing waiting list is open at the time an applicant applies for Section 8 rental assistance, the LACDA must offer to place the family on the public housing waiting list.

**3.5 PURGING THE WAITING LIST**

**[24 CFR §982.204(c)]**

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

When the LACDA is actively conducting outreach to applicants on the waiting list, the notification of available housing opportunities will serve as verification and will be used to purge the waiting list.

To update the waiting list, the LACDA will send an notice of update request via first class mail to a select amount or to all families on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. The notice of update request will be sent to the last address that the LACDA has on record for the family. The notice of 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 accordance with LACDA's prescribed method. Methods will include but are not limited to, responses required via logging in and providing updates through LACDA's Applicant Registration Portal or by providing updates in writing. Responses in writing will require that the response be made via delivery in person, by mail, or by fax. Responses should be postmarked or received by the LACDA no later than 21 calendar days from the date of the LACDA notification.

If the family fails to respond within the time allotted, the family will be removed from the waiting list without further notice.

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

If the notice is returned by the post office with a forwarding address, the notice will be resent to the address indicated. The family will have 21 calendar days to respond from the date the letter was re-sent.

If a family is removed from the waiting list for failure to respond, the Director of the Housing Assistance Division or designee may reinstate the family if it is determined that the lack of response was due to an administrative error, or to extenuating circumstances that are beyond the family's control. The family must be able to provide documentation of the circumstances for a decision to be rendered.

The decision to withdraw an applicant family that includes a person with a disability from the waiting list is subject to reasonable accommodation. If it is found that the applicant did not respond to the LACDA request for information or updates, and the LACDA determines that the family did not respond because of the family member's disability, the LACDA must reinstate the applicant family to their former position on the waiting list.

### **3.5.1 Removing Applicants from the Waiting List**

#### **[24 CFR §982.204(c) and §982.201(f)(1)]**

The LACDA is authorized to remove names of applicants that do not respond to requests for information or updates. The LACDA will remove an applicant's name from the waiting list when:

- The applicant does not notify the LACDA of changes in circumstances in accordance with section 3.2.3 of this plan. This includes undeliverable mail received by the Postal Service which is returned to the LACDA;
- The applicant falsifies documents or makes false statements for any reason;
- The applicant requests in writing that their name be removed; or
- The applicant does not meet either the eligibility or screening criteria for the program (see Chapter 2 and Chapter 4).

If a family is removed from the waiting list because the LACDA has determined the family is not eligible for assistance, a notice will be sent to the family's address on record. The notice will state the reason the family was removed from the waiting list and will inform the family how to request an informal review (Chapter 16).

**3.6 APPLICATION POOL**

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

1. The application will be a permanent file;
2. Applications equal in preference will be maintained by date and time; and
3. All applicants must meet eligibility requirements outlined in Chapter 2 (Admission Eligibility Factors and Applicant Requirements).



## **CHAPTER 4: ADMISSION PROCESS**

### **4.1 INTRODUCTION**

The policies outlined in this chapter are intended to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply. The primary purpose of the intake function is to gather information about the family so that an accurate, fair, and timely decision relative to the family's eligibility may be made. As such, applicants are placed on the waiting list in accordance with this plan.

### **4.2 APPLICATION PROCEDURES**

#### **[24 CFR §982.204(c)]**

Once the applicant is transferred from the Preliminary Registration Waiting List to the Active Waiting List, an application will be mailed to the applicant. The application is due back within 21 calendar days from the date it was mailed. If the application is returned undeliverable, the applicant will be cancelled from the waiting list (see section 3.7 for examples of exceptions to this rule).

Once an application is returned, the information provided by the applicant will be used to determine if the applicant is eligible for the program and any admissions preferences claimed.

If an applicant is ineligible based on the information provided on the application, or because they fail to return the documents by the due date, the applicant will be provided written notice of the reason for their disqualification and of their right to appeal the decision by requesting an informal review.

The application may capture the following information:

- Name of adult members and age of all members;
- Sex and relationship of all members;
- Street address and phone number;
- Mailing address;
- Amount(s) and source(s) of income received by household members;
- Information regarding disabilities relating to program requirements;
- Information related to qualification for preference(s);
- Social Security numbers;
- Race/ethnicity;
- Citizenship/eligible immigration status;
- Convictions for drug-related or violent criminal activity;
- Request for specific reasonable accommodation(s) needed to fully utilize program and services;

- Previous address;
- Current and previous landlords' names and addresses;
- Emergency contact person and address; and
- Program integrity questions regarding previous participation in HUD programs.

Applicants are required to inform the LACDA in writing within 30 calendar days of effective date of any changes in family composition, income, and address, as well as any changes in their preference status. Applicants must also comply with requests from the LACDA to update information. However, exceptions to this requirement may be found in section 3.7.

#### **4.2.1 Interview Sessions/Mailings**

The LACDA may use both mailing and interview sessions to obtain income, asset and family composition information from applicants.

#### **4.2.2 Request for Information via Mail**

During times of high activity, the LACDA will mail income and asset forms or an application to applicants. Applicants will be given 21 calendar days to complete and return all required forms. If forms are not returned in a timely manner, the applicant will receive a final notice. The final notice will provide an additional 15-day grace period. If the required forms are not returned, as specified, the application will be cancelled. The LACDA will provide additional time as a reasonable accommodation and in special circumstances such as an illness and/or death in the family.

#### **4.2.3 Application Interview Process**

During times for regular activity (average volume), the LACDA utilizes a full application interview to discuss the family's circumstances in greater detail, to clarify information that has been provided by the applicant, and to ensure that the information is complete.

Applicants are given two opportunities to attend an interview session. If the applicant does not respond to the second invitation, the application is cancelled. The LACDA will allow for a third interview appointment as a reasonable accommodation and in special circumstances such as illness. An applicant may also request that the LACDA assign someone to conduct the interview at the applicant's home, as a reasonable accommodation.

All applicants must complete the following requirements [24 CFR §982.551(b)(1)].

1. At minimum, the head of household must attend the interview. The LACDA requests that all adult members of the applicant family attend when possible. This assures that all members receive information regarding their obligations and allows the LACDA to obtain signatures on critical documents quicker.

2. All adult members of the applicant family must sign the HUD-9886 Form (Authorization for the Release of Information), and all supplemental forms required by LACDA.
3. Citizen declaration forms must be completed for all applicant family members, regardless of age.
4. All adult members of the applicant family must complete and sign a Criminal Background Consent/Acknowledgment Form.
5. Identification information for all members of the applicant family such as birth certificates, valid driver's licenses or State (Department of Motor Vehicles) ID cards, whichever is applicable based on the age of the family member, must be submitted for all members of the household regardless of age.

Information provided by the applicant will be verified, including citizenship status, full-time student status and other factors related to preferences, eligibility and rent calculation. Verifications must be received no more than 60 calendar days before the time of issuance.

If they are requested, exceptions for any of the above listed items will be reviewed on a case-by-case basis. Exceptions will be granted based upon hardship. Reasonable accommodations will be made for persons with disabilities. In these cases, a designee will be allowed to provide some information, but only with permission of the person with a disability.

Under both processes, all local preferences claimed on the application while the family is on the waiting list will be verified. Preference is based on current status, so the qualifications for preference must exist at the time the preference is verified, regardless of the length of time an applicant has been on the waiting list.

#### **4.2.4 Secondary Reviews/Credit Reports**

##### **[24 CFR §982.551(b)(1)]**

The LACDA may retrieve credit reports for applicants and participants on a case-by-case basis. The information contained in the credit report will be used to confirm the information provided by the family. Specifically, the credit report will be used to confirm:

- **Employment**: A credit report will list any employers that the applicant has listed in any recent credit applications. If the credit report reveals employment, for any adult household member, within the last 12 months that was not disclosed, the family will be asked to provide additional documents to clear up the discrepancy. Failure to disclose current employment may result in cancellation of the family's application.
- **Aliases**: A credit report can provide information on other names that have been used for the purposes of obtaining credit. Common reasons for use of other names include a recent marriage or a divorce. If an alias has not been disclosed to the LACDA, the family will be asked to provide additional evidence of the legal identity of adult family members.
- **Current and previous addresses**: A credit report can provide a history of where the family has lived. This is particularly important because the LACDA

provides a residency preference. If the family has provided one address to the LACDA and the credit report indicates a different address, the family will be asked to provide additional proof of residency. This may include a history of utility bills, bank statements, school enrollment records for children, credit card statements or other relevant documents. Failure to provide adequate proof will result in the denial of a residency preference.

- **Credit card and loan payments:** A credit report will usually include a list of the family's financial obligations. Examples of the items that may show up include car loans, mortgage loans, student loans and credit card payments. The LACDA will review this information to confirm the income and asset information provided by the family. If the family's current financial obligations (total amount of current monthly payments) exceed the amount of income reported by the family, the LACDA will ask the family to disclose how they are currently meeting their financial obligations. Accounts that have been charged off or significantly delinquent are not included in this calculation. Failure to provide adequate proof of income will result in termination of the application.
- **Multiple Social Security numbers:** A credit report may list multiple Social Security numbers if an adult family member has used different Social Security numbers to obtain credit. If the credit report information does not match the information provided by an adult member of the family, the family member will be required to obtain written confirmation of the Social Security number that was issued to him/her from the Social Security Administration.

A family will not be issued a voucher until all discrepancies between the information provided by the applicant family, and the information contained in the credit report have been cleared by the applicant family.

When discrepancies are found, the family will be contacted by telephone or by mail. The family will be provided 15 calendar days to provide the documentation necessary to clear discrepancy. At the family's request, and additional 15 calendar days may be granted.

The family may be granted additional time under a reasonable accommodation. If additional time is granted, the family will receive a letter confirming the new deadline.

When the credit report reveals multiple discrepancies that are not easily communicated over the telephone, the LACDA will set up a face-to-face interview with the applicant. The LACDA will schedule up to two interview appointments. An additional interview may be scheduled as a reasonable accommodation. Failure to appear at the interview session will result in cancellation of the application.

Additionally, failure to provide the necessary information will result in cancellation of the application.



### **4.3 SELECTION AND FUNDING SOURCES**

#### **4.3.1 Special Admission (24. CFR 982.203)**

HUD may award funding for specifically-named families living in specified types of units. The following are examples of types of program funding that may be designated by HUD for families living in a specified unit:

1. A family displaced because of demolition or disposition of a public or Indian housing project;
2. A family residing in a multifamily rental housing project when HUD sells forecloses or demolishes the project;
3. For housing covered by the Low Income Housing Preservation and Resident Homeownership Act of 1990;
4. A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the contract term; and
5. A non-purchasing family residing in a HOPE 1 or HOPE 2 project.

In these cases, the LACDA may admit such families whether or not they are on the waiting list, and if they are on the waiting list, without considering the family's position on the waiting list. These families are considered non-waiting list selections. The LACDA must maintain records showing that families were admitted with special program funding.

#### **4.3.2 Targeted Funding (24 CFR 982.204(2))**

HUD may award the LACDA funding for a specified category of families on the waiting list. The LACDA must use this funding only to assist the families within the specified category. In order to assist families within a targeted funding category, the LACDA is permitted to skip families that do not qualify within the targeted category. Within this category of families, the order in which such families are assisted is determined according to the policies in Section 4.4 below.

The LACDA administers the following targeted funding programs:

- Veteran Affairs Supportive Housing (VASH) Program – VASH Program vouchers are awarded to eligible homeless veterans and their families in combination with case management and clinical services through the Department of Veterans Affairs Medical Center (VAMC) supportive services sites. The LACDA does not maintain a waiting list for the VASH Program.
- Non-Elderly Disabled (NED) Vouchers – NED vouchers are awarded to non-elderly disabled families on the HCV waiting list.
- Mainstream for Persons with a Disability- Mainstream vouchers are awarded to non-elderly disabled families on the HCV waiting list. The LACDA applies local preferences in determining the order in which Mainstream vouchers are awarded to eligible families.
- Family Unification Program (FUP) – FUP vouchers are awarded to families who are referred to the LACDA by the Los Angeles County

Department of Children and Family Services. Once referred, the LACDA places FUP applicants on its HCV waiting list.

#### 4.4 **LOCAL PREFERENCES**

##### **[24 CFR §982.207]**

The LACDA is permitted to establish local preferences and to give priority to applicants that meet those criteria. All preferences will be subject to the availability of funds and all applicants will be required to meet all eligibility requirements.

California State Required Priority: In accordance with California Health and Safety Code §34322.2, the LACDA will give priority to families of veterans and members of the armed forces in each of the categories below.

Local preferences are weighted highest to lowest, in the following order:

1. Families previously assisted by the LACDA whose assistance was terminated due to insufficient funding.
2. LACDA will commit 100% of expected annual voucher attrition to assist Los Angeles County-based homeless families, as follows:
  - Up to 90% of referral applications may be received from an approved Coordinated Access System and/or local service provider that assists homeless families participating in a transitional or permanent supportive housing program.
  - Up to 5% of referral applications may be received from an approved local service provider assisting homeless elderly families.
  - Up to 5% of referral applications may be received from an approved local service provider assisting homeless Transitional Aged Youth (TAY) that are enrolled in an institution of higher education.

Applicants must meet all eligibility requirements. Admission will be on a first come, first served basis and is subject to funding availability.

3. Families who live or work in the jurisdiction in the following categories that are subject to the approval by the Executive Director:
  - **Victims of Declared Disasters:** An admissions preference may be given to bona fide victims of declared disasters, whether due to natural calamity (e.g. earthquake), civil disturbance, or other causes recognized by the federal government. Victims must provide documentation to receive an admissions preference. Admissions preference may only be given within the allotted timeframe established by the federal government. If HUD provides specific funding, the LACDA will not exceed the allocated amount.
  - **Displacement Due to Government Actions:** Families or individuals who are certified as displaced due to the action of a federal government agency or local government agencies may be given an admissions preference.

- **Referrals from law enforcement agencies:** The LACDA may distribute application forms and may issue a voucher to families or single persons that are referred by law enforcement agencies. The types of referrals that will be considered include, but are not limited to:

1. Victims of domestic violence,
2. Involuntarily displaced to avoid reprisals,
3. Displaced due to being a victim of a hate crime, or
4. Victims of sex trafficking.

Law enforcement referrals must be made in writing, on law enforcement agency letterhead, and signed by the requesting officer and his or her immediate supervisor. Eligibility, including background checks, will be confirmed for all members.

4. Families that are homeless and are found eligible for a Violence Against Women Act, Emergency Transfer from the LACDA's Housing Assistance Division and Housing Operations Division rental assistance programs, subject to voucher and funding availability.
5. Elderly households who live and/or work in the LACDA's jurisdiction. Elderly households must meet the definition of an elderly family and the residency requirements of Section 4.4.1.
6. **Jurisdictional Preference:** Families who live and/or work in the LACDA's jurisdiction will be admitted before families outside of the LACDA's jurisdiction.

**Date and Time of Registration:** Families will be selected from the waiting list based on the preferences for which they qualify, and then by date and time.

#### **4.4.1 Verification of Preferences**

**[24 CFR §982.207(e)]**

**Residency Preference:** Applicants who are residing in the LACDA's jurisdiction at the time of selection from the waiting list, or have at least one adult member who works or has been hired to work in the LACDA's jurisdiction.

- In order to verify that an applicant is a resident, the LACDA will require documentation of residency as shown by the following documents: current rent receipts, leases, utility bills, employer or agency records, school records, driver's licenses, state identification or credit reports.
- In cases where an adult member of the household works or has been hired to work in the LACDA's jurisdiction, a statement from the employer will be required.
- At the LACDA's discretion, verification of residency may also include other documents, certifications, or declarations as needed to verify that a family lives or works in the jurisdiction.

**Elderly Family Preference:** An elderly family is a family whose head (including co-head), spouse, or sole member is a person who is at least 62 years of age. It may include 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.

**Veteran's Preference:** Acceptable documentation regarding veteran's status will include a DD-214 (discharge documents), proof of receipt of veteran's benefits, or documentation from the Veteran's Administration.

#### **4.4.2 Final Verification of Preferences**

##### **[24 CFR §982.207(e)]**

Preference information on applications will be updated as applicants are selected from the waiting list. At that time, the LACDA will obtain necessary verifications of preference at the interview and by third-party verification.

#### **4.4.3 Preference Denial**

If the LACDA denies a preference, the LACDA will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for an informal review. The applicant must request for an informal review in writing within 15 calendar days from the date of the notification. The request should also provide all information and documents supporting the applicant's request. If the preference denial is upheld as a result of the informal review, the applicant will be placed on the waiting list without benefit of the preference. Applicants may exercise other rights if they believe they have been discriminated against.

If the applicant falsifies documents or makes false statements in order to qualify for any preference, or for any other reason, they will be removed from the waiting list.

### **4.5 DENIAL OF ASSISTANCE**

#### **[24 CFR §982.204(c)(1) and §982.552]**

If an application is denied due to failure to attend the initial and final interviews, or for failure to provide eligibility related information, the applicant family will be notified in writing and offered an opportunity to request an informal review. If the applicant misses two scheduled meetings, the LACDA will cancel the application and remove the applicant's name from the waiting list.

The LACDA may at any time deny program assistance to an applicant family because of actions or failure to act by members of the family such as any member of the family to sign and submit consent forms for obtaining information.

The LACDA will not deny admission of an applicant who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant otherwise qualifies for admission.

**4.6 FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY**

**[24 CFR §982.301]**

If the applicant family is determined to be eligible after all applicable paperwork has been reviewed, they will be invited to attend a briefing session at which time they will receive information regarding their rights and responsibilities and they will be issued a voucher. See Chapter 8 (Voucher Issuance and Briefings) for more detail information.



## **CHAPTER 5: SUBSIDY STANDARDS**

### **5.1 INTRODUCTION**

#### **[24 CFR §982.402(a)]**

Program regulations require that the LACDA establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions. Such standards must provide for a minimum commitment of subsidy while avoiding overcrowding. The standards in determining the voucher size must be within the minimum unit size requirements of HUD's Housing Quality Standards (HQS).

This chapter lays out the factors used in determining the voucher size issued to a family initially and when there is a move to a new unit, as well as the LACDA's procedures for handling changes in family size, selection of unit size that are different from the voucher size and requests for waivers.

### **5.2 DETERMINATION OF VOUCHER SIZE**

#### **[24 CFR §982.402]**

Subsidy standards and determination of voucher bedroom size are based upon the number of family members who will reside in the assisted dwelling unit. All standards in this section relate to the number of bedrooms on the voucher, not the family's actual living arrangements.

The unit size on the voucher remains the same as long as the family composition remains the same.

As required by HUD, the LACDA's subsidy standards for determining voucher size shall provide for the smallest number of bedrooms needed to house a family without overcrowding. They will be applied consistently for all families of like size and composition, in a manner consistent with fair housing guidelines and HQS.

In accordance with HUD regulations, the unit size designated on the voucher should be assigned using the following LACDA subsidy standards, which are based on two persons per bedroom:

<b><u>Number of Household Members</u></b>	<b><u>Number of Bedrooms</u></b>
<b>1-2</b>	<b>1- bedroom</b>
<b>3-4</b>	<b>2- bedroom</b>
<b>5-6</b>	<b>3- bedroom</b>
<b>7-8</b>	<b>4- bedroom</b>
<b>9-10</b>	<b>5- bedroom</b>
<b>11-12</b>	<b>6- bedroom</b>

1. At issuance, the bedroom size assigned should not require more than two persons to occupy the same bedroom. The family may choose and live within a suitable unit in any grouping that is acceptable to the family, including using the living room for sleeping purposes.
2. Every household member is to be counted as a person in determining the family unit size [24 CFR §982.402(a)(4)-(6)]. Under this definition, household members include the unborn child of a pregnant woman; any live-in aides (approved by the LACDA to reside in the unit to care for a family member who is disabled or is at least 50 years of age); a full-time student who is away from the home attending school but who spends school recess in the unit, and a child who is temporarily away from the home because of placement in foster care. A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.  
  
**Note:** An approved live-in aide is counted in determining the voucher size. Occasional, intermittent, multiple, or rotating care givers typically do not meet the definition of a live-in aide. A live-in aide must reside with a family permanently for the family unit size to be adjusted in accordance with the subsidy standards [24 CFR §982.402(7)]. For exceptions to this policy, please see Section 5.3 below.
3. An additional bedroom may be assigned if approved under a waiver by the LACDA (see Section 5.3 below).
4. If the family decides to move, the LACDA will issue a voucher based on the family's current composition.

**5.2.1 Maximum Unit Occupancy**

The maximum occupancy as determined by the LACDA is as follows:

<u>Number of Bedrooms</u>	<u>Maximum Occupancy</u>
0- bedroom	2
1- bedroom	4
2- bedroom	6
3- bedroom	8
4- bedroom	10
5- bedroom	12
6- bedroom	14

In cases where an additional person(s) joins the family and the family will continue to occupy the same rental unit, i.e. no move is involved; the LACDA will not consider the family to be over crowded if there are no more than two persons per bedroom or living/sleeping room, provided that the unit meets other HQS.

Changes to household composition must be made according to LACDA policy detailed in Section 12.5 (Changes in Family Composition).



The LACDA will not increase the family's voucher size due to additions where the family will continue to occupy the same unit, unless the family was residing in a unit larger than the voucher size. The appropriate voucher size will be applied at the annual reexamination.

If the LACDA determines that the family is overcrowded, a larger voucher will be issued to the family and the family must try to move into a larger size dwelling unit. If an acceptable unit is available for rental by the family, the LACDA must terminate the HAP contract in accordance with its terms.

### **5.3 OCCUPANCY STANDARDS WAIVER**

#### **[24 CFR §982.402(b)(8)]**

The standards discussed above should apply to the vast majority of assisted families. However, in some cases, the LACDA may grant exceptions to the subsidy standards. Examples of possible exceptions that may be justified include but are not limited to:

1. The health of a family member.
2. A reasonable accommodation to a disability.

For households that receive approval for a live-in aide, an extra bedroom will be added to the voucher size the family qualifies for without the live-in aide.

Occasional, intermittent, multiple or rotating care givers typically do not meet the definition of a live-in aide and usually do not justify any exceptions to the subsidy standards. However, a family's composition or circumstances may warrant the provision of an extra bedroom to permit disability-related overnight care and allow the family equal use and enjoyment of the unit. The LACDA will consider these requests on a case-by-case basis.

Requests based on health-related reasons must be verified, in writing, by a doctor or other medical professional. The request must specify the reason for the request and how providing a larger bedroom size would improve or accommodate the medical condition.

A Unit Supervisor who has not been involved in the initial determination will review the request, any prior determination and make a decision based on the specifics of the individual case (on a case-by-case basis). After the decision is made, a letter notifying the applicant or participant of the decision regarding the waiver will be sent by the reviewing supervisor.

Requests made as a reasonable accommodation will follow the reasonable accommodation policy as outlined in sections 1.9 and 7.11.10.

To request a larger voucher size than indicated by the subsidy standards for any other reason, the family must submit a written request within 15 calendar days of the LACDA's determination of bedroom size. The request must explain the need or justification for a larger bedroom size.

#### **5.4 EXCEPTIONS FOR FOSTER CHILDREN**

##### **[24 CFR §982.402(b)(8)]**

Exceptions will be made to accommodate foster children. The Los Angeles County Department of Family and Children Services (DCFS) has very specific housing guidelines that must be met by foster families. In order to assure that foster children are able to remain with designated Section 8 foster families, the LACDA will utilize the guidelines published by the Los Angeles County DCFS, or specified in a court order, in situations involving foster children.

#### **5.5 FLEXIBILITY OF UNIT SIZE ACTUALLY SELECTED**

##### **[24 CFR §982.402(d)]**

The family may select a dwelling unit with a different size than that listed on the voucher:

- Larger than the voucher size: The LACDA shall not prohibit a family from renting an otherwise acceptable unit because it is too large for the family, provided that the rent for the unit is comparable and the family's total rent contribution (rent to the owner plus any applicable utility costs) does not exceed 40 percent of the family's adjusted monthly income (applies only if the gross rent for the unit exceeds the payment standard).
- Smaller than the voucher size: The LACDA will allow families to request a waiver to rent an otherwise acceptable unit with fewer bedrooms than the voucher size, if the unit does not exceed maximum unit occupancy requirements.

##### **5.5.1 Calculating Assistance for a Different Unit Size**

To determine the family's maximum rent subsidy, the LACDA uses the payment standard for the voucher size or the selected unit size, whichever is lower [24 CFR §982.402(c)].

The utility allowance used to calculate the gross rent is based on the lower of the voucher size or the selected unit size. The LACDA may grant a higher utility allowance as a reasonable accommodation for a disabled family member, following the policies and procedures referenced in sections 1.9.1, 1.9.2 and 7.11.10.

## **CHAPTER 6: DETERMINING THE TOTAL TENANT PAYMENT AND THE ABSENCE POLICY**

### **6.1 INTRODUCTION**

This chapter explains how the Total Tenant Payment (TTP) is calculated at admission and during annual re-examinations. It covers LACDA and HUD standards used to calculate income inclusions and deductions.

This chapter also provides the LACDA's definition of absence of household members and explains how the presence or absence of household members can affect the TTP.

The policies outlined in this chapter address those areas, which allow the LACDA discretion to define terms and to develop standards in order to assure consistent application of the various factors that relate to the determination of TTP.

### **6.2 INCOME DEFINITIONS**

- **Total Tenant Payment (TTP)**: represents the minimum amount a family must contribute toward rent and utilities regardless of the unit selected. The TTP is the greater of:
  - 30 percent of monthly adjusted income;
  - 10 percent of monthly gross income; or
  - The LACDA's minimum rent of \$50.
- **Income**: The LACDA will include income from all sources, unless otherwise specifically exempted [24 CFR §5.609(c)] through program regulations, for the purposes of calculating the TTP. In accordance with this definition, income from all sources of each member of the household is counted.
- **Annual Income [24 CFR §5.609(a)]**: The gross amount of income anticipated to be received by the family during the 12 months after certification or re-examination. Gross income is the amount of income prior to any HUD allowable expenses or deductions, and does not include income that has been excluded by HUD. Annual income is used to determine whether or not applicants are within the applicable income limits.
- **Adjusted Income [24 CFR §5.611]**: The annual income minus any HUD allowable deductions.

### **6.3 INCOME DEDUCTIONS**

#### **[24 CFR §5.611(a)]**

The following deductions will be applied in the TTP calculation:

- **Dependent Allowance**: \$480 each for family members (other than the head, co-head, or spouse), who are minors, and for family members who are 18 and older who are full-time students or who are disabled. This allowance does not apply to foster children.

- **Elderly Family or Disabled Family Allowance**: \$400 for families whose head, co-head, or spouse is 62 or over or disabled.
- **Childcare Expenses**: Deducted for children under 13, including foster children, when childcare is necessary to allow an adult member to work, search for work, or attend school (see below for details).
- **Allowable Medical Expenses**: Deducted for unreimbursed medical expenses for members of any elderly family or disabled family.
- **Disability Assistance Expenses**: Deducted for persons with disabilities if needed to enable the individual or an adult family member to work.

### **6.3.1 Childcare Expenses**

#### **[24 CFR §5.603(b) and 24 CFR §5.611(a)(4)]**

Childcare expenses for children under 13 years of age may be deducted from annual income if they enable an adult to work, search for work, or attend school full time.

In the case of a child attending school, only care during non-school hours can be counted as childcare expenses.

Families will be given a childcare allowance based on the following guidelines:

1. **Childcare to Work**: The maximum childcare expense allowed must be less than the amount earned by the person enabled to work. The "person enabled to work" will be the adult member of the household who earns the least amount of income from working.
2. **Childcare to Search for Work**: Childcare expenses cannot exceed the current amount of income received.
3. **Childcare for School**: The number of hours claimed for childcare may not exceed the number of hours the family member is attending school (including one hour travel time to and from school).
4. **Amount of Expense**: The LACDA will determine local average costs as a guideline. If the hourly rate materially exceeds the guideline, the LACDA may calculate the allowance using the guideline.

### **6.3.2 Medical Expenses**

#### **[24 CFR §5.611(a)(3)(i)]**

When it is unclear in the HUD rules as to whether or not to allow an item as a medical expense, IRS Publication 502 will be used as a guide.

The LACDA will allow as medical expense the actual out-of-pocket amounts which are owed and anticipated to be paid by the family during the re-examination period. Expenses from the previous year may be analyzed to determine the amount to anticipate when other verification is not available.

Nonprescription medicines will be counted toward medical expenses for families who qualify if the family furnishes legible receipts.

Acupressure, acupuncture and related herbal medicines, and chiropractic services will be considered allowable medical expenses.

## **6.4 INCOME INCLUSIONS AND EXCLUSIONS**

### **6.4.1 Income Inclusions**

#### **[24 CFR §5.609(b)]**

The LACDA considers the following to be included in the family's annual income, as required by HUD:

- (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 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 (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 net family assets or .81% of the value of such assets based on the current passbook savings rate, as annually determined by the LACDA;
- (4) The full amount of periodic payments received from Social Security, annuities, insurance policies, retirement funds, pensions, lotteries, disability or death benefits, and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment (but see paragraph (13) under Income Exclusions);
- (5) Payments in lieu of earnings, such as unemployment, worker's compensation, and severance pay (but see paragraph (3) under Income Exclusions);
- (6) Welfare Assistance.
  - a. Welfare assistance received by the household.
  - b. The amount of reduced welfare income that is disregarded specifically because the family engaged in fraud or failed to comply with an economic self-sufficiency or work activities requirement.
  - c. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustments by the

welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare income to be included as income shall consist of:

- (i) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
  - (ii) 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 persons not residing in the dwelling;

Regular Contributions and Gifts [24 CFR §5.609(b)(7)]

Any contribution or gift received every 3 months or more frequently will be considered a "regular" contribution or gift from the same source. This includes payments made on behalf of the family such as payments for a car, credit card bills, rent and/or utility bills and other cash or non-cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts.

If the family's expenses exceed its known income, the LACDA will question the family about contributions and gifts. If the family indicated that it is able to meet the extra expenses due to gifts or contributions from persons outside the household, the amount provided will be included in the family's TTP.

Alimony and Child Support [24 CFR §5.609(b)(7)]

If the amount of child support or alimony received is less than the amount awarded by the court, the LACDA must use the amount awarded by the court unless the family can verify that they are not receiving the full amount. Acceptable verification in such cases may include:

1. Verification from the agency responsible for enforcement or collection, and
2. Documentation of child support or alimony collection action filed through a child support enforcement/collection agency, or has filed an enforcement or collection action through an attorney.

It is the family's responsibility to supply a certified copy of the divorce decree.

- (8) All regular pay, special pay, and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is head of the family, co-head, spouse, or other person whose dependents are residing in the unit (but see paragraph (7) under Income Exclusions).

- (9) Any financial assistance, in excess of amounts received for tuition and any other required fees and charges, 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 students who are living with their parents who are applying for or receiving assistance or persons over the age of 23 with dependent children. For the purpose of determining income, loan proceeds are not considered "financial assistance".
- (10) Any part of an athletic scholarship that can be used to cover housing costs must be included in the family's income.
- (11) The gross amount of Social Security (SS) and Supplemental Security Income (SSI) benefits.

#### **6.4.2 Income Exclusions**

##### **[24 CFR §5.609(c)]**

The LACDA considers the following to be excluded from the family's annual income, as required by HUD:

- (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 individuals with disabilities, unrelated to the tenant family, who are unable to live alone);

Benefits received through the Kin GAP program, a California program designed specifically for foster children who have been placed in the home of a relative are considered foster care and should be excluded.
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- (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 (but see paragraph (5) under Income Inclusions);
- (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 by regulation);
- (6) Subject to paragraph (9) in Income Inclusions, 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) (a) Amounts received under training programs funded by HUD;  
(b) Amounts received by a person with disabilities 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);
- (c) 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;
  - (d) A resident service stipend. This is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the owner, on a part-time basis, that enhances the quality of life in the development. This may include, but is not limited to fire patrol, hall monitoring, lawn maintenance, and 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; or
  - (e) 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). For example, amounts earned by temporary census employees whose terms of employment do not exceed 180 days (Notice PIH 2000-1).
  - (10) Reparations 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 or older (excluding the head of household, co-head, and spouse);
  - (12) Adoption assistance payments in excess of \$480 per adopted child;
  - (13) Deferred periodic payments of Supplemental Security Income, Social Security benefits and Veterans Affairs disability benefits that are received in a lump-sum payment or in prospective monthly payments;
  - (14) 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;
  - (15) Amounts paid by a state agency to a family with a developmentally disabled family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; and
  - (16) 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 the 1937 Act. A notice will be published in the Federal Register and distributed to PHAs identifying the benefits that qualify for this exclusion. Updates will



be distributed when necessary. The following is a list of income sources that qualify for that exclusion:

- (i) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7U.S.C.2017(b));
- (ii) Payments to volunteers under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5044(f) (1), 5058);
- (iii) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
- (iv) Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);
- (v) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C.8624 (f));
- (vi) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94–540, section 6);
- (vii) The first \$2000 of per capita shares received from judgment funds awarded by the National Indian Gaming Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, and 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). This exclusion does not include proceeds of gaming operations regulated by the Commission;
- (viii) Amounts of scholarships funded under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070), including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For section 8 programs only (42 U.S.C. 1437f), any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall not be considered income to that individual if the individual is over the age of 23 with dependent children (Pub.L. 109–115, section 327) (as amended);
- (ix) Payments received from programs funded under title V of the Older Americans Act of 1965 (42 U.S.C.3056g);
- (x) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund (Pub. L. 101–201) or any other fund established pursuant to the settlement in In Re Agent Orange Liability Litigation, M.D.L. No. 381(E.D.N.Y.);
- (xi) Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96–420, 25 U.S.C. 1728) ;
- (xii) 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);
- (xiii) Earned income tax credit (EITC) refund payments received on or after January 1, 1991, for programs administered under the United States Housing Act of 1937, title V of the Housing Act of 1949, section 101 of the Housing and Urban Development Act of 1965, and sections 221(d)(3), 235, and 36 of the National Housing Act (26 U.S.C. 32(l));
- (xiv) 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);

- (xv) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C.12637(d));
  - (xvi) Any allowance paid under the provisions of 38 U.S.C. 1833(c) to children of Vietnam veterans born with spina bifida (38U.S.C. 1802–05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811–16), and children of certain Korean service veterans born with spina bifida (38 U.S.C. 1821).
  - (xvii) 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(c));
  - (xviii) Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C.2931 (a) (2));
  - (xix) Any amount received under the Richard B. Russell School Lunch Act (42 U.S.C. 1760(e)) and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC);
  - (xx) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f (b));
  - (xxi) Payments from any deferred U.S. Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts (42 U.S.C. § 1437a(b)(4));
  - (xxii) Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub.L. 111–269; 25 U.S.C. 4103(9)) to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25U.S.C. 4101 et seq.) and administered by the Office of Native American Programs;
  - (xxiii) A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, 816 F.Supp.2d 10 (Oct. 5, 2011 D.D.C.), for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111–291);
  - (xxiv) Any amounts in an “individual development account” as provided by the Assets for Independence Act, as amended in 2002 (Pub. L. 107–110, 42 U.S.C. 604(h) (4));
  - (xxv) Per capita payments made from the proceeds of Indian Tribal Trust Cases as described in PIH Notice 2013–30 “Exclusion from Income of Payments under Recent Tribal Trust Settlements”(25 U.S.C. 117b(a)); and
  - (xxvi) Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93–288, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d)).
- (17) Earned Income Disallowance for persons with disabilities [24CFR5.617]
- (a) Initial 12-Month Exclusion [24CFR5.617(C)(1)]
  - (b) Second 12-Month Exclusion and Phase-In [24CFR5.617(C)2]
  - (c) Maximum 4-Year Disallowance [24 CFR 5.617(c)(3)]

- (18) The low-income subsidy (extra help) received to assist low-income persons in paying for their Medicare Prescription Drug Plan cost.
- (19) The payment amount of Social Security (SS) and Supplemental Security Income (SSI) benefits that are reduced due to prior overpayments.
- (20) Financial assistance received through the Veterans Retraining Assistance Program (VRAP) [24 CFR 5.609 (c)(6)].

### **6.4.3 Earned Income Disallowance**

#### **[24 CFR §5.617]**

When determining the annual income of a participant family that includes persons with disabilities, the determination must exclude an increase in annual income due to any of the following events:

- Employment by a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment.
  - A previously unemployed person is defined as a person who in the 12 months prior to employment has earned no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.
- An increase in income by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency program or other job-training program.
  - An economic self-sufficiency program is any program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work for such families.
- New employment or increased earnings by a family member who is a person with disabilities and who has received TANF benefits or services within the past 6 months.
  - If TANF is received in the form of monthly monetary maintenance, there is no minimum amount that must be received to be considered a participant in TANF.
  - If TANF is received in the form of one-time payments, wage subsidies and transportation assistance that add up to at least \$500 over a 6-month period, they would meet this requirement.

### **6.4.4 Earned Income Disallowance Exclusion Time Periods**

#### **[24 CFR §5.617(c)]**

1. **Initial 12-Month Exclusion**: During the initial 12-month exclusion period, the full amount of the increase in income due to employment or increase earnings is excluded. Once a family member is determined eligible for the earned income disallowance, the 24-calendar month period starts.
2. **Second 12-Months Exclusion**: During the second 12-month exclusion and phase-in period, the exclusion is reduced to half, or 50 percent, of the increase in income due to employment or increased earnings.

3. **Lifetime Limit**: A participant has a total lifetime limit of 24-consecutive months that begins once the initial exclusion is given after the qualifying event. No exclusion should be given after the lifetime limit has been reached.

## 6.5 **FAMILY ASSETS**

### **[24 CFR §5.603(b)]**

#### **6.5.1 Included Assets**

- (1) Amounts in savings and checking accounts.
- (2) Stocks, bonds, savings certificates, money market funds and other investment accounts.
- (3) Equity in real property or other capital investments. Equity is the estimated current market value of the asset less the unpaid balance on all loans secured by the assets and reasonable costs (such as broker fees) that would be incurred in selling the assets.

In the absence of an estimate of liquidation costs or verification of actual liquidation costs from a real estate agent or broker, the LACDA will use a standard 8% of market value to determine such costs.

- (4) The cash value of trusts that may be withdrawn by the family.
- (5) IRA, Keogh and similar retirement savings accounts, even though withdrawal would result in a penalty.
- (6) Some contributions to company retirement/pension funds.

Contributions to company retirement/pension funds are handled as follows:

1. While an individual is employed, include as assets only amounts the family can withdraw without retiring or terminating employment.
2. After retirement or termination of employment, include any amount the individual elects to receive as a lump sum.

- (7) Assets, which although owned by more than one person, allow unrestricted access by the applicant.
- (8) Lump sum receipts such as inheritances, capital gains, lottery winnings, insurance settlements, and other claims.

Lump-sum additions to family assets, such as inheritances, insurance payments (including lump-sum payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses, are not included as income but may be included in assets.

Lump-sum payments caused by delays in processing periodic payments (unemployment or welfare assistance) are counted as income. Lump sum payments from Social Security or SSI are excluded from income, but

any amount remaining will be considered an asset. Deferred periodic payments which have accumulated due to a dispute will be treated the same as periodic payments which are deferred due to delays in processing.

The family's attorney fees may be deducted from lump-sum payments when computing annual income if the attorney's efforts have recovered a lump-sum compensation, and the recovery paid to the family does not include an additional amount in full satisfaction of the attorney fees.

- (9) Personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc.
- (10) Cash value of life insurance policies.
- (11) Assets disposed of for less than fair market value during the two years preceding certification or re-certification.

The LACDA must count assets disposed of for less than fair market value during the 2 years preceding certification or re-examination. The LACDA will count the difference between the market value and the actual payment received in calculating total assets.

Assets disposed of as a result of foreclosure or bankruptcy, separation or divorce are not considered to be assets disposed of for less than fair market value.

The LACDA's minimum threshold for counting assets disposed of for less than Fair Market Value is \$5,000. If the total value of assets disposed of within a 1-year period is less than \$5,000, they will not be considered an asset.

### **6.5.2 Excluded Assets**

- (1) Necessary personal property, except as noted in #9 above at Section 6.5.1.
- (2) Interest in Indian trust lds.
- (3) Assets that are part of an active business or farming operation.

If a household member's main occupation is the business from his/her rental property, the rental property is considered a business asset and therefore excluded. If a household member's rental property is considered a personal asset and held as an investment, it is considered an included asset.

- (4) Assets not controlled by or accessible to the family and which provide no income for the family.
- (5) Vehicles especially equipped for the disabled.
- (6) Equity in owner-occupied cooperatives and manufactured homes in which the family lives.

## **6.6 CALCULATING INCOME AND FAMILY CONTRIBUTION**

### **6.6.1 "Minimum Rent" and Minimum Family Contribution**

**[24 CFR §5.630(a)(2)]**

Minimum family contribution in the LACDA's rental assistance programs is \$50 for all new contracts, including moves.

The LACDA will waive the minimum rent requirement in cases where the family documents that they do not currently have any source of income such as in the case of some homeless families. In such cases, the family will be re-evaluated in 3 months. All families are required to report changes in income within 10 calendar days.

### **6.6.2 Minimum Income**

There is no minimum income requirement. Families who report zero income may be required to complete an interim re-examination periodically, up to once a quarter, at the LACDA's discretion.

### **6.6.3 Averaging Income**

**[24 CFR §982.516(c) and 24 CFR §5.609(d)]**

When annual income cannot be anticipated for a full 12 months, the LACDA may annualize current income and conduct an interim re-examination if income changes.

If there are bonuses or overtime which the employer cannot anticipate for the next 12 months, bonuses and overtime received the previous year may be used.

Income from the previous year may be analyzed to determine the amount to anticipate when third-party or check-stub verification is not available.

If by averaging, an estimate can be made for those families whose income fluctuates from month to month, this estimate will be used so that the housing payment will not change from month to month.

The method used depends on the regularity, source and type of income.

### **6.6.4 Utility Allowance and Utility Reimbursement Payments**

**[24 CFR §982.517]**

The utility allowance is intended to help defray the cost of utilities not included in the rent and is subtracted from TTP to establish the family's rent to the owner. The allowances are based on rates and average consumption studies, not on a family's actual consumption. The LACDA will review the Utility Allowance Schedule on an annual basis and revise it if needed (10 percent increase or decrease).

The approved utility allowance schedule is given to families along with the voucher. The utility allowance is based on the lower of the family's voucher size or the actual unit size selected.

Where families provide their own range and refrigerator, the LACDA will establish an allowance adequate for the family to purchase or rent a range or refrigerator, even if the family already owns either appliance. Allowances for ranges and refrigerators will be based on the lesser of the cost of leasing or purchasing the appropriate appliance over a 12-month period.

If the utility allowance exceeds the family's TTP, the LACDA will provide a utility reimbursement payment for the family each month. The check will be made out directly to the family's head of household on record.

#### **6.6.5 Reduction in Welfare Assistance**

##### **[24 CFR §5.615]**

The LACDA will impute (count) welfare income not received by the family, if the welfare assistance was reduced specifically because of:

- Fraud;
- Failure to participate in an economic self-sufficiency programs; or
- Noncompliance with a work activities requirement.

Imputed welfare income is the amount that welfare benefits are reduced.

Imputed welfare income is not included in the family's annual income, if the family was not assisted at the time of the welfare sanction.

The LACDA will include in the family's annual income the amount of the imputed welfare income plus the total amount of other annual income and the family's rent will not be reduced.

However, the LACDA will reduce the rent if the welfare assistance reduction is a result of any of the following:

- The expiration of a lifetime time limit on receiving benefits;
- The family has complied with welfare program requirements but cannot obtain employment; or
- The family member has not complied with other welfare agency requirements.

A family's request for rent reduction shall be denied upon the LACDA obtaining written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance.

#### **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. The new income would be subtracted from the imputed welfare income. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero.

**6.6.6 Prior Overpayment of Social Security (SS) and Supplemental Security Income (SSI)**

When there is a payment reduction due to prior overpayments, staff will use the net amount of the SS/SSI benefit to calculate annual income only for that period of time for which the reduction occurs.

**6.7 PRORATION OF ASSISTANCE FOR "MIXED" FAMILIES**

**6.7.1 Applicability**

**[24 CFR §5.520(a)]**

Proration of assistance must be offered to any "mixed" applicant or participant family. A "mixed" family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible members.

"Mixed" families that were participants on June 19, 1995, and that do not qualify for continued assistance must be offered prorated assistance. Mixed family applicants are entitled to prorated assistance. Families that become mixed after June 19, 1995 by addition of an ineligible member are entitled to prorated assistance.

**6.7.2 Prorated Assistance Calculation**

**[24 CFR §5.520(c)]**

Prorated assistance is calculated by determining the amount of assistance payable if all family members were eligible and multiplying by the percent of the family members who actually are eligible.

**6.8 ABSENCE POLICY**

The LACDA must compute all applicable income of every family member who is on the lease, including those who are temporarily absent. In addition, the LACDA must count the income of the spouse or the head of household if that person is temporarily absent, even if that person is not on the lease.

Income of persons permanently absent will not be counted. If the head of household or spouse is temporarily absent and in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

It is the responsibility of the household to report absences and changes in family composition. The LACDA will evaluate absences from the unit using this policy [24 CFR §982.551(i)].

**6.8.1 Absence of Entire Family**

**[24 CFR §982.312]**

These policy guidelines address situations when the family is absent from the unit, but has not moved out of the unit. In cases where the family has moved out of the



unit, the LACDA will terminate assistance in accordance with appropriate termination procedures contained in this plan.

Families are required both to notify the LACDA before they move out of a unit and to give the LACDA information about any family absence from the unit.

Families must notify the LACDA if they are going to be absent from the unit for more than 30 consecutive calendar days.

If the family fails to notify the LACDA of an absence of longer than 30 consecutive calendar days, or if the entire family is absent from the unit for more than 60 consecutive calendar days, the unit will be considered to be vacated and the assistance will be terminated. The LACDA at all times shall reserve the right to exercise its judgment regarding extensions on family absence from the unit on a case-by-case basis. However, HUD regulations require the LACDA to terminate assistance if the entire family is absent from the unit for a period of more than 180 consecutive calendar days.

"Absence of entire family" means that no family member is residing in the unit, and the unit has not been vacated. In order to determine if the family is absent from the unit, the LACDA may:

- Write letters to the family at the unit
- Telephone the family at the unit
- Interview the owner
- Interview neighbors
- Verify if utilities are in service
- Conduct an interim HQS Inspection

If the absence which resulted in termination of assistance was due to a person's disability, and the LACDA can verify that the person was unable to notify LACDA in accordance with the family's responsibilities, and if funding is available, the LACDA may reinstate the family as a reasonable accommodation if requested by the family.

### **6.8.2 Absence of Any Member**

#### **[24 CFR §982.312(a)]**

Any member of the household will be considered permanently absent if s/he is away from the unit for 180 consecutive calendar days except as otherwise provided in this chapter.

### **6.8.3 Absence Due to Medical Reasons**

#### **[24 CFR §982.312(e)(1)]**

If any family member leaves the household to enter a facility such as a hospital, nursing home, or rehabilitation center, the LACDA will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will return in less than 180 calendar days, the family member will not be considered permanently absent.

If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered to be permanently absent, out of the home and removed from the family composition.

If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with the LACDA's "Absence of Entire Family" policy.

#### **6.8.4 Absence Due to Incarceration**

##### **[24 CFR §982.312(e)(1)]**

If the sole member of the household is incarcerated for more than 30 calendar days, s/he will be considered permanently absent and the LACDA will initiate proposed termination procedures to terminate assistance.

Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for 60 calendar days. Once a family member is removed from the family composition, the family must seek LACDA approval prior to allowing the family member to re-join the assisted household. Failure to adhere to this policy can result in termination of assistance.

The LACDA will determine if the reason for any family member's incarceration is for drug-related or violent criminal activity and, if appropriate, will pursue termination of assistance for the family if deemed appropriate.

#### **6.8.5 Foster Care and Absences of Children**

##### **[24 CFR §982.551(h)(4) and 24 CFR §982.551(e)(1)]**

If the family includes a child or children temporarily absent from the home due to placement in foster care, the LACDA will request information from the appropriate agency to determine when the child/children will be returned to the home.

If the time period is to be greater than 180 calendar days from the date of removal of the child/children, the voucher size may be temporarily reduced. If children are removed from the home permanently, the voucher size will be permanently reduced in accordance with the LACDA's subsidy standards.

#### **6.8.6 Absence of Adult**

##### **[24 CFR §982.312(e)]**

If neither parent remains in the household and the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the LACDA will immediately add the new caretaker to the household composition while eligibility is reviewed, including criminal background checks.

If the caretaker does not pass any portion of the LACDA's eligibility screening, including the criminal background check, the caretaker will be removed from the voucher. If no other caretaker is identified and the ineligible individual remains the caretaker for the children, the assistance will be terminated.

When the LACDA approves a person to reside in the unit as caretaker for the children, this person's income will be counted in the TTP for the family pending a

final disposition. The LACDA will work with the appropriate service agencies and the owner to provide a smooth transition in these cases.

If a member of the household is subject to a court order that restricts him/her from the home for more than 180 calendar days, the person will be considered permanently absent.

If an adult family member leaves the household for any reason, the family must report the change in family composition to the LACDA within 30 calendar days.

The family will be required to notify the LACDA in writing within 30 calendar days when a family member leaves the household for any reason or moves out. The notice must contain a certification by the family as to whether the member is temporarily or permanently absent. The family member will be determined permanently absent if verification is provided.

If an adult child goes into the military and leaves the household, they will be considered permanently absent.

Time extensions may be granted as a reasonable accommodation upon request by a person with a disability.

#### **6.8.7 Students**

##### **[24 CFR §982.312(e)]**

Full time students who attend school away from the home and live with the family during school recess will be considered temporarily absent from the household. These family members will continue to be counted for the purpose of determining the family's appropriate voucher size.

#### **6.8.8 Visitors**

##### **[24 CFR §982.312(e)]**

Any person not included on the HUD-50058 who has been in the unit more than 30 calendar days, or a total of 60 calendar days in a 12-month period, will be considered to be living in the unit as an unauthorized household member.

Absence of evidence of any other address will be considered verification that the visitor is a family member.

Statements from neighbors and/or the owner will be considered in making the determination.

Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.

The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the family and the LACDA will terminate assistance since prior approval was not requested for the addition.

In a joint custody arrangement, if the minor is in the household less than 180 calendar days per year, the minor will be considered to be an eligible visitor and not a family member.

**6.8.9 Reporting Absences**

**[24 CFR §982.551(h)(3) and §982.551(i)]**

If a family member leaves the household, the family must report this change to the LACDA, in writing, within 30 calendar days of the change and certify as to whether the member is temporarily absent or permanently absent. When available to do so, an adult family member who is leaving the household should remove him/herself in writing from the lease and voucher family composition.

The LACDA will conduct an interim re-examination for changes, which may affect the TTP in accordance with the interim policy. See Section 12.5 (Changes in Family Composition) for more information.

**6.8.10 Verification of Absence**

Please refer to Section 7.11.4 (Verification of Permanent Absence of Adult Member).

## **CHAPTER 7: VERIFICATION PROCEDURES**

### **7.1 INTRODUCTION**

**[24 CFR §5.240(c), 24 CFR §5.210, 24 CFR §982.551(b)]**

HUD regulations require the LACDA to verify factors of eligibility. Applicants and program participants must furnish proof of their statements whenever required by the LACDA, and the information they provide must be true and complete. The LACDA's verification requirements are designed to maintain program integrity. This chapter explains the LACDA's procedures and standards for verification of preferences, income, assets, allowable deductions, family status, and changes in household composition. The LACDA will ensure that proper authorization from the family is always obtained before making verification inquiries.

### **7.2 METHODS OF VERIFICATION AND TIME ALLOWED**

The LACDA will use six levels of verification methods acceptable to HUD in the following order:

**Level Six: Up-Front Income Verification (UIV) using EIV** (highest priority): This level is mandatory and will be used when available

**Level Five: Up-Front Income Verification (UIV) using a non-HUD system** (highest priority): In cases where EIV is not available, this level will be used when possible.

**Level Four: Third-party written verification** (high priority): This verification level is defined as tenant-provided documents obtained from a third-party source. The documents must be authentic, original and computer-generated. Level Four is used:

- To support the information reported through EIV/UIV,
- When there is a discrepancy between EIV/UIV and tenant-reported income,
- When EIV or other forms of UIV are not available, the LACDA will accept authentic, original, computer-generated documents as verification of income, assets or other family circumstances.

**Level Three: Third-party written verification form** (medium-low priority). The LACDA will send verification forms to third party sources when:

- There is a discrepancy between EIV/UIV and tenant-reported income and the tenant disputes the information in EIV, or
- Verification levels six through four are unavailable.

**Level Two: Third-party oral verification** (low priority). This level will be used when sending verification forms to third-party sources under Level Three is not possible or the forms are not returned in a timely manner.

**Level One: Self-Declaration** (low priority). Certification/self-declaration verification will be the last level used if verification is not possible or able to be

obtained using the higher levels of verification, the LACDA may allow up to 10 calendar days for the return of third-party verification forms before using the next verification level.

### **7.3 TIMELINESS OF VERIFICATIONS**

Verifications may not be received more than 60 calendar days before voucher issuance for applicants [24 CFR §982.201(e)]. However, a voucher may be issued to a participant family without updating verifications if the annual reexamination is current (within the last 12 months). Any reported changes that require an interim reexamination will be verified and processed before a voucher is issued.

All tenant-provided documents are current if dated within 60 days of the date of receipt. Please see section 7.9 for asset verification documents exceptions.

Exception for averaging income: When using consecutive verification documents to average income, such as consecutive pay stubs, only one of the documents must be dated within 60 days of the date of receipt if the documents are also the most recent received by the family.

#### **7.3.1 Up-Front Income Verification (UIV)**

The LACDA will utilize up-front income verification tools. The use of the Enterprise Income Verification (EIV) system is mandatory and will be used whenever possible. Other UIV systems, such as the LRS system for the Temporary Assistance of Needy Families (TANF) and Work Number, will be used whenever possible when EIV is unavailable.

If there is a difference in source of income or a substantial difference (\$2400 annually or \$200 monthly) in reported income between EIV verification and family-provided documents and the tenant disputes the discrepancy or cannot provide adequate documentation to validate the discrepancy, the LACDA shall follow the guidelines below:

- The LACDA will send written third-party verification forms to the discrepant income source.
- The LACDA may review historical income data for patterns of employment, paid benefits, and/or receipt of other income, when the LACDA cannot readily anticipate income, such as in cases of seasonal employment, unstable working hours, and suspected fraud.
- The LACDA will analyze all data (UIV data, third-party verification documents provided by the family and verification forms returned by the discrepant income source) and attempt to resolve the income discrepancy.
- The LACDA will use the most current information available to calculate the anticipated annual income.

In cases where UIV income data is different than tenant-reported income and the tenant does not dispute the discrepancy and can provide adequate documentation to validate the discrepancy, the LACDA will use the written third-party documents provided by the family to calculate the anticipated annual income.

### **7.3.2 Third-Party Written Verification**

Third-party written verification is defined as original, authentic, computer-generated documents from a third-party source, but obtained from the family. All documents will be photocopied and retained in the family file. The LACDA will accept the following documents, among others, from the family, provided that the document is such that tampering would be easily noted:

- Printed wage stubs
- Computer print-outs from the employer
- Letters printed on official letterhead

Third-party written verification documents will be used to support the information reported through the UIV source or as primary verification when UIV is not available.

The LACDA will accept faxed documents, however a hard copy may be requested for verification

If at least two check stubs cannot be obtained to verify employment income, the LACDA will request third party verification directly from the source to support EIV data or as primary verification.

### **7.3.3 Third-Party Written Verification Forms**

Third-party verification forms will be sent directly to the source when a participant disputes a discrepancy on the UIV or cannot provide adequate documentation to validate the discrepancy, or when the LACDA rejects third-party written verification documents provided by the family.

The family will be required to sign an authorization for the information source to release the specified information.

Verifications received electronically directly from the source are acceptable. Written letters obtained from the source are acceptable under this level.

### **7.3.4 Third-Party Oral Verification**

Oral third-party verification will be used when written third-party verification forms are not possible or are delayed. When third-party oral verification is used, staff will be required to document the file, noting with whom they spoke, the date of the conversation, and the facts provided.

### **7.3.5 Self-Certification/Self-Declaration**

When verification cannot be made by UIV, third-party verification documents, forms or third-party oral verification, families will be required to submit a self-certification or a notarized statement. Self-certification means a signed statement/affidavit/certification under penalty of perjury.

This level may be used when:

1. UIV is unavailable; and
2. Third-party written documents cannot be provided by the family, and

3. Staff has made at least two documented efforts (mail, fax, telephone call, or email) to obtain third-party verification from the source and no response is received; or
4. An independent source does not have the capability of sending written third-party verification directly to the LACDA or does not facilitate oral third-party verification.

#### **7.4 RELEASE OF INFORMATION**

##### **[24 CFR §5.230]**

The family will be required to sign specific authorization forms when information is needed that is not covered by the HUD-9886 Form (Authorization for the Release of Information).

Each member requested to consent to the release of information will be provided with a copy of the appropriate forms for their review and signature.

Family refusal to cooperate with the HUD prescribed verification system will result in denial of admission or termination of assistance because it is a family obligation to supply any information requested by the LACDA or HUD.

#### **7.5 COMPUTER MATCHING**

##### **[24 CFR §5.210(a)]**

Where allowed by HUD and/or other State or local agencies, computer matching will be done.

##### **7.5.1 Data Sharing**

###### **[State of California Health and Safety Code, §34217]**

The LACDA will share applicant and participant information that is necessary to determine eligibility for County welfare department programs or services for which the client has applied or is receiving.

##### **7.5.2 Release of Information**

LACDA personnel, shall not release or otherwise make available HCV lists or any other confidential information to any outside organization or entity without the express written approval of the Executive Director, Deputy Executive Director, or their designee. This restriction on the release of HCV lists or any other confidential information shall also apply to all other divisions of the LACDA. To the extent information is released, such release(s) shall be in a manner consistent with section 33 of the Settlement Agreement United States v. Housing Authority of the County of Los Angeles, No.2:15-cv-5471 (C.D.Cal), applicable federal law governing the HCV Program and other Housing information. In the event that the LACDA provides information covered under this section, within 15 days, the LACDA will provide the following information to the Department of Justice.

1. The legitimate non-discriminatory purpose the information was provided for;
2. To whom the information was provided to; and



3. A copy of the information provided.

## **7.6 ITEMS TO BE VERIFIED**

### **[24 CFR §982.551(b)]**

- All income not specifically excluded by the regulations.
- Zero-income status of household.
- Full-time student status including high school students who are age 18 or over.
- Current assets including assets disposed of for less than fair market value in preceding two years.
- Childcare expense where it allows an adult family member to be employed, seek employment or to further his/her education.
- Total medical expenses of all family members in households whose head, co-head, or spouse is elderly or disabled.
- Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus, which allow an adult family member to be employed.
- Identity.
- U.S. citizenship/eligible immigrant status.
- Social Security Numbers for all family members.
- Preference status, based upon local preferences.
- Displacement status of single applicants who are involuntarily displaced through no fault of their own.
- Familial/marital status when needed for head or spouse definition.
- Disability for determination of preferences, allowances or deductions.
- Enrollment in a Medicare prescription drug plan.
- The amount of Prescription drug benefits received.
- Actual or threatened incidents of domestic violence, dating violence, sexual assault or stalking.

## **7.7 VERIFICATION OF INCOME**

### **[24 CFR §982.516(a)(2)(i)]**

This section defines the methods the LACDA will use to verify various types of income.

#### **7.7.1 Employment Income**

##### **[24 CFR §5.609(a) and § 5.609(b)(1)]**

Acceptable methods of verification include, but are not limited to the following:

1. Enterprise Income Verification (EIV) system, or if EIV is unavailable, other Up-Front Income Verification (UIV) tools, such as Work Number.
2. At minimum 2 check stubs or an earnings statement, which indicate the employee's gross pay, frequency of pay or year-to-date earnings or W-2 forms to supplement EIV data or as primary verification in the event EIV or other UIV tools are unavailable.
3. Employment verification form completed by the employer.
4. Income tax returns signed by the family may be used for verifying self-employment income, or income from tips and other gratuities.

Verification forms request the employer to specify the:

- Dates of employment
- Amount and frequency of pay
- Date of the last pay increase
- Likelihood of change of employment status and effective date of any known salary increase during the next 12 months
- Year-to-date earnings
- Estimated income from overtime, tips, bonus pay expected during next 12 months

In cases where there are questions about the validity of information provided by the family, the LACDA will send third-party verification forms to the employer and may require the most recent federal income tax statements.

### **7.7.2 Social Security, Pensions, Disability, Supplementary Security Income**

#### **[24 CFR §5.609(b)(4)]**

Acceptable methods of verification include, but are not limited to the following:

1. Enterprise Income Verification (EIV) system.
2. Award or benefit notification letters prepared and signed by the providing agency.
3. Computer report electronically obtained or in hard copy.

The LACDA may request a complete Social Security Earnings Statement (SSA Form 7004) to resolve discrepancies with Social Security income

### **7.7.3 Unemployment Compensation**

#### **[24 CFR §5.609(b)(5)]**

Acceptable methods of verification include, but are not limited to the following:

1. Enterprise Income Verification (EIV) System.
2. Computer printouts from unemployment office stating payment dates and amounts.

3. Payment stubs.

Unemployment and State Disability Insurance may no longer be verified through the Employment Development Department (EDD) [EDD Letter, 5/23/2006].

**7.7.4 Welfare Payments or General Assistance**

**[24 CFR §5.609(b)(6)]**

Acceptable methods of verification include, but are not limited to the following:

1. Leader Replacement System report for the Temporary Assistance of Needy Families (TANF)
2. Computer-generated Notice of Action.
3. LACDA verification form completed by payment provider.
4. Written statement from payment provider indicating the amount of grant/payment, start date of payments, and anticipated changes in payment in the next 12 months.

**7.7.5 Alimony or Child Support Payments**

**[24 CFR §5.609(b)(7)]**

Acceptable methods of verification include, but are not limited to the following:

1. Computerized official printout of payments made if through a state agency.
2. Copy of latest check and/or payment stubs from Court Trustee. The LACDA must record the date, amount, and number of the check.
3. Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.
4. LACDA verification form completed by payment provider.
5. 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.
6. If payments are irregular, the family must provide at least one of the following:
  - A copy of the separation or settlement agreement or a divorce decree stating the amount and type of support and payment schedules.
  - A statement from the agency responsible for enforcing payments to show that the family has filed for enforcement.
  - A welfare notice of action showing amounts received by the welfare agency for child support.
  - A written statement from the District Attorney's office or other appropriate agency certifying that a collection or enforcement action has been filed.

The County of Los Angeles Child Support Services Department will no longer respond to written or oral third-party verification attempts by the LACDA. [See memo, 2/8/2007]

#### **7.7.6 Net Income from a Business**

##### **[24 CFR §5.609(b)(2)]**

In order to verify the net income from a business, the LACDA will view IRS and financial documents from prior years and use this information to anticipate the income and expenses for the next 12 months.

Acceptable methods of verification include, but are not limited to the following:

1. IRS Form 1040, including:
  - Schedule C (Small Business)
  - Schedule E (Rental Property Income)
  - Schedule F (Farm Income)
2. If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.
3. Audited or unaudited financial statement(s) of the business.
4. Third-party verification forms for each customer/contract indicating the amounts of income received in a specified time period.

Expenses for rent and utilities will not be allowed for operations or businesses based in the subsidized unit, as these expenses are a required family contribution in the Housing Choice Voucher Program and are calculated based upon the family's income.

#### **7.7.7 Child Care Business**

If a family is operating a licensed day care business, income and expenses will be verified as with any other business.

If the family is operating a cash and carry operation (which may or may not be licensed), the LACDA will require that the family complete a form for each customer which indicates: name of person(s) whose child/children is/are being cared for, phone number, number of hours child is being cared for, method of payment (check/cash), amount paid, and signature of person.

If childcare services were terminated, third-party verification will be sent to the parent whose child was receiving childcare.

#### **7.7.8 Recurring Gifts**

##### **[24 CFR §5.609(b)(7)]**

The family must furnish a self-certification containing the following information:

- The person who provides the gifts

- The value of the gifts
- The regularity (dates) of the gifts
- The purpose of the gifts

#### **7.7.9 Zero-Income Status**

Families claiming to have no income may undergo a credit review. The information contained in the credit report will be used to confirm the information provided by the family. The LACDA will utilize records provided by the Department of Public Social Services (DPSS), and may check records of other departments in the jurisdiction that have information about income sources of customers, to confirm information provided by a family claiming to have zero income.

#### **7.7.10 Full-Time Student Status**

##### **[24 CFR §5.609(c)(11)]**

Only the first \$480 of the earned income of full-time students 18 years or older (including those who are temporarily absent), other than head of household, co-head, or spouse, will be counted towards family income.

Verification of full-time student status includes:

1. School records indicating enrollment for sufficient number of credits to be considered a full-time student by the educational institution;
2. A copy of final grades; or
3. Written verification from the registrar's office or other school official.
4. For 18 year-old high school students, verification of enrollment for the current academic year may include, but is not limited to a progress report, an attendance report or an enrollment letter from the school.

Due to administrative cost burden, the LACDA may no longer attempt to verify student enrollment in any educational institution that participates in the National Student Clearinghouse using written third party verification forms or oral third-party verification methods.

### **7.8 INCOME FROM ASSETS**

#### **7.8.1 Savings Account Interest Income and Dividends**

##### **[24 CFR §5.609(b)(3)]**

Acceptable documents for verification include, but are not limited to the following:

1. Account statements, passbooks, certificates of deposit, or LACDA verification forms completed by the financial institution.
2. Broker's statements showing value of stocks or bonds and the earnings credited the family. Earnings can be obtained from current newspaper quotations or oral broker's verification.

3. IRS Form 1099 from the financial institution, provided that the LACDA must adjust the information to project earnings expected for the next 12 months.

### **7.8.2 Interest Income from Mortgages or Similar Arrangements**

#### **[24 CFR §5.609(b)(3)]**

Acceptable documents for verification include, but are not limited to the following:

1. A letter from an accountant, attorney, real estate broker, the buyer, or a financial institution stating interest due for next 12 months. (A copy of the check paid by the buyer to the family is not sufficient unless a breakdown of interest and principal is shown.)
2. Amortization schedule showing interest for the 12 months following the effective date of the certification or re-examination.

### **7.8.3 Net Rental Income from Property Owned by Family**

#### **[24 CFR §5.609(b)(3)]**

Acceptable documents for verification include, but are not limited to the following:

1. IRS Form 1040 with Schedule E (Rental Income).
2. Copies of latest rent receipts, leases, or other documentation of rent amounts.
3. Documentation of allowable operating expenses of the property: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

## **7.9 VERIFICATION OF ASSETS**

### **[24 CFR §982.516(a)(2)(ii)]**

Families must provide the LACDA with acceptable, written third-party documents to verify the value of or income from an asset. A written third-party verification document for an asset is considered current if at the time of receipt the document is:

- A monthly statement not more than 60 days old, or
- The most recent quarterly statement, or
- A savings passbook that has been updated by the financial institution within the last 60 days, or
- The most recent annual statement, or
- The most recent document or statement issued to the family, including but not limited to a closing escrow statement or closing bank statement.

### **7.9.1 Family Assets**

The LACDA will determine the current cash value, (the net amount the family would receive if the asset were converted to cash). Acceptable documents for verification include, but are not limited to the following:

1. Verification forms, letters, or documents from a financial institution or broker.
2. Passbooks, checking account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker.
3. Quotes from a stockbroker or realty agent as to net amount family would receive if they liquidated securities or real estate.
4. Real estate tax statements if the approximate current market value can be deduced from assessment.
5. Software database or internet-based real estate valuation sites to determine the market value of real estate assets.
6. Financial statements for business assets.
7. Copies of closing documents showing the selling price and the distribution of the sales proceeds.
8. Appraisals of personal property held as an investment.
9. Verification forms from a financial institution or broker.

### **7.9.2 Assets Disposed of for Less than Fair Market Value (FMV)**

#### **[24 CFR §5.603(b)(3)]**

This includes assets disposed of during 2 years preceding effective date of certification or re-examination:

1. For all certifications and re-examinations, the LACDA will obtain the family's certification as to whether any member has disposed of assets for less than fair market value during the 2 years preceding the effective date of the certification or re-examination.
2. If the family certifies that they have disposed of assets for less than fair market value, verification [or certification] is required that shows:
  - All assets disposed of for less than FMV;
  - The date they were disposed of;
  - The amount the family received; and
  - The market value of the assets at the time of disposition. Third-party verification will be obtained wherever possible.

## **7.10 VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME**

**[24 CFR §5.611]**

### **7.10.1 Childcare Expenses**

**[24 CFR §5.611(a)(4)]**

Acceptable documents for verification include, but are not limited to the following:

1. Verification documents the family obtained from the childcare provider that specify the child care provider's name, address, telephone number, the names of the children cared for, the number of hours the child care occurs, the rate of pay, and the typical yearly amount paid, including school and vacation periods.
2. Written verification form returned by the person or agency who receives the payments. The written verification form requests the amount charged to the family for their services and whether any of the amounts owed have been or will be paid by sources outside the family.
3. Family's certification as to whether any of those payments have been or will be paid or reimbursed by outside sources.

### **7.10.2 Medical Expenses**

**[24 CFR §5.611(a)(3)]**

Families who claim medical expenses or expenses to assist a person(s) with a disability will be required to submit a certification as to whether or not any expense payments have been, or will be, reimbursed by an outside source.

Acceptable documents for verification include, but are not limited to the following:

1. Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, of
  - The anticipated medical costs to be incurred by the family and regular payments due on medical bills, and
  - Extent to which those expenses will be reimbursed by insurance or a government agency.
2. Written confirmation by the insurance company or employer of health insurance premiums to be paid by the family.
3. Written confirmation from the Social Security Administration's written of Medicare premiums to be paid by the family over the next 12 months. A computer printout will be accepted.
4. For attendant care:
  - A reliable, knowledgeable professional's certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.
  - Attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or



copies of canceled checks the family used to make those payments) or stubs from the agency providing the services.

5. Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next 12 months.
6. Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of the next 12 months.
7. Receipts or other record of medical expenses incurred during the past 12 months that can be used to anticipate future medical expenses. The LACDA may use this approach for general medical expenses such as non-prescription drugs and regular visits to doctors or dentists, but not for one-time, nonrecurring expenses from the previous year.
8. The LACDA will use mileage at the IRS rate, or cab, bus fare, or other public transportation cost for verification of the cost of transportation directly related to medical treatment.

Medical expenses may not be verified through third party verification from Walgreen's Pharmacy [see memo dated 04/16/09].

### **7.10.3 Assistance to Persons with Disabilities**

#### **[24 CFR §5.611(a)(3)(ii)]**

1. The LACDA may require:
  - Written certification from a reliable, knowledgeable professional that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to permit him/her to be employed or to function sufficiently independently to enable another family member to be employed.
  - Family's certification as to whether they receive reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.
2. Attendant Care:
  - If the family pays for any portion of the attendant care expense, the attendant's written certification of amount received from the family, frequency of receipt, and hours of care provided.
  - Certification of family and attendant and/or copies of canceled checks family used to make payments.
3. Auxiliary Apparatus:
  - Receipts for purchases or proof of monthly payments and maintenance expenses for auxiliary apparatus.
  - In the case where the person with disabilities is employed, a statement from the employer that the auxiliary apparatus is necessary for employment.

## **7.11 VERIFYING NON-FINANCIAL FACTORS**

### **[24 CFR §982.551(b)(1)]**

#### **7.11.1 Verification of Legal Identity**

In order to prevent program abuse, the LACDA will require applicants to furnish verification of legal identity for all family members.

The documents listed below will be considered acceptable verification of legal identity for adults. If a document submitted by a family is invalid or otherwise questionable, more than one of these documents may be required.

- Certificate of Birth, naturalization papers
- Church issued baptismal certificate
- Current, valid Driver's license
- U.S. military discharge (DD 214)
- U.S. passport
- Board approved Consulate General identification cards, which are currently Mexico's and Argentina's "Matricula Consular" identification cards
- Company/agency Identification Card
- Department of Motor Vehicles Identification Card
- Hospital records

Documents considered acceptable for the verification of legal identity for minors may be one or more of the following:

- Certificate of Birth
- Adoption papers
- Custody agreement
- Health and Human Services ID

#### **7.11.2 Verification of Marital Status**

- Verification of divorce status will be a certified copy of the divorce decree, signed by a Court Officer.
- Verification of a separation may be a copy of court-ordered maintenance or other records.
- Verification of marriage status is a marriage certificate.

#### **7.11.3 Familial Relationships**

The following verifications may be required if applicable:

- Verification of relationship:
  - Official identification showing names
  - Birth Certificates

- Baptismal certificates
- Verification of guardianship:
  - Court-ordered assignment
- Verification from social services agency
- School records
  - Affidavit of parent
- Evidence of a stable family relationship:
  - Joint bank accounts or other shared financial transactions
  - Leases or other evidence of prior cohabitation
  - Credit reports showing relationship

#### **7.11.4 Verification of Permanent Absence of Adult Member**

If an adult member who was formerly a member of the household is reported permanently absent by the family, the LACDA may require one or more of the following as verification:

1. Husband or wife institutes divorce action.
2. Husband or wife institutes legal separation.
3. Order of protection/restraining order obtained by one family member against another.
4. Proof of another home address, such as utility bills, canceled checks for rent, driver's license, or lease or rental agreement, if available.
5. Statements from other agencies such as social services or a written statement from the owner or manager that the adult family member is no longer living at that location.
6. If the adult family member is incarcerated, a document from the Court or prison should be obtained stating how long they will be incarcerated.
7. A statement by the adult member of the household removing him/herself from the lease and voucher household and providing a forwarding address and effective date of the move.

#### **7.11.5 Verification of Change in Family Composition**

##### **[24 CFR §982.516(c)]**

The LACDA may verify changes in family composition (either reported or unreported) through letters, telephone calls, utility records, inspections, owners, neighbors, credit data, school or DMV records, and other sources.

#### **7.11.6 Verification of Disability**

Verification of disability is receipt of SSI (if under 62 years of age) or SSA disability payments under Section 223 of the Social Security Act or 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7) or

written verification by the appropriate diagnostician such as physician, psychiatrist, psychologist, therapist, rehabilitation specialist, or licensed social worker, using the HUD language as the verification format.

### **7.11.7 Verification of Citizenship/Eligible Immigrant Status**

#### **[24 CFR Part 5, Subpart E]**

To be eligible for assistance, individuals must be U.S. citizens, or non-citizens with eligible immigrant status based on the eligible categories specified by regulations. Individuals who are neither may elect not to contend their status. Each family member must declare their status once. If a family member reports a change to their citizenship status, only that member will be required to declare their updated citizenship status. Assistance cannot be delayed, denied, or terminated while verification of status is pending except that assistance to applicants may be delayed while the LACDA hearing is pending.

1. Citizens or Nationals of the United States: Required to sign a declaration under penalty of perjury [24 CFR §5.508(b)(1)].
2. Eligible Immigrants Age 62 and Over: Required to sign a declaration of eligible immigration status and provide proof of age [24 CFR §5.508(b)(2)].
3. All Other Eligible Immigrants: Required to sign a declaration of status and verification consent form, and to provide an acceptable document of eligible immigration as follows:
  - Resident Alien Card (I-551)
  - Alien Registration Receipt Card (I-151) (With receipt for application of I-551)
  - Foreign Passport with I-551 stamp
  - Arrival-Departure Record (I-94) with no annotation accompanied by:
    - A final court decision granting asylum (if no appeal is taken);
    - A letter from an INS or USCIS asylum officer granting asylum (if application is filed on or after 10/1990) or from and INS 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 of deportation (if application filed on or after 10/1/90).
  - Arrival-Departure Record (I-94) stamped 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 INS (or USCIS)”
- Temporary Resident Card (I-688) annotated “Section 245A” or Section “210”
- Employment Authorization Card (I-688B) annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”
- Employment Authorization Document (I-766) annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”
- Any official revision of the acceptable documents listed above
- Receipt issued by the United States Citizenship and Immigration Service (USCIS) for issuance of replacement of any of the above documents that shows individual’s entitlement has been verified

The document is copied front and back and returned to the family. A birth certificate is not acceptable verification of eligible immigrant status. All documents in connection with U.S. citizenship/eligible immigrant status must be kept 5 years.

Eligible immigrants must have their status verified by USCIS. The LACDA verifies the status through the USCIS SAVE system. If this primary verification fails to verify status, the LACDA must request within 10 calendar days that the USCIS conduct a manual search [24 CFR §5.512(c)].

4. Ineligible Family Members: Family members who do not claim to be citizens or eligible immigrants must be listed on a statement of ineligible family members signed by the head of household, co-head, or spouse [24 CFR §5.508(e)].
5. Non-Citizen Students on Student Visas: Ineligible, even though they are in the country lawfully. They must provide their student visa but their status will not be verified and they do not sign a declaration but are listed on the statement of ineligible members [24 CFR §5.522].
6. VAWA Self-Petitioners (PIH 2017-02)

VAWA Self-Petitioners are those who claim to be victims of “battery and extreme cruelty”. VAWA covers the following types of battery or extreme cruelty: domestic violence, dating violence, sexual assault, and stalking. A VAWA self-petitioner can indicate that they are in “satisfactory immigration” status when applying for housing or continued assistance. “Satisfactory immigration status” means an immigration status which does not make the individual ineligible for financial assistance. Once the LACDA verifies the applicant’s immigration status in the Department of Homeland Security (DHS) SAVE System, the LACDA will make the final determination as to the self-petitioner’s eligibility for assistance.

Not every noncitizen victim who has been subjected to battery or extreme cruelty will qualify under these procedures. To qualify, the noncitizen victim must have been battered or subject to extreme cruelty by their spouse or parent, who is a U.S. citizen or Lawful Permanent Resident (LPR). The LACDA may receive a petition at any time but submissions will most likely

be related to a request for VAWA protections pursuant to 24 CFR 5 Subpart L (e.g. with a request for an emergency transfer or family breakup resulting from domestic violence, dating violence, sexual assault, or stalking; PIH 2016-09).

When the LACDA receives a self-petition (INS Form I-360 or I-130) or INS Form 797, the LACDA is prohibited from requesting any additional information from the VAWA self-petitioner, other than what is required below to complete the verification.

#### VAWA Self-Petitioner Verification Procedure

When the LACDA receives a self-petition or INS Form 797 “Notice of Action”, the HA will initiate verification in the SAVE System as outlined in PIH 2017-02. During the verification process, housing assistance and all other VAWA protections will be granted to the self-petitioner throughout the verification process until a final determination of LPR status is made. If this primary verification fails to verify status, the LACDA must request within ten days that the USCIS conduct a manual search. If the final determination is to deny the VAWA self-petition or LPR petition, the LACDA will alert the petitioner and take the appropriate actions.

**Failure to Provide:** If an applicant or participant family member fails to sign required declarations and consent forms or provide documents, as required, they must be listed as an ineligible member. If the entire family fails to provide and sign as required, the family may be denied or terminated for failure to provide required information [24 CFR §5.508(i)].

**Time of Verification:** For applicants, verification of U.S. citizenship/eligible immigrant status occurs at the same time as verification of other factors of eligibility for final eligibility determination. For family members added after other members have been verified, the verification occurs at the first interim or annual re-examination after the new member moves in. Once verification has been completed for any covered program, it need not be repeated except that, in the case of port-in families, if the initial public housing agency does not supply the documents, the LACDA must conduct the determination [24 CFR §5.508(g)].

**Extensions of Time to Provide Documents:** Extensions must be given for persons who declare their eligible immigration status but need time to obtain the required documents. The length of the extension shall be based on individual circumstances. The LACDA will generally allow up to 30 calendar days to provide the document or a receipt issued by the USCIS for issuance of replacement documents [24 CFR §5.508(h)].

**Determination of Ineligibility:** After the LACDA has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable).

#### **7.11.8 Verification of Social Security Numbers**

##### **[24 CFR §5.216]**

Social Security numbers must be provided as a condition of eligibility for all family members, except for family members who were determined eligible on or before

January 31, 2010 and were at least 62 years old on that date, and family members who are not eligible to obtain a Social Security number. Social Security numbers will be verified through a Social Security card issued by the Social Security Administration. If a family member cannot produce a Social Security card, only the documents listed below may be used for verification. [24 CFR §5.216(g)(1)]:

- A document issued by the Social Security Administration that contains the name and Social Security Number of the individual; or
- A document issued by a Federal, state or local government agency that includes the name, Social Security Number and other identifying information about the individual.

All new family members, except children age 5 and under, who have not been assigned a number, will be required to produce their Social Security card or provide the substitute documentation described above. This information is to be provided at the time the change in family composition is reported to the LACDA and the family member will not be added to the household composition until it is provided [24 CFR §5.216(e)(2)(i)].

A child age 5 or under who has not been assigned a Social Security Number may be added to the household before providing a Social Security number. However, the parent or guardian will be required to sign a form attesting that the child was never issued a Social Security Number. The family must disclose the child's Social Security Number within 90 days of being added to the household composition.

If a participant was never assigned a Social Security Number the individual will be required to sign a form attesting to the fact. The family member will be required to provide proof of the Social Security Number before the current annual reexamination is processed [24 CFR §5.216(e)(2)(ii)].

A 90-day extension may be granted by a LACDA Supervisor if the family was unable to provide the information due to good cause and there is a reasonable likelihood they will be able to provide the information during the extended time period. If the family fails to provide the information within the approved time period, the family's assistance will be terminated. .

If the family fails to provide required documentation of a member's Social Security Number, the family's assistance will be terminated [24 CFR §5.216(g)].

#### **7.11.9 Medical Need for Larger Unit**

A written certification that a larger unit is medically necessary must be obtained from a reliable, knowledgeable medical professional. If the request is a reasonable accommodation for a disabled family member, the following policy will be followed.

#### **7.11.10 Reasonable Accommodation**

In order to verify the necessity for a reasonable accommodation, the LACDA will usually require the disabled individual or a third party acting on their behalf, to return the Reasonable Accommodation Request form, or other written documentation, completed by a qualified professional with direct experience with the individual's disability. Qualified professionals may include, but are not limited to:

- A medical doctor
- A psychiatrist
- A social worker
- Other unlicensed care providers

If the need for the requested accommodation is visibly apparent, the LACDA may grant the request immediately without requiring further verification. If the disabled individual is unable to return a written request due to their disability, the LACDA will work with the individual to ascertain the specific accommodation being requested and whether it conforms to the requirements stated in section 1.9.2.

#### **7.11.11      Secondary Review/Credit Checks**

The LACDA may use credit reports obtained from reliable sources to conduct secondary verifications on a case-by-case basis.

The methodology used to evaluate the information obtained from the credit report in relation to new applicants is outlined in Chapter 4 (Establishing Preferences and Maintaining the Waiting List).

The secondary review includes a comparison between the information contained in the credit report, for each adult household member, and the information provided by the family to the LACDA for eligibility purposes. Specifically, the LACDA reviews the credit report to verify:

**Employment:** If the credit report reveals employment during the subsidized period that was not disclosed to the LACDA, the family will be required to provide documentation that the employment did not occur or provide information regarding the amount of earnings received during the employment period.

If the family contends that the employment was made up for the purposes of obtaining credit or was erroneously placed on the credit report, the family must supply a letter from the employers listed confirming such information. On a case-by-case basis, the LACDA may accept a certified statement from the family.

If the family failed to disclose employment for a period longer than 6 months, the LACDA will propose termination of the family's assistance and seek repayment of any overpayment. On a case-by-case basis the LACDA may counsel the family before proposing termination and seeking repayment of any overpayment.

If the family failed to disclose employment for less than 6 months, the family will be required to attend a counseling interview and re-sign all program documents re-enforcing the family's obligations. The family will also be required to repay any overpayment amount. A second violation of this nature will result in a proposed termination.

**Assets:** The credit report information will be used to verify assets, particularly, large items such as real estate property. If the credit report reveals that the family owns property, the family will be required to provide the appropriate documentation regarding the property.

If all documentation confirms that the family (any family member) owns real estate property that was purposely concealed, the LACDA will propose termination of assistance and seek repayment of any overpayment amount.



**Aliases:** A credit report can provide information on other names that have been used for the purposes of obtaining credit. Common reasons for use of other names include a recent marriage or a divorce. If an alias has not been disclosed to the LACDA, the family will be asked to provide additional evidence of the legal identity of adult family members.

**Current and Previous Addresses:** For a continuously assisted family, it is assumed that the family's primary residence is the assisted address. If the credit report indicates the continuous use of an address, other than that of the assisted unit during the subsidized period, the family will be asked to provide documentation that the assisted address is being used as the family's primary residence. This may include a history of utility bills, bank statements, school enrollment record for children, credit card statements or other relevant documents. Failure to provide adequate proof may result in termination of assistance.

If the family is not using the subsidized unit as their primary residency and/or is subletting the assisted unit, the file will be referred for proposed termination and the LACDA will seek full repayment of any overpayment amount.

**Credit Card and Loan Payments:** A credit report will usually include a list of the family's financial obligations. Examples of the items that may show up include car loans, mortgage loans, student loans and credit card payments. The LACDA will review this information to confirm the income and asset information provided by the family. If the family's current financial obligations (total amount of current monthly payments) exceed the amount of income reported by the family, the LACDA will ask the family to disclose how they are currently meeting their financial obligations. Accounts that have been charged off or significantly delinquent are not included in this calculation. Failure to provide adequate proof of income will result in the file being referred for proposed termination. Additionally, the LACDA will seek full repayment of any overpayment amount.

**Multiple Social Security Numbers:** A credit report may list multiple Social Security numbers if an adult family member has used different Social Security numbers to obtain credit. If the credit report information does not match the information provided by an adult member of the family, the family member will be required to obtain written confirmation of the Social Security number that was issued to him/her from the Social Security Administration.

Whenever a violation results in a proposed termination, the family is entitled to request an informal hearing. Procedures governing the informal hearing process are outlined in Chapter 16 Informal Reviews/Hearings.



## **CHAPTER 8: VOUCHER ISSUANCE AND BRIEFINGS**

### **8.1 INTRODUCTION**

This chapter covers the LACDA's process for issuing vouchers, including the contents of the briefing that is conducted for families receiving a voucher. It also includes policies on the term of the voucher.

### **8.2 ISSUANCE OF HOUSING CHOICE VOUCHERS**

When funding is available, the LACDA will issue vouchers to applicants whose eligibility has been determined.

The number of vouchers issued must ensure that the LACDA stays as close as possible to 100 percent lease-up. The LACDA performs a calculation to determine whether applications can be processed, the number of vouchers that can be issued, and to what extent the LACDA can over-issue.

The LACDA may over-issue vouchers only to the extent necessary to meet leasing goals. All vouchers that are over-issued will be honored, as long as there is funding to support the over-issued vouchers. If the LACDA finds it is over-leased, and a voucher holder has found an approvable unit, the LACDA is under no obligation to the family, to the owner, or to any other person, to approve a tenancy. As the LACDA nears 100 percent lease up, vouchers will be honored in the order they were issued. All voucher holders whose vouchers are not honored due to over-leasing will be placed back on the waiting list.

### **8.3 BRIEFING TYPES AND REQUIRED ATTENDANCE**

#### **8.3.1 Initial Applicant Briefing**

##### **[24 CFR §982.301(a)]**

When the family is initially issued a voucher, the LACDA conducts a briefing session, as required by HUD. The briefing session is mandatory.

Briefing sessions will be conducted in groups or individual meetings.

The LACDA will not issue a voucher to a family unless the household representative has attended a briefing and signed the voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next briefing. Applicants who fail to attend scheduled briefings, without prior notification and approval of the LACDA, may be denied admission based on failure to supply information needed for certification. The LACDA will conduct individual briefings for families with disabilities at their home, upon request by the family, if required for reasonable accommodation.

Families who attend group briefings and still have the need for individual assistance will be referred to the appropriate staff person.

### **8.3.2 Re-Issuance Briefing**

A briefing will be held for participants who will be re-issued vouchers to move. This briefing may include incoming and outgoing portable families. Families failing to attend a scheduled briefing twice will be denied a new voucher based on failure to provide required information.

### **8.3.3 Owner Briefing**

Briefings are held for owners at least annually. Invitations are sent to all owners. Prospective owners are also welcome. The purpose of the briefing is to assure successful owner participation in the program.

## **8.4 INFORMATION PROVIDED AT THE BRIEFING SESSION**

The LACDA's objectives are to assure that families selected to participate are successful in obtaining an acceptable housing unit and that they have sufficient knowledge to derive maximum benefit from the program and to comply with program requirements.

The purpose of the briefing session is to provide information on the LACDA's process for voucher holders who intend to lease a unit. This will enable families to utilize the program to their advantage, and prepare them to discuss it with potential owners and property manager.

When the family is selected to participate, the briefing session includes information as follows.

### **8.4.1 Topics Covered in the Briefing Session**

#### **[24 CFR §982.301(a)]**

The person conducting the briefing will describe how the program works and include information on the following subjects:

- A description of how the program works, including reasonable accommodation policies and procedures;
- Family and owner responsibilities;
- Where a family may lease a unit inside and outside the LACDA's jurisdiction;
- How portability works for families eligible to exercise portability; and
- Advantages of moving to an area that does not have a high concentration of poor families, for families living in high poverty census tracts in the LACDA's jurisdiction.

If the family includes a person with disabilities, the LACDA will ensure compliance with 24 CFR §8.6 to ensure effective communication.

### **8.4.2 Briefing Packet**

#### **[24 CFR §982.301(b)]**

The LACDA provides families with a briefing packet that contains more detailed information about the program. The packet includes forms and information required by HUD, as well as additional resources. The person conducting the briefing session will explain the documents in the briefing packet.

1. Instructions: This explains the term of the voucher, the LACDA's policies on extensions and suspensions, and how families may request tenancy approval.
2. Subsidy Estimation: A worksheet on rent calculations, including a description of the method used to calculate the assistance payment, how the minimum and maximum allowable rent is determined, how the payment standard is determined, and a calculation of the estimated maximum rent to suit the tenant's budget.
3. Utility Allowance Schedule: Utility allowance amounts for rental units, by unit size and utility type, for cities and unincorporated areas within the LACDA's jurisdiction.
4. Information on where the family can lease a unit, including portability procedures, a list of area housing authorities, and a form for participants who are requesting to transfer.
5. Form HUD-52641-A: The HUD-required "tenancy addendum" that must be included in the lease.
6. Request for Tenancy Approval (RTA): Families request LACDA approval of the assisted tenancy with this form. The RTA includes a statement of LACDA policy on providing family information to prospective owners.
7. Subsidy Standards and Requests for Waivers: Explains how the number of bedrooms (unit size) relates to family composition, and when and how exceptions are made in regards to requests for additional bedrooms.
8. A Good Place to Live: HUD's brochure on selecting a unit that complies with HQS.
9. Are You A Victim of Housing Discrimination: HUD's pamphlet on fair housing which contains the complaint form. The LACDA also includes available State and local information on equal opportunity laws.
10. Marketing List of Available Properties: The LACDA provides information for the Los Angeles County Housing Resource Center, which is an internet-based property listing and search service for owners and participants. The LACDA includes an information sheet on how to access the system online.
11. Family Obligations: Families sign to acknowledge program obligations, and consequences including termination of assistance for failure to comply.
12. Informal Hearing Information: Includes procedures and explanations of when participant families have the opportunity for an informal hearing, and how to request a hearing.

The packet may also include the following materials:

- Three Way Partnership: Explains the relationship between owners, participants and the LACDA.

- Protect Your Family From Lead In Your Home: Federal brochure on the hazards of lead-based paint and resources for additional information.
- Searching for a Rental Home: Guidance on finding a unit and submitting a successful rental application.
- Additional Standards for HQS Inspections and inspections process details.
- Owner materials including information on the New Contracts Process and the Benefits of Participation.
- Owner forms including IRS W-9, Letter of Authorization, Authorization Agreement for Direct Deposit, and a sample Lead-Based Paint Disclosure.
- Request for Voucher Extension form
- What You Should Know About EIV: A Federal brochure describing the Enterprise Income Verification (EIV) System, how it is used and from where the information is generated.

## **8.5 ENCOURAGING PARTICIPATION IN AREAS WITHOUT LOW INCOME OR MINORITY CONCENTRATION**

### **[24 CFR §982.301(a)(3)**

At the briefing, families are encouraged to search for housing in non-impacted areas. The LACDA provides assistance to families who wish to do so.

The assistance provided to such families includes:

- Direct contact with owners;
- Counseling with the family;
- Providing information about services in various non-impacted areas;
- Meeting with neighborhood groups to promote understanding;
- Formal or informal discussions with owner groups;
- Formal or informal discussions with social service agencies;
- Meeting with rental referral companies or agencies; and
- Meeting with fair housing groups or agencies.

The LACDA currently utilizes the Los Angeles County Housing Resource Center, an internet-based housing search service. This service, lists rental properties, listed by owners within the LACDA's jurisdiction to ensure greater mobility and housing choice to very low-income households. Each property listed indicates if it is in an area of low-poverty concentration.

The LACDA also maintains a listing of job, education, transportation and other information for cities not impacted by poverty or minority concentration. The cities for which the LACDA maintains this information are:

- Alhambra
- Azusa

- Bellflower
- Covina
- Downey
- Lakewood
- Lawndale
- Lomita
- Paramount
- Santa Fe Springs
- West Covina
- West Hollywood
- Whittier

This information may be obtained at the Section 8 Administrative Office.

## **8.6 SECURITY DEPOSIT REQUIREMENTS**

### **[24 CFR §982.313]**

Security deposits charged by owners may not exceed those charged to unassisted families (nor the maximum prescribed by State or local law.)

For lease-in-place families, responsibility for first and last month's rent is not considered a security deposit issue. In these cases, the owner should settle the issue with the family prior to the beginning of assistance.

## **8.7 TERM OF VOUCHER**

### **[24 CFR §982.301(b)(1)]**

During the briefing session, each family is issued a voucher, which represents a contractual agreement between the LACDA and the family, specifying the rights and responsibilities of each party. It does not constitute admission to the program, which occurs when the lease and contract become effective.

### **8.7.1 Expirations**

#### **[24 CFR §982.303(a)]**

The initial term of the voucher is 60 calendar days from the date of issuance. At the time the family is provided the voucher, the LACDA will automatically approve one 60-day extension. The family must submit a Request for Tenancy Approval and lease within the 120 calendar-day period, unless the family requests an extension and the LACDA grants the extension.

Under a local, state, and/or federally declared disaster, and at the discretion of the Director or designee, the LACDA may grant voucher extensions as necessary without the need for a family's formal request.

If the voucher has expired, and has not been extended by the LACDA or expires after an extension, the family will be denied assistance. The family will not be entitled to a review or hearing. If the family is currently assisted, they may remain as a participant in their unit if there is an assisted lease/contract in effect.

### **8.7.2 Extensions of Voucher Term**

#### **[24 CFR §982.303(b)]**

The LACDA has the authority to grant extensions to vouchers, to specify the length of an extension, and to determine the circumstances under which extensions will be granted. LACDA's discretionary policies related to voucher extensions are below.

LACDA may approve an extension in a 60-day increment not to exceed a maximum voucher term of 180 calendar days. LACDA Supervisors may authorize voucher extensions, in 30 or 60-day increments, up to a maximum term of 365 calendar days.

Extensions beyond 365 calendar days will only be considered as a reasonable accommodation for a person with disabilities. In such cases, the policy and procedure in section 7.11.10 will be followed.

As stated above, under a local, state, and/or federally declared disaster, and at the discretion of the Director or designee, the LACDA may grant voucher extensions as necessary without the need for a family's formal request.

### **8.7.3 Suspension of Voucher Term (Tolling)**

#### **[24 CFR 982.303(c)]**

When a Request for Tenancy Approval is received, the LACDA will not deduct the number of calendar days required to process the request from the term of the voucher.

### **8.7.4 Assistance to Voucher Holders**

#### **[24 CFR §982.301(b)(11)]**

The LACDA has contracted with the Los Angeles County Housing Resources Center (Emphasys) to provide an internet-based property listing and search service for owners and participants. The LACDA includes in the briefing packet an information sheet on how to access the Los Angeles County Housing Resources Center (Emphasys).

## **8.8 VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS**

### **[24 CFR §982.315]**

In those instances when a family assisted under the Housing Choice Voucher Program becomes divided into two otherwise eligible families due to divorce, legal separation, or the division of the family, and the new families cannot agree as to which new family unit should continue to receive the assistance, and there is no determination by a court, the LACDA shall consider the following factors to determine which of the families will continue to be assisted:



1. Which of the two new family units has custody of dependent children.
2. Which family member was the head of household when the voucher was initially issued (listed on the initial application).
3. The composition of the new family units, and which unit contains elderly or disabled members.
4. Whether domestic violence was involved in the breakup.
5. Which family members remain in the unit.
6. Recommendations of social service professionals.

Documentation of these factors will be the responsibility of the requesting parties.

If documentation is not provided, the LACDA will terminate assistance on the basis of failure to provide information necessary to complete the annual re-examination.

Where the breakup of the family also results in a reduction of the size of the voucher, the family will be required to move to a smaller unit if the current owner is unwilling to accept the rent level of the smaller sized certificate.

#### **8.9 REMAINING MEMBER OF FAMILY – RETENTION OF VOUCHER**

To be considered the remaining member of the family, the person must have been previously approved by the LACDA to be living in the unit.

A live-in aide, by definition, is not a member of the family and will not be considered a remaining member of the family.

In order for a minor child to continue to receive assistance as a remaining family member:

1. The court has to have awarded emancipated minor status to the minor, or
2. The LACDA has to have verified that social services and/or the Juvenile Court has arranged for another adult to be brought into the assisted unit to care for the child/children for an indefinite period.

A reduction in family size may require a reduction in the voucher size.

#### **8.10 FAMILY VOLUNTARILY RELINQUISHES HOUSING CHOICE VOUCHER**

The family may voluntarily relinquish their voucher at any time. In such cases, the LACDA will provide the owner of the property with a 30 calendar days' notice indicating that rental assistance will terminate based on the family's request. The family will become fully liable for the contract rent after 30 calendar days.

Generally, the LACDA will not reinstate a family once a request for voluntary termination has been received. However, as a reasonable accommodation, the LACDA will review requests for reinstatements received within 6 months and make a determination on a case-by-case basis.

If a family voluntarily relinquishes their voucher in lieu of facing termination, the LACDA will continue to seek to recover any monies that may be due to the LACDA

as a result of misrepresentation or other breach of program regulations and will report the amount of debt owed to EIV.

## **CHAPTER 9: THE NEW CONTRACT PROCESS - REQUEST FOR TENANCY APPROVAL AND CONTRACT EXECUTION**

### **9.1 INTRODUCTION**

**[24 CFR §982.302 and 24 CFR §982.353(a)(b)]**

After families are issued a voucher, they may search for a unit anywhere within the LACDA's jurisdiction, or outside of the LACDA's jurisdiction if they qualify for portability. The family must find an eligible unit under the program rules, with an owner who is willing to enter into a Housing Assistance Payments (HAP) contract with the LACDA. This chapter defines the types of eligible housing, the LACDA's policies which pertain to lease requirements, owner disapproval, and the processing of Requests for Tenancy Approval (RTA).

### **9.2 REQUEST FOR TENANCY APPROVAL**

**[24 CFR §982.302 and §982.305]**

No RTA for a current participant will be processed unless there is a copy of the lease termination notice for the currently assisted unit in the family's file.

Both the owner and the voucher holder must sign the RTA.

The LACDA will not permit the family to submit more than one RTA at a time.

The RTA will be approved if [24 CFR §982.302(d)]:

1. The unit is an eligible type of housing;
2. The unit passes an inspection (based on HUD's Housing Quality Standards and the LACDA's requirements, detailed in Chapter 10);
3. The rent is reasonable and affordable to the voucher holder;
4. The security deposit amount is approvable;
5. The proposed lease complies with HUD and LACDA requirements, and State and local law;
6. The owner is approvable, and there are no conflicts of interest; and
7. All applicable lead-based paint disclosure requirements have been met. See Section 10.4 (Lead-Based Paint) for additional policies.

#### **9.2.1 Disapproval of RTA**

**[24 CFR §982.302(d); §982.305, and §982.306]**

If the LACDA determines that the RTA cannot be approved for any reason, the owner and the family will be notified in writing. The LACDA will instruct the owner and family of the steps that are necessary to approve the Request.

The owner will be given 5 calendar days to submit an approvable RTA from the date of disapproval unless the reason for the disapproval is the result of multiple failed inspections (three or more failed HQS inspections).

When, for any reason, an RTA is not approved, the LACDA will furnish another RTA form to the family along with the notice of disapproval so that the family can continue to search for eligible housing.

The LACDA will suspend the term of the voucher while the RTA is being processed. Therefore, the length of time allotted to a family for the purpose of locating another unit will be based on the number of days left on the term of the voucher at the time the RTA was submitted to the LACDA [24 CFR §982.303(b)].

### **9.3 ELIGIBLE TYPES OF HOUSING**

#### **[24 CFR §982.352]**

The LACDA will approve the following types of housing in the voucher program:

- Single-family dwellings, including condos and townhouses.
- Manufactured homes where the family leases the mobile home and the pad [24 CFR §982.620(a)(2)].
- Manufactured homes where the family owns the mobile home and leases the pad [24 CFR §982.620(a)(3)].
- Multifamily dwellings (apartment buildings).
- Units owned but not subsidized by the LACDA (HUD-prescribed requirement).

A family can own a rental unit but cannot reside in it while being assisted, except in the cases involving manufactured homes when the family owns the mobile home and leases the pad. A family may lease in and have an interest in a cooperative housing development.

The LACDA may not permit a voucher holder to lease a unit that is receiving project-based Section 8 assistance or any duplicative rental subsidies.

#### **9.3.1 Special Housing Types**

##### **[24 CFR §982 Subpart M]**

A Public Housing Agency may permit a family to use any of the special housing types below. However, the Public Housing Agency is not required to permit families receiving assistance to use these housing types, except that the Public Housing Agency must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability.

In accordance with regulatory discretion, the LACDA will permit families to request tenancy to use any of the special housing types below. However, the housing type requested must meet the definition of the housing type and must pass Housing Quality Standards in accordance to the housing type's standards.

- **Congregate housing** - Housing intended for use by elderly persons or persons with disabilities. It contains a shared central kitchen and dining area and a private living area for the individual household of at least a living room, bedroom and bathroom. Food service for residents must be provided. Elderly persons or persons with disabilities may live in congregate facilities. With PHA

approval a live-in aide may live in the congregate unit with a person with disabilities or an elderly person.

- **Group home** -a state-licensed facility intended for occupancy by elderly persons and/or persons with disabilities. The group home consists of residents' bedrooms, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents. No more than 12 persons may reside in a group home. Elderly persons or persons with disabilities may live in group homes. If approved by the PHA, a live-in aide may live in the group home with a person with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continual medical or nursing care.
- **Shared housing** - a single housing unit occupied by an assisted family and another resident or residents. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family. The family and any HACoLA approved live-in aid may reside in a unit with other persons who are either:
  1. Not assisted under the tenant based program,
  2. .Assisted under the tenant based program (If there are multiple assisted families in the shared unit, there must be separate HAP contracts for each assisted family.),
  3. The owner of the shared housing unit. (While the owner may reside in the shared unit, the owner may not be related to the family by blood or marriage and no assistance may be paid on behalf of the owner.)
- **Cooperative housing (excluding families that are not cooperative members)** – Housing owned by a nonprofit corporation or association, 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. There are no program restrictions on who may occupy a cooperative housing unit.
- **Single Room Occupancy (SRO)** - an SRO unit is a unit that provides living and sleeping space for the exclusive use of the occupant, but requires the occupant to share sanitary and/or food preparation facilities. There is no federal limitation on the number of SRO units in an SRO facility. An SRO unit may not be occupied by more than one person. Program regulations do not place any limit on the number of units in an SRO facility, although the size of a facility may be limited by local laws.
- **Homeownership** (if homeownership program is available)

### **9.3.2 Ineligible Housing Types**

#### **[24 CFR §982.352(a)]**

The LACDA will not approve:

- A unit occupied by the owner or by any person with an interest in the unit, other than manufactured homes described above.

- Nursing homes or other institutions that provide care.
- School dormitories and institutional housing.
- Structures that have not been properly converted. Owners will be required to provide finalized permits for all conversion work when the integrity and/or soundness of a structure is in question.
- Converted garages or other structures not intended to be living areas.
- Any other types of housing prohibited by HUD.

#### **9.4 RESTRICTIONS ON RENTING TO RELATIVES**

##### **[24 CFR §982.306(d)]**

In accordance with HUD policy, the family will not be allowed to rent a unit from an owner (including a principal or other interested party) who is the spouse, parent, child, grandparent, grandchild, and sister or brother of any member of the family. This restriction applies to all new contracts entered into after June 16, 1998.

Exceptions may be made to this policy as a reasonable accommodation for persons with a disability. The LACDA will review all such requests on a case-by-case basis. The family will be required to provide documentation of disability and how the particular unit, owned by the relative, could benefit the disabled person. Owners must provide the current address of their residence (not a Post Office box). If families lease properties owned by relatives, the owner's current address will be compared to the subsidized unit's address.

Owners must provide an Employer Identification Number or Social Security number, and may also be required to provide a copy of their driver's license or other photo identification. In addition, the LACDA may request a copy of the owner's current utility bills and bank statement.

Failure to provide adequate documentation, within the specified time period (2 weeks), will be grounds for denial of such request.

In all cases, the owner of the assisted unit may not reside in the unit with the assisted household at any time during the term of the Housing Assistance Payment (HAP) Contract between the LACDA and the owner.

#### **9.5 LEASE AGREEMENTS**

##### **[24 CFR §982.308 - §982.309]**

The tenant and the owner must enter a written lease for the unit. 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, plus the required HUD Tenancy Addendum, which the LACDA will provide to the owner.

The LACDA will review the lease for compliance with regulations. At minimum, the lease must specify the following information:

- The names of the owner and tenant;
- The address of the unit rented;

- The term of the lease including the initial term and any provisions for renewal;
- The amount of the monthly rent to owner; and
- A specification of which utilities and appliances will be supplied by the owner, and which by the family.

The lease must provide the following are grounds for the owner to terminate tenancy [24 CFR §982.310(c)]:

- Drug- related criminal activity engaged in, on or near the premises by any tenant, household member, or guest, or such activity engaged in on the premises by any other person under the tenant's control. In addition, the lease must provide that the owner may evict a family when the owner determines that a household member is illegally using a drug or when the owner determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.
- Any of the following types of criminal activity by a covered person:
  - Any criminal activity that threatens the health, safety, or 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, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises; or
  - Any violent criminal activity on or near the premises by a tenant, household member, or guest, or any such activity on the premises by any other person under the tenant's control.
- If a tenant is:
  - Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or
  - Violating a condition of probation or parole imposed under Federal or State law.

When needed, the LACDA may require the owner and family to execute a lease rider to include changes to the rent amount, changes to utility responsibilities and/or effective date on the owner's original lease.

### **9.5.1 Separate Agreements**

#### **[24 CFR §982.510(c)]**

Separate agreements are not necessarily prohibited. Families and owners will be advised of the prohibition of illegal side payments for additional rent, or for items normally included in the rent of unassisted families, or for items not shown on the approved lease.

Owners and families may execute separate agreements for services (parking space), appliances (other than range and refrigerator) and other items that are not included in the lease if the agreement is in writing and approved by the LACDA.

Any appliances, services or other items which are routinely provided to unassisted families as part of the lease (such as air conditioning, dishwasher or garage) or are permanently installed in the unit, cannot be put under separate agreement and must be included in the lease. For there to be a separate agreement, the family must have the option of not utilizing the service, appliance or other item.

The LACDA is not liable for unpaid charges for items covered by separate agreements and nonpayment of these agreements cannot be cause for eviction.

If the family and owner have come to a written agreement on the amount of allowable charges for a specific item, so long as those charges are reasonable and not a substitute for higher rent, they will be allowed.

All agreements for special items or services must be attached to the lease approved by the LACDA. If agreements are entered into at a later date, they must be approved by the LACDA and attached to the lease.

## **9.6 INITIAL INSPECTIONS**

See Chapter 10 (Housing Quality Standards and Inspections).

## **9.7 RENT LIMITATIONS**

**[24 CFR §982.508]**

In accordance with HUD regulations, at the time the family initially receives assistance for a new unit, the family's share of the rent for the unit (includes utilities and the rent to the owner) may not exceed more than 40 percent of the family's adjusted monthly income if the gross rent for the unit exceeds the payment standard.

## **9.8 RENT REASONABLENESS**

**[24 CFR §982.507(a)(1)]**

A rent reasonable test will be used to determine if the rent amount request by the owner can be approved. The LACDA's rent reasonableness policy is covered in Chapter 11 (Setting Payment Standards and Determining Rent Reasonableness).

## **9.9 WHEN A NEW CONTRACT IS REQUIRED FOR AN EXISTING TENANCY**

A new tenancy must be approved and a new contract must be executed for an existing tenancy only under the following circumstances:

- If the owner or family request a new lease;
- If there are any changes in lease requirements governing tenant or owner responsibilities for utilities or appliances; or
- If there are changes to provisions governing the terms of the lease.



## **9.10 INFORMATION TO OWNERS**

### **[24 CFR §982.307(b)]**

The LACDA is required to provide prospective owners with the address of the applicant and the names and addresses of the current and previous owner if known. The LACDA will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection. The LACDA will not release any other information regarding the family.

The LACDA will inform owners that it is the responsibility of the owner to determine the suitability of prospective tenants. Owners will be encouraged to screen applicants for rent payment history, eviction history, damage to units, and other factors related to the family's suitability as a tenant [24 CFR §982.307(a)].

Information regarding the LACDA's policy on this subject is included in the briefing packet and as an attachment to the Request for Tenancy Approval. This policy will apply uniformly to all families and owners.

In addition to the information listed above, the LACDA provides owner workshops at least twice a year. At the workshops, current and prospective owners are given an overview of the program and information about any significant program changes. There is also ample time for a question and answer session.

## **9.11 OWNER DISAPPROVAL**

### **[24 CFR §982.306(a) - §982.306(c)(4)]**

For purposes of this section, "owner" includes a principal or other interested party, and to disapprove an owner means to prevent the participation of an owner in LACDA programs.

The LACDA is required to disapprove an owner for the following reasons:

- HUD has informed the LACDA that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR Part 24.
- HUD has informed the LACDA that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending.
- HUD has informed the LACDA that a court or administrative agency has determined that the owner violated the Fair Housing Act or other Federal equal opportunity requirements.
- If the owner is the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of the family.

The LACDA also maintains the discretion to disapprove an owner for the reasons listed below. The LACDA may disapprove an owner for a period of 1 year for the following reasons:

- The owner has violated obligations under a housing assistance payments contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).

- 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 renting units that fail to meet State or local housing codes;
- The owner has not obtained a business license for rental property for the assisted unit, where required by local ordinance; or
- The owner has not paid State or local real estate taxes, fines or assessments.

An owner may be disapproved for a period of up to 5 years for the following reasons:

- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any Federal housing program.
- The owner has a history or practice of failing to terminate tenancy of Section 8-assisted tenants, or tenants assisted under any other federally-assisted housing program, for activity engaged in by the tenant, any member of the household, guest or another person under the control of any member of the household that:
  - Threatens the right to peaceful enjoyment of the premises by other residents;
  - Threatens the health or safety of other residents, of employees of the LACDA, or of owner employees or other persons engaged in management of the housing;
  - 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 commits drug related criminal activity or violent criminal activity.

An owner may be disapproved for a period of up to 10 years for the following reason:

- The owner has engaged in any drug-related criminal activity or any violent criminal activity.

If an owner disagrees with the LACDA's disapproval, the owner may appeal the decision in writing within 10 calendar days from receiving the LACDA's decision. A supervisor will review the appeal and prepare a written decision within 30 calendar days after receiving the request. The decision of the supervisor is final.

## **9.12 CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HAP EFFECTIVE DATE**

When the family reports changes in factors that will affect the Total Tenant Payment (TTP) prior to the effective date of the HAP contract, the information will be verified and the TTP will be recalculated. If the family does not report any change, the LACDA need not obtain new verifications before the HAP contract becomes effective.

If the contract is for a participant move and is processed as an annual reexamination, the family's income and other circumstances will be re-verified.

### **9.13 CONTRACT EXECUTION PROCESS**

#### **[24 CFR §982.305(c)]**

Provided that the unit passes inspection, the LACDA will prepare the HAP contract for execution. The family and the owner will execute the lease agreement, and the owner and the LACDA will execute the HAP contract. Copies of the documents will be furnished to the parties who signed the respective documents.

The LACDA makes every effort to execute the HAP contract before the commencement of the lease term. The HAP contract may not be executed more than 60 calendar days after commencement of the lease term and no payments will be made until the contract is executed.

The following LACDA representatives are authorized to execute a contract on behalf of the LACDA: Housing Assistance Division Director, Assistant Director, Managers, Assistant Managers and Supervisors.

Owners must provide the current address of their residence (not a Post Office box). If families lease properties owned by relatives, the owner's current address will be compared to the subsidized unit's address.

Owners must provide an Employer Identification Number or Social Security number, and may also be required to provide a copy of their driver's license or other photo identification.

#### **9.13.1 Determining the Contract Effective Date**

The effective date and the amount of the rental payment are communicated in writing to both the owner and family.

The lease and the terms of the tenancy are made effective at the LACDA's approval only. The earliest date the LACDA may approve the lease effective date is the date the unit passed HQS inspection.

The HAP contract is drafted after the LACDA approved lease is received and is effective in accordance with the lease effective date.

#### **9.13.2 Prorating First Month's Rent**

When the effective date of a new contract begins on a day other than the first of the month, the LACDA will determine a prorated contract rent amount. For consistency with rental industry standards, prorated amounts will be calculated by using the actual days in the month to establish a daily rate.

#### **9.13.3 Proof of Ownership**

The LACDA will use property profile information obtained from a private vendor to confirm ownership of the assisted unit. If third party information cannot confirm ownership of the unit, the LACDA may also request a recorded deed or closing escrow statement to prove ownership.

Owners may also be required to provide a copy of a business rental license if the assisted unit is in a city where one is required.

Any requested information must be provided prior to execution of the HAP contract. Failure to provide the requested information within a reasonable period of time, generally not more than 30 calendar days, will result in a cancellation of the RTA.

#### **9.13.4 Establishing Eligibility to Execute HAP Contract and Related Documents**

In cases involving multiple owners, the LACDA will accept the signature of a designee on all contracts and related paperwork if all the legal owners have jointly agreed on the person/persons who may act on their behalf.

In cases involving multiple owners, the LACDA requires that all persons who have interest in the property sign or provide a letter of authorization, giving one or more parties the right to sign contracts and other program documents.

In cases involving a partnership or corporation, the LACDA may request the partnership agreement or incorporation documents to determine who is designated to act on the group's behalf. In cases involving a trust, the LACDA may request a copy of the trust in order to verify the names of the trustees.

The LACDA will not execute a HAP Contract until all proper authorization, from all appropriate parties, has been provided. Failure to provide information needed to establish authority to execute the HAP contract within a reasonable time, generally 30 calendar days, may result in a cancellation of the RTA.

Once the LACDA has established proper authorization, the letter of authorization will remain in effect until superseded by another authorization or the HAP contract is terminated. All changes or modification to the instructions provided in the current letter of authorization must be provided in writing.

#### **9.13.5 Payment to the Owner**

##### **[24 CFR §982.311(a)]**

Once the HAP Contract is executed, the LACDA begins processing payments to the owner. Because the LACDA's sole method of payment to owners is direct deposit, new and existing owners must provide the necessary information for enrollment in the LACDA's direct deposit program. Payments will be made via direct deposit by the first of each month. Owners must notify the LACDA of any missing payments as soon as possible. The LACDA will accept report of missing payment both via a telephone call and/or in writing.

### **9.14 CHANGE IN OWNERSHIP**

A change in ownership does not require execution of a new contract.

The LACDA will process a change of ownership only upon the written request of the previous or new owner and only if accompanied by a copy of the escrow statement or other document showing the transfer of title and the Employee Identification Number or Social Security number of the new owner.

In order to complete a change of ownership, the new owner must complete an Assumptions of Obligations and Benefits contract. This form obligates the new owner to the HAP contract. The LACDA will provide this document once a written request for a change is received.

When the assumption contract has been executed, the LACDA will send a copy of it, along with a copy of the original HAP contract and lease, to the new owner.

If a change in ownership occurs due to a foreclosure, the new owner automatically assumes the obligations of the HAP contract. The LACDA will make every attempt to ascertain the identity of the new owner and obtain any documents necessary to release payments to the appropriate party.

New owners are subject to the LACDA's owner disapproval policy as detailed in Section 9.11 of this chapter.



## **CHAPTER 10: HOUSING QUALITY STANDARDS AND INSPECTIONS**

### **10.1 INTRODUCTION**

HUD requires that all units receiving housing assistance meet HUD's Housing Quality Standards (HQS) and permits the LACDA to establish additional requirements. The term "HQS" in this plan refers to the combination of both HUD and the LACDA's discretionary policies. HUD requires that HQS inspections be conducted before the Housing Assistance Payments (HAP) Contract is signed and at least Biennially during the term of the HAP Contract. This chapter explains the different types of inspections, the responsibilities of the owner and family, and the consequences for noncompliance with HQS by the owner and family.

### **10.2 TYPES OF INSPECTIONS**

**[24 CFR §982.405]**

The LACDA conducts the following inspections, which will be explained in greater detail throughout the chapter:

- **New Contracts Inspections:** A unit must pass New Contract (initial) HQS inspection before the LACDA enters into a HAP Contract with the owner.
- **Biennial Inspections:** HUD requires that the LACDA inspect each unit under lease at least biennially to confirm that the unit still meets HQS.
- **Inspections at Other Times as Needed:**
  - **Interim Inspection:** HQS inspection conducted upon request of the owner, family or agency.
  - **Emergency Inspection:** HQS inspection conducted for life-threatening violations.
- **Quality Control Inspection:** The LACDA is required to conduct supervisor quality control HQS inspections.
- **Move-Out Inspection:** For its Moderate Rehabilitation Program, the LACDA may conduct a move-out inspection for contracts effective before October 2, 1995, at an owner's request, if a damage claim is to be submitted (see Section 20.13.4 for details on these inspections).

### **10.3 HOUSING QUALITY STANDARDS (HQS)**

**[24 CFR §982.401]**

HQS is the minimum quality standards set forth by HUD for tenant-based programs. These standards are in place to ensure that assisted housing is decent, safe and sanitary. All program housing must meet the HQS performance requirements both at commencement of assisted occupancy, and throughout the assisted tenancy.

Efforts will be made at all times to encourage owners to provide housing above the HQS minimum standards.

HQS applies to the building and premises, as well as the unit. In order for a unit to pass an HQS inspection, the following standards must be met.

**10.3.1 Unit Space and Size**

**[24 CFR §982.401(d)(2)(i)]**

At minimum, a living room, kitchen area, and bathroom must be located in the unit.

**10.3.2 Living Room / Sleeping Room**

**[24 CFR §982.401(d)(2)(ii)], [24 CFR §982.401(h)(2)(iv)], [24 CFR §982.401(f)]**

- The dwelling unit must have at least one bedroom or living/sleeping room for each two persons. Children of opposite sex, other than very young children, may not be required to occupy the same bedroom or living/sleeping room.
- There must be at least one window in the living room and in each sleeping room. If the window is designed to be openable, the window must open and close properly, and be large enough to provide emergency egress.
- The living room and each bedroom must have at least two electrical outlets in proper operating condition. Permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets.
- Bedrooms must also have a built-in closet or wardrobe, be located within the unit (e.g., no garages), and be private (have a closing door separating it from the rest of the unit). Bedrooms should also be finished in a quality similar to other bedrooms in the home.
- In cases where an owner has modified the rental unit without obtaining the proper city and/or County building permits, the LACDA may rely on the legal property description for the purposes of negotiating the rent and determining how many actual sleeping rooms are in the rental unit.

**10.3.3 Sanitary Facilities (Bathroom)**

**[24 CFR §982.401(b)], [24 CFR §982.401(h)(2)(iii)], [24 CFR §982.401(f)(2)(ii)]**

- The bathroom must be located in a separate private room and contain a working flush toilet.
- Bathroom areas must have one openable window or other adequate exhaust ventilation.
- The unit must have a fixed sink. The bathroom sink may be located separately from other bathroom facilities, but the kitchen sink may not also be used for the bathroom sink.
- The unit must have a shower or tub in proper operating condition, with hot and cold running water. The shower or tub need not be in the same room with other bathroom facilities, but they must be private.
- All walls in a tub or shower area must be covered with ceramic tile or other material that is impervious to water to prevent water damage and deterioration.



- Sinks and commode water lines must have shut off valves, unless faucets are wall-mounted. All sinks in the unit must have functioning stoppers.
- The bathroom must have a permanent ceiling or wall light fixture in proper operating condition.
- All bathrooms in the unit must be in proper operating condition.

#### **10.3.4 Food Preparation (Kitchen)**

##### **[24 CFR §982.401(c)], [24 CFR §982.401(f)(2)(ii)]**

- The dwelling unit must have suitable space and equipment to store, prepare, and serve foods in a sanitary manner (i.e., kitchen).
- The dwelling unit must have an oven, and a stove or range, and a refrigerator of appropriate size for the family. All of the equipment must be in proper operating condition. The stove and oven must be properly hooked up to the gas, with no hazards present. The refrigerator must be able to maintain a temperature sufficient to keep food from spoiling over a reasonable period of time. The equipment may be supplied by either the owner or the family.
- A microwave oven may be substituted for a tenant-supplied oven and stove or range. A microwave oven may be substituted for an owner-supplied oven and stove or range if the tenant agrees and microwave ovens are furnished instead of an oven and stove or range to both subsidized and unsubsidized tenants in the building or premises.
- The kitchen area must have a permanent ceiling or wall light fixture in proper operating condition, and at least one electrical outlet in proper operating condition.
- The dwelling unit must have a permanently attached kitchen sink in proper operating condition, with a sink trap and hot and cold running water. The sink must have a shut off valve, unless faucets are wall-mounted, and must drain into an approvable public or private system. All sinks in the unit must have functioning stoppers.
- There must be facilities and services for the sanitary disposal of food waste and refuse, including temporary storage facilities where necessary (e.g., garbage cans).

#### **10.3.5 Ceilings, Walls, Floors and Building Exterior**

##### **[24 CFR §982.401(g)]**

- The unit must be structurally sound. The structure must not present any threat to the health and safety of the occupants and must protect the occupants from the environment.
- Ceilings, walls, floors and fences must not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling, missing parts, or other serious damage.

- Wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be re-secured and made level. If the boards cannot be leveled, they must be replaced.
- The exterior wall structure and surface must not have any serious defects such as serious leaning, buckling, sagging, large holes, or defects that may result in air infiltration or vermin infestation.
- In areas where plaster or drywall is sagging, severely cracked, bulging or leaning, or has large holes, it must be repaired or replaced.
- The condition and equipment of interior and exterior stairs, halls, porches, walkways, etc., must not present a danger of tripping and falling. For example, broken or missing steps or loose boards are unacceptable. Stairs with four or more steps must have a secure handrail.
- A porch or balcony at least 30 inches or more from the ground must have secure railings.
- The roof must be structurally sound and weather tight and must not have any serious defects, such as buckling or sagging. Gutters, downspouts and soffits must not show signs of serious decay and must not allow entry of significant air or water into the interior of the structure.
- The chimney must not be seriously leaning or showing evidence of significant disintegration.
- Building foundations must not have any severe structural defects that may create a hazardous condition, including allowing significant entry of ground water.

#### **10.3.6 Windows**

##### **[24 CFR §982.401(f)(1)(ii)], [24 CFR §982.401(d)(2)(iii)]**

- All window sashes must be in good condition, solid, intact, and fit properly in the window frame. Damaged or deteriorated sashes must be replaced.
- Windows must be weather-stripped as needed to ensure a weather tight seal.
- Windows must not have missing or broken-out panes, or panes that are dangerously loose or have large cracks.
- 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 system.
- Dwelling unit windows that are accessible from the outside, such as basement, first floor, and fire escape windows, must be lockable (such as window units with sash pins or sash locks, and combination windows with latches).
- Windows that are nailed shut are acceptable only if these windows are not needed for ventilation or as an alternate exit in case of fire.

### **10.3.7 Doors and Unit Access**

**[24 CFR §982.401(d)(2)(iv)], [24 CFR §982.401(k)]**

- All exterior doors must be solid core and weather tight to avoid any air or water infiltration, have no holes, and have all trim intact.
- All interior doors must have no holes, have all trim intact, and be openable without the use of a key.
- All exterior doors must have dead bolt locks.
- The unit must be able to be used and maintained without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire (such as fire stairs or egress through windows).

### **10.3.8 Thermal Environment**

**[24 CFR §982.401(e)]**

There must be a safe system for heating the unit, in proper operating condition. The heating unit must be affixed to the unit and be able to provide adequate heat, either directly or indirectly, to each room. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Electric heaters are acceptable. Portable heaters are not acceptable. Heating equipment also must not pose other unsafe conditions, such as improper flue connection or installation of equipment.

### **10.3.9 Electricity**

**[24 CFR §982.401(f)]**

The unit must not contain any electrical hazards, such as exposed electrical connections; broken, non-insulated or frayed wiring; improper types of wiring, connections or insulation, or wires lying in or near standing water or other hazardous locations.

The improper installation of a three-pronged outlet is considered an electrical hazard. All three-pronged outlets must be properly grounded or protected by a ground fault circuit interrupter (GFCI) outlet. An outlet is considered protected by a GFCI outlet if:

- The outlet is a GFCI outlet; or
- A GFCI outlet is located up stream on the circuit from the ungrounded, three-pronged outlet and will shut off current to the ungrounded outlet in case of a surge in the electrical current; or
- The ungrounded, three-pronged outlet is located on a GFCI circuit.

### **10.3.10 Smoke Detectors/Carbon Monoxide Detectors**

**[24 CFR §982.401(n)]**

#### **Smoke Detectors**

- Each assisted unit must be equipped with at least one properly working battery-operated or hard-wired smoke detector on each level of the unit.

- Whenever possible, smoke detectors should be installed in a hallway adjacent to a bedroom.
- If an assisted unit is occupied by a household with hearing-impaired persons, a permanently installed smoke detector designed for people with hearing-impaired persons must be located in each bedroom that is occupied by a hearing-impaired person.

### **Carbon Monoxide Detectors**

In order to reflect California law (The Carbon Monoxide Poisoning Prevention Act of 2010), the LACDA requires carbon monoxide detectors be installed as follows: Any unit having a fossil fuel burning heater or appliance, fireplace, or an attached garage must have a carbon monoxide detector installed. (A fossil fuel is coal, kerosene, oil, wood, fuel gases, and other petroleum or hydrocarbon products that emit carbon monoxide as a byproduct of combustion)

Placement of the device should be as follows:

- There must be one carbon monoxide detector centrally located outside of each separate sleeping area in the immediate vicinity of the bedrooms, and each detector shall be located on the wall or ceiling. Any other location is only acceptable if specified in the installation instructions that accompany the device. If there are distinctly separate sleeping areas in the unit, there must be a detector for each sleeping area.
- There must be at least one Carbon Monoxide detector on each level of the unit.
- Carbon Monoxide detectors cannot be installed directly above, or next to a fuel burning appliance.
- If the device is a combination carbon monoxide device and smoke detector, then the combined device must emit an alarm or voice warning in a manner that clearly differentiates between a carbon monoxide alarm warning and a smoke detector warning.

Units that do not meet the requirements outlined above will fail the Housing Quality Standards (HQS) inspection, and will be subject to rejection or abatement in accordance with HUD regulations and LACDA policy.

### **10.3.11 Neighborhood and Site Conditions; Sanitation and Environment**

**[24 CFR §982.401(l)], [24 CFR §982.401(m)]**

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

- Adequate covered facilities for the disposal of rubbish must be present at the site, such as covered dumpsters and other covered refuse containers approvable by the local health and sanitation department.
- The unit and its equipment must be in sanitary condition, and free from vermin and rodent infestation.

**10.3.12 Elevators**  
**[24 CFR §982.401 (g)(2)(v)]**

All elevators in a building must be operating safely. The LACDA requires all elevators to have a current permit issued by the State of California. If the permit is expired and the owner can provide documentation from the State of California that the application is being processed, the LACDA will pass the elevator in accordance with Section 7302 of the Labor Code as long as there are no obvious safety concerns present.

**10.3.13 Manufactured Homes/Mobile Homes HQS Requirements**  
**[24 CFR 982.621]**

In addition to meeting all other HQS requirements, a mobile home must meet the following requirements:

- It must be situated on a site that is stable and free from hazards such as sliding or wind damage.
- Must be appropriately anchored by a tie down device that distributes and transfers the load imposed by the unit to appropriate ground anchors to resist wind overturning and sliding. Alternative types of anchors, beams and foundation bolts are permissible if they meet manufacturer's specifications.
- One operable smoke detector is required.

**10.3.14 Additional Housing Quality Standards**  
**[24 CFR §982.401(a)(4)]**

The LACDA is authorized to enhance HQS, provided that by doing so the LACDA does not overly restrict the number of units available for leasing. The enhancements adopted by the LACDA are meant to ensure that assisted units are safe in relation to other units rented throughout Los Angeles County.

In addition to the HQS identified by HUD, all assisted units must also be in compliance with the following items derived from California and Los Angeles County Code, in order to pass an HQS inspection.

- **Double Cylinder Locks:** Double-keyed deadbolts, or any other lock requiring special knowledge or a tool to open, are prohibited in a residential unit. All doors that provide an exit from the residence must be openable from the inside without the need of a key or any other special knowledge, effort or tool.
- **Swimming Pools:** Swimming pools in multifamily structures must be enclosed by a gate from 48 inches to 60 inches tall. The gate must be self-

closing with a self-closing latch and a protected panel must surround the latch.

- **Hot Water Heater:** Water heaters must have a temperature-pressure relief valve and discharge line (directed toward the floor or outside of the living area) as a safeguard against build-up of steam if the water heater malfunctions. Gas or oil-fired water heaters must be vented into a properly installed chimney or flue leading outside. Electric water heaters do not require venting. A gas water heater must have a safety divider or shield if it is located in a bedroom or other living area.

If the water heater is located in a large apartment building (at least 25 units) and the unit is inaccessible, staff must check inconclusive on the inspection report. The item may be cleared if the owner or manager can provide documentation to show it has passed a local inspection.

- **Earthquake Straps for Water Heaters:** Must be secured for seismic stability. All water heaters must be braced, anchored or strapped to prevent falling or movement during an earthquake.
- **Garages:** Garages, whether attached or detached, must be accessible. Garages are not to be used as a living space.

#### **10.3.15 Single Room Occupancy (SRO) HQS Requirements** **[24 CFR §982.605]**

The HQS requirements outline in the above sections apply to SRO housing along with some additional requirements for access, fire safety, sanitary facilities, and space and security. The additional requirements are as follows:

- **Access:** Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit for the building, appropriately marked and leading to a safe and open space at ground level.
- **Fire Safety:** All SRO facilities must have a sprinkler system that protects major spaces. "Major spaces" are defined as hallways and common areas. SROs must also have hard-wired smoke detectors.
- **Sanitary Facilities:** At least one flush toilet that can be used in privacy, a lavatory basin, a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to men, flush urinals may be substituted for up to one half of the required number of toilets.

Sanitary facilities must be reasonable accessible from a common hall or passageway, and may not be located more than one floor above the SRO unit. They may not be located below grade unless the SRO units are located on that level.

- **Space and Security:** A SRO unit must contain at least 110 square feet of floor space, and at least four square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the

closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from the outside the SRO unit must be lockable.

Because no children live in SRO housing, the housing quality standards applicable to lead-based paint do not apply.

### **10.3.16      Serious Deficiencies**

Assisted units must meet all HQS performance requirements in order to pass an inspection. The LACDA has compiled the following list of specific conditions that are considered serious deficiencies that may cause a unit to fail an inspection. This list assists inspectors in making a determination regarding the condition of an assisted unit; however, deficiencies are not limited to this list:

1. No TPR/Drainpipe on water heater
2. Clogged toilets/sinks/wash basins/bathtubs
3. Severely worn or torn floor coverings posing a tripping hazard
4. Evidence of vermin infestation (fleas, roaches, termites, mice, and rats) in and around assisted unit
5. Excessive rubbish or debris in or around the assisted unit
6. Heavy accumulation of brush, weeds or tree branches near or extending over the assisted unit or in the power lines
7. Uneven, broken or lifting exterior walkways or driveways that pose a tripping hazard
8. Missing, loose or broken handrails, guardrails or balusters
9. Lack of windows in living or sleeping rooms
10. Lack of exterior ventilation (window or exhaust fan) in bathroom
11. Flammable or combustible materials stored near water heater or furnace
12. Missing or inoperable security bar release mechanism on bedroom windows
13. Evidence of sewage in or around assisted unit
14. Exterior doors or windows that do not open, close or lock properly
15. Exterior doors or windows that do not close and form a reasonably weather tight seal
16. Inoperable refrigerator or stove/range/oven
17. Hot water heaters not seismically restrained

## **10.4      LEAD-BASED PAINT**

### **[24 CFR §982.401(j)]**

The LACDA's rental assistance programs are subject to the requirements of the Lead-Based Paint Poisoning Prevention Act and the Residential Lead-Based Paint Hazard Reduction Act of 1992. Applicable regulations are detailed in 24 CFR §35.

The LACDA will be responsible for the collection of LBP disclosure information; conducting Visual Assessment inspections; assuring that Clearance Examinations are conducted; collect data regarding Elevated Blood Lead Level (EBLL) cases, and informing owners of their responsibilities.

#### **10.4.1 Disclosure**

##### **[24 CFR §35(Subpart A)]**

Owners of units built before 1978 are required to disclose to lessees all available information about the presence of lead-based paint or lead-based paint hazards and provide any available record or reports pertaining to the presence of lead-based paint or lead-based paint hazards, before the lease is enacted.

Lessees must also receive a copy of the lead hazard information pamphlet, "Protect Your Family From Lead in Your Home."

For all new contracts, the LACDA will require owners to certify on the RTA that they have met all applicable lead-based paint disclosure requirements. If applicable, the LACDA will require owners to submit a copy of the lead-based paint disclosure statement, and any inspection reports.

The LACDA will include a sample lead-based paint disclosure form and a lead hazard information pamphlet in voucher issuance packets for participants. Materials will be made available directly to owners upon request.

For units built before 1978, the LACDA will not approve an owner lease without receiving all applicable lead-based paint disclosure information.

#### **10.4.2 Lead-Based Paint Visual Assessment**

##### **[24 CFR §35.1215]**

The LACDA is required to conduct lead-based paint visual assessments for all units built prior to 1978 that house or will house a child or children under 6 years of age, at the time of the new contract inspection and at re-inspections.

The LACDA inspectors conducting lead-based paint visual assessments will be trained according to HUD requirements.

The purpose of the visual assessment is to identify any deteriorated paint. Deteriorated paint is paint that is peeling, chipping, chalking or cracking, or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate. Inspectors will check the condition of painted surfaces. If any deteriorated paint is found in the course of the inspection, the unit will fail the lead-based paint visual assessment. Owners must perform paint stabilization on all deteriorated paint surfaces regardless of the size of the deteriorated surface. If the amount of deteriorated paint is below the de minimis level, the owner must perform paint stabilization, but is not required to perform lead-safe work practices and clearance. The de minimis thresholds are defined as 20 sq. ft. (2 sq. meters) on exterior surfaces; 2 sq. ft. (0.2 sq. meters) in any one interior room or space; or 10% of the total surface area on an interior or exterior type of component with a small surface area (such as window sills, baseboards, and trim).



If deteriorated paint exceeds the de minimis thresholds as defined by HUD, the unit will fail the lead-based paint visual assessment and require stabilization and a clearance report

#### **10.4.3 Stabilization and Clearance**

##### **[24 CFR §35.1215]**

Owners of units that fail the lead-based paint visual assessment above de minimis levels will be required to stabilize deteriorated paint in order for the unit to pass, using lead-safe work practices.

The LACDA will send a letter to owners of failed units that provides guidance on stabilizing paint and other required activities. Owners will have 30 calendar days from the letter date to complete the following:

- **Repair the deteriorated paint.** Work must be performed by certified lead workers using lead-safe work practices. The LACDA will provide owners with resources and information on meeting these guidelines.
- **Obtain a Clearance Report.** A contractor certified by the Environmental Protection Agency (EPA) must inspect the unit and prepare a Clearance Report summarizing the work completed and the inspection results.
- **Complete the LACDA's Lead-Based Paint Owner Certification form.** The owner must certify that all applicable requirements have been met.
- **Submit Clearance Report and Certification to the LACDA.** The LACDA will accept paperwork by mail, fax, and hand delivery.

The owner is responsible for informing tenants of all lead hazard reduction work and evaluations, in a manner consistent with HUD regulations.

If the unit has been previously certified free of lead-based paint by a certified inspector, the owner may submit a copy of the inspector's report, along with the certification form, to the LACDA.

The LACDA will review the Clearance Report and certification form for completeness. The Clearance Report must contain all information required by HUD. If the Clearance Report passes, the unit will receive a pass on the visual assessment; no further inspection visit is required.

On new contracts inspections, the passing Clearance Report and valid certification form must be received by the LACDA before the LACDA can enter into a HAP Contract with the owner. If this does not take place within 30 calendar days, the LACDA will cancel the RTA.

For biennial inspections, if the owner fails to submit the passing Clearance Report and valid certification form within 30 calendar days, the Housing Assistance Payments (HAP) will be placed on hold (abated) for the unit and the participant will be issued a voucher. The owner will have an additional 60 calendar days to obtain and submit a valid Clearance Report before the HAP Contract is terminated. See Section 10.11.1 for details on abatement.

Assisted Housing's Director will review reasonable cause requests for extension. Extension requests must be submitted in writing within the first 30 calendar days

of the failed lead-based paint visual assessment. An extension shall not extend beyond 90 days after the date of notification to the owner of the results of the visual assessment. If an extension is approved, the HAP will not be abated during this extension period. Reasonable cause circumstances include prohibitive weather conditions, financial hardship, and rehabilitation in progress.

#### **10.4.4 Children with Environmental Intervention Blood Lead Levels**

##### **[24 CFR §35.1225]**

On a quarterly basis, the Division will send the Los Angeles County Department of Health Services Childhood Lead Poisoning Prevention (CLPP) Program the addresses of assisted families with children under the age of 6. CLPP Program staff will check the addresses for matches with cases of identified Environmental Blood Lead Levels (EBLL). If a match is found, CLPP Program staff will conduct an Environmental Investigation of the occupied unit and forward a report to the Division. An Environmental Investigation is a comprehensive evaluation for LBP hazards that goes beyond the Visual Assessment component including paint testing, and dust and soil sampling. The Environmental Investigation Report identifies lead hazards and appropriate lead hazard reduction methods.

A copy of the Environmental Investigation Report must immediately be forwarded to the participating owner once received by the Division. The owner must post a Notice of Lead Hazard Evaluation within 15 calendar days and complete lead hazard reduction and clearance activities as advised in the Report within 30 calendar days.

The LACDA must also conduct a Risk Assessment of other assisted units at the same property that house children under the age of 6, within 30 calendar days of receiving the Environmental Investigation Report, if lead hazards were identified.

The LACDA is not allowed to assist any other participant in the unit until the owner complies with the Report.

If informed about an EBLL case from a source other than the CLPP Program, the Division must submit the information to the CLPP Program within 5 calendar days. The CLPP Program will conduct an Environmental Investigation of the occupied unit if required.

#### **10.5 INSPECTIONS SCHEDULE**

Inspections are conducted on business days between the hours of 7:00 a.m. and 5:00 p.m. An individual over 18 years of age must be present to allow entry for the inspector.

#### **10.6 NEW CONTRACT (INITIAL) INSPECTIONS**

##### **[24 CFR §982.305(b)(2)(i)(B)]**

Under normal circumstances, a new contract (initial) inspection is conducted within 15 calendar days following the receipt of a Request for Tenancy Approval. The new contract inspection is conducted in order to:

1. Determine if the unit, including common areas, meets housing quality standards.
2. Document the current condition of the unit. This will serve as the basis to evaluate the future condition of the unit, i.e. excessive wear and tear.

#### **10.6.1 When HQS Deficiencies Must Be Corrected**

If the unit fails the initial inspection, the unit will be scheduled for a follow-up inspection within 10 calendar days. The owner will be given 30 calendar days to correct the deficiencies. The owner can request an inspection sooner if repairs have been made prior to the scheduled follow-up inspection date.

If the time period given by the LACDA to correct the deficiencies has lapsed, or the maximum of three failed inspections has occurred, the family must select another unit.

The LACDA will not enter into a HAP Contract with the owner until the unit passes the inspection. However, the family may already be in the unit when the new contract inspection is conducted. If the family lives in the unit at the time of the new contract inspection, they are responsible for meeting their HQS obligations. See Section 10.8 for details of the family's HQS obligations.

### **10.7 BIENNIAL AND INTERIM INSPECTIONS**

**[24 CFR §982.405]**

#### **10.7.1 Biennial Inspections**

HUD requires each unit under HAP contract have a biennial Housing Quality Standards inspection no more than 24 months after the most recent initial or biennial inspection.

As permitted by HUD and at the LACDA's discretion, the LACDA may meet its biennial inspection requirement by accepting a comparable passed inspection performed under the HOME Investment Partnership (HOME) program or housing financed using Low Income Housing Tax Credits (LIHTCs), or inspections performed by HUD.

As stated in the family obligations, the family must allow the LACDA to inspect the unit at reasonable times and after reasonable notice. The LACDA will notify the family and/or owner of the date and time of the scheduled inspection appointment in writing at least 15 calendar days prior to the inspection.

Appointments may be rescheduled before the scheduled inspection as long as the new inspection date allows the LACDA to remain in compliance with HUD HQS requirements. Inspections may be rescheduled by phone, fax or email.

If the family misses the inspection appointment and fails to contact the LACDA to reschedule the inspection beforehand, the LACDA will consider the family to be in violation of the Certified Statement of Family Obligation agreement and will initiate termination procedures in accordance with the LACDA's policy for proposed termination. If the family missed the inspection appointment for good cause, including but not limited to, illness, injury, or hospitalization, the LACDA may

consider, on a case by case basis, evidence to support the reason for the missed appointment before proposing termination. If it is the first time the family missed an inspection appointment without good cause, a one-time counseling session will be conducted with the family in lieu of proposing termination.

### **10.7.2 Interim Inspections**

Interim inspections are conducted at the request of the owner, family, or agency (usually as a result of a violation of HQS or violation of the lease). Interim inspections may be scheduled and conducted at any time of the year.

## **10.8 FAILED INSPECTIONS: DETERMINATION OF RESPONSIBILITY**

**[24 CFR §982.404]**

### **10.8.1 Family Responsibilities**

The family is responsible for correcting the following HQS deficiencies:

- Family-paid utilities not in service.
- Failure to provide or maintain appliances owned by the family.
- Damages to the unit or premises caused by a household member or guest beyond normal wear and tear that results in a breach of the HQS.
  - “Normal wear and tear” is defined as items that could be charged against the family’s security deposit under state law or court practice.

### **10.8.2 Owner Responsibilities**

The owner is responsible for all other 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 action constitutes a serious or repeated lease violation the owner may take legal action to evict the family.

## **10.9 FAILED INSPECTIONS: WHEN DEFICIENCIES MUST BE CORRECTED**

**[24 CFR §982.404(a)(b)]**

### **10.9.1 Emergency Fail Deficiencies**

Items that endanger the family’s health or safety are considered emergency fails. These deficiencies must be corrected within 24 hours of inspection. The following deficiencies are considered life-threatening, emergency fails, and will cause a unit to be labeled uninhabitable:

- Gas leaks
- Major plumbing problems
- No running water
- No functioning toilet

➤ Unstable roof/structure

In cases where the unit is deemed uninhabitable, the family will be issued a voucher within 24 hours so that they can make arrangements to secure another residence if necessary.

If an emergency fail deficiency is not corrected in the time period required by the LACDA, and the owner is responsible, the housing assistance payment will be abated immediately and the contract will be terminated.

If repairs are completed and the family wishes to move back into the unit, a new RTA will need to be submitted for that unit and the New Contract Process will need to be completed again.

If the emergency fail deficiency is not corrected in the time period required by the LACDA, and the family is responsible, the LACDA will terminate the family's assistance for violating family obligations (see Chapter 15: Termination of Assistance), but will not abate the payment to owner for that month.

**10.9.2 Non-Emergency Fail Deficiencies**

Biennial or Interim inspections that result in non-emergency deficiencies that cause a unit to fail must be corrected within 30 calendar-days.

Non-emergency deficiencies include, but are not limited to:

- Inoperable gas wall or floor heater
- Damaged (not missing) outlet covers
- Inoperable secondary smoke detectors
- Presence of vermin/roaches (not infestation)
- Minor faucet and/or plumbing leaks

The family and owner will be notified of the failed items and next scheduled inspection in writing. Owner related non-emergency deficiencies will not require a follow-up inspection if cleared by an owner certification and appropriate third-party verification. If the owner opts to submit a certification it must be signed by both owner and participant. Appropriate third-party documentation must also be supplied to support the certification. Types of appropriate verifications include but are not limited to:

- Photo(s) of the repair,
- Utility receipt, and
- Vendor receipt or invoice.

If the certification is not approved by a supervisor, a follow-up inspection must be performed. Non-emergency deficiencies for units under the Project-Based Voucher program may not be cleared remotely. A follow up inspection must be conducted.

If the necessary repairs have been completed prior to the next scheduled inspection and have not been cleared by a certification signed by both owner and participant, the owner or tenant may request an earlier inspection date. Requests for earlier repair dates will be reviewed and accommodated in a case-by-case basis.

For major repairs, the Inspections Unit Supervisor or Manager may approve an extension beyond 30 calendar days. However, the extension granted cannot exceed 60 calendar days.

If owner-caused deficiencies are not corrected in the time period required by the LACDA, housing assistance payments will be abated and the contract may be terminated. If family-caused deficiencies are not corrected in the time period required by the LACDA, housing assistance may be terminated. See Sections 10.10 and 10.11 below for more information.

## **10.10 CONSEQUENCES OF VERIFIED FAMILY-CAUSED DEFICIENCIES**

### **[24 CFR §982.552(a)]**

The family has a responsibility to maintain the assisted unit in good condition and to notify the owner of needed repairs. Under HQS, the family is responsible for correcting any HQS violation listed in section 10.8.1 of this chapter. If non-emergency violations of HQS are determined to be the responsibility of the family, the LACDA will require the family to make any repair(s) or corrections within the 30 calendar-day cycle.

Housing assistance will be terminated if an assisted unit continues to fail housing inspections for family-caused deficiencies or the family fails to keep scheduled appointment(s). See Chapter 16 (Informal Reviews/Hearings) for more information regarding a family's right to an informal hearing under a termination of housing assistance for a breach of the HQS caused by the family.

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.

Extensions will be granted on a case-by-case basis and must be approved by the Unit Supervisor. Extensions may be granted as a reasonable accommodation in accordance with sections 1.9.2 and 7.11.10.

If it has been concluded that all deficiencies are family-caused, the owner's rent will not be abated for such items.

## **10.11 CONSEQUENCES OF VERIFIED OWNER-RELATED DEFICIENCIES**

### **[24 CFR §982.404(a), 24 CFR §982.452 and 24 CFR §982.453]**

The owner is responsible for maintaining the unit in accordance with HQS. When it has been determined that an assisted unit fails to meet HQS, the owner of that unit is responsible for completing the necessary repair(s) in the time period specified by the LACDA. If the owner fails to correct deficiencies within the specified time period, the LACDA is obligated to withhold (abate) housing assistance payments.

#### **10.11.1 Abatement**

##### **[24 CFR §982.453(b) and 24 CFR §982.404(a)(3)]**

Abatement is defined as withholding Housing Assistance Payments (HAP) to the owner for the period of time the unit is out of compliance with HQS requirements.

HAP will be abated if:

**1. The assisted unit fails the first and second housing inspections due to owner-related deficiencies.**

If a unit fails the first inspection due to owner-related deficiencies, the notice sent to the owner stating the deficiencies, repairs that need to be made, and the date of the next inspection will also serve as notice that HAP will be abated if the unit fails a second inspection due to owner-related deficiencies.

If, after the 30-day correction period, the unit then fails the second inspection due to owner-related deficiencies, the LACDA will stop payment on the first day of the month following the expiration of the 30-day correction period.

The owner will be notified of the date of a final inspection. Under normal circumstances, the LACDA will inspect an abated unit within 30 calendar days after the abatement notification has been issued.

If the owner makes repairs during the abatement period, HAP payments will resume on the day the LACDA's inspector has verified the corrections and the unit passes inspection.

A standard calculation using the actual days in the month to establish a daily rate will be used to reconcile abatement payments. No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS. The notice of abatement states that the family is not responsible for the LACDA's portion of rent that is abated. However, the family is responsible to pay its portion of the rent while abatement is in effect.

If an assisted unit fails the third and final housing inspection for owner-caused deficiencies, the LACDA will terminate the HAP Contract. The LACDA will notify the owner of the termination in writing 30 calendar days before it becomes effective. Abatement will remain in effect until the effective date of the termination.

The LACDA is prohibited from implementing rent abatement for family-caused deficiencies. However, abatement will apply if family-caused and owner-related deficiencies exist together.

**2. The LACDA has verified that the assisted unit has emergency fail deficiencies, and the owner did not complete the necessary repairs within the required timeframe.**

- 3. A unit built before 1978 that houses or will house a child under 6 years of age fails the lead-based paint visual assessment, and the owner fails to submit a complete, passing clearance report and certification within 30 calendar days.** If a unit fails the lead-based paint visual assessment, the owner will have 30 calendar days from the date of the notice to perform clearance and submit passing paperwork. If the owner fails to meet these requirements (see Section 10.4 for more information on lead-based paint), HAP will be abated and the LACDA will stop payment on the first day of the month following. The participant will be issued a voucher. The owner will have an additional 60 calendar days to obtain and submit a valid Clearance Report before the HAP Contract is terminated.

Families that reside in units that have been abated will be issued a voucher and will have the option to move even if the assisted unit passes inspection at the third and final inspection (this excludes participants of the Moderate Rehabilitation Program).

**10.11.2 Termination of Contract**

**[24 CFR §982.453(b)]**

When the HAP Contract has been terminated, the family will be required to move in order to continue receiving rental assistance.

RTA submitted for units that have been terminated due to abatement will be reviewed on a case-by-case basis. In cases where the RTA is accepted, the family will be brought in for counseling on their situation.

**10.12 QUALITY CONTROL INSPECTIONS**

**[24 CFR §982.405(b)]**

To ensure efficient program operations, it is essential for management to apply sound quality control practices. The purpose of quality control inspections is to objectively ascertain that each inspector is conducting accurate and complete inspections, and to ensure that there is consistency among inspectors in application of HQS.

Quality control inspections will be performed by a Quality Assurance Representative according to SEMAP Indicator #5 which meets the minimum quality control sample size for the number of units under HAP contract during the last completed LACDA fiscal year for SEMAP.



## **CHAPTER 11: SETTING PAYMENT STANDARDS AND DETERMINING RENT REASONABLENESS**

### **11.1 INTRODUCTION**

#### **[24 CFR §982.503]**

The LACDA is responsible for ensuring that the rents charged by owners are reasonable based upon objective comparables in the rental market. When the LACDA has determined that the unit meets the minimum HQS, that the lease is approvable, and that the rent is reasonable, it will make timely payments to the owner and notify the owner of the procedures for rent adjustments in the rental assistance programs. This chapter explains the LACDA's procedures for setting and adjusting the payment standards and performing rent reasonableness analysis.

### **11.2 PAYMENT STANDARDS FOR THE VOUCHER PROGRAM**

#### **[24 CFR §982.503(b)(1)]**

HUD regulations allow the LACDA to set Payment Standards at a level that is between 90 percent and 110 percent of the Fair Market Rent for Los Angeles County. The LACDA must revise the payment standard amount no later than 3 months following the effective date of the published FMR if a change is necessary to stay within the basic range. The LACDA must set the payment standard at a level that is high enough to ensure that families are able to afford quality housing while also balancing the need to provide assistance to as many families on the waiting list as possible.

The LACDA will review the payment standards at least annually to determine whether an adjustment should be made for some or all unit sizes. The following provides a list of the factors that will be used to evaluate the adequacy of the payment standard and/or be used to make a determination to adjust standards, as appropriate.

As a reasonable accommodation, a family may request a higher payment standard. The LACDA may, at its discretion and in accordance with sections 1.9.5, approve a higher payment standard to 120% of the prevailing Fair Market Rent (FMR).

#### **11.2.1 Assisted Families' Rent Burdens**

The LACDA will review reports showing the percent of income used for rent by voucher families to determine the extent to which the rent burden is more than 50 percent of income.

If more than 40 percent of program families in the overall program, or for a specific unit size, are contributing in excess of 50 percent of their adjusted monthly income towards rent, the LACDA will consider increasing the voucher payment standards. The payment standard will not be raised if:

- The payment is already at the maximum level HUD will allow (110%).

- The LACDA would have to reduce the number of new admissions by 20 percent or more for the upcoming year in order to fund the increase.

#### **11.2.2 Success Rate of Voucher Holders**

The LACDA will periodically review the success rate of voucher holders. If 25 percent or more of new admissions and/or families wishing to move are unable to use the vouchers due to current rental rates in Los Angeles County, the LACDA will consider increasing the payment standard for particular unit sizes and/or the entire program, as appropriate.

The payment standard will not be increased if:

- The payment is already at the maximum HUD will allow (110%)
- The LACDA would have to reduce the number of new admissions by 20 percent or more for the upcoming year in order to fund the increase

#### **11.2.3 Rent Reasonableness Database**

The LACDA will review the rent information in the rent reasonableness data bank and compare it to the payment standards established for the Housing Choice Voucher Program. If the rent reasonableness review indicated that the payment standards are higher than the average rental unit in Los Angeles County, the payment standard for the specific unit size, or all payment standards, will be lowered to reflect the current market rents.

#### **11.2.4 Quality of Units Selected**

The LACDA will review the quality of units selected by participant families before determining any change to the Payment Standard to ensure that Payment Standard increases are only made when needed to reach the mid-range of the market.

#### **11.2.5 File Documentation**

A file will be retained in the LACDA's Administrative Support Unit for at least 3 years to document the analysis and findings to justify whether or not the Payment Standard was changed.

### **11.3 RENT REASONABLENESS DETERMINATIONS**

#### **[24 CFR §982.507]**

The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit that is rented with Section 8 subsidized rental assistance.

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 requires that owner not charge more for assisted units than for comparable units on the premises. By accepting the LACDA 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 provide the LACDA information regarding rents charged for other units on the premises.

As required by HUD, the LACDA will obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements §982.352(b).

This section provides the methods LACDA uses to determine a unit's rent is reasonable.

#### **11.4 WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED**

##### **11.4.1 LACDA and HUD initiated Rent Reasonableness Determinations**

HUD requires LACDA make a redeterminations of rent at the HAP contract anniversary if there is a 10 percent decrease in the published fair market rent (FMR) in effect 60 days before the HAP contract anniversary. The LACDA may also re-determine reasonable rents at any time.

##### **11.4.2 Owner Initiated Rent Determinations**

The LACDA must make a rent reasonableness determination at initial occupancy. At initial occupancy, the LACDA must determine the proposed rent reasonable before executing a HAP contract. Subsequent requests must be in accordance with the lease between the owner and the family. Subsequent requests must also be in accordance with HUD requirements and the LACDA policy.

As stated in the HUD Tenancy Addendum, the owner must notify the LACDA at least 60-days before the proposed effective date of the intended rent increase. The tenant must be notified in writing, at least 60-days before the proposed effective date of the intended rent increase. In accordance with the HUD Tenancy Addendum, the LACDA will disapprove requests made during the initial term of a lease. Requests can be made any time after the initial term of the lease.

As authorized by the HAP contract, the LACDA will not approve a rent increase if the HAP contract is in abatement for owner-related HQS deficiencies.

The LACDA will use the same criteria defined in this rent reasonableness determinations and methodology section to ensure a request for a rent increase meets HUD's rent comparability requirement. If the asking rent is determined not be reasonable, the LACDA will advise both the owner and the family that the increase cannot be approved. If a partial rent increase can be approved, the LACDA will notify the owner, and process the partial increase upon owner approval. Additionally, the rent will be reduced if the existing rent exceeds the reasonable rent as most recently determined in accordance with section 11.3 of this Plan.

Rent adjustments will be effective the first of the month following 60-days of LACDA's receipt of a copy of the owner's request or on the date specified by the owner, whichever is later.

#### **11.4.3 Rent Determination for units with Low Income Housing Tax Credits (LIHTC) or HOME-funded subsidies**

When the proposed rent for a LIHTC or HOME unit is equal to or less than the rent for similarly assisted units in the same building, not occupied by voucher holders, the proposed rent will be deemed reasonable.

The LACDA will not approve rents in LIHTC-funded or HOME-funded units that exceed the higher of the voucher payment standard, as set by the LACDA, or the rent for similarly assisted units in the same building, not occupied by voucher holders.

#### **11.4.4 RENT REDUCTIONS**

At any time, the owner may request a reduction of the contract rent by submitting a written notice to the LACDA. The notice must state the requested contract rent amount and the effective date of the reduction.

Retroactive reductions will only be considered if the owner is mandated to reduce the contract rent in order to become compliant with the obligations of any other rental assistance programs such as the HOME program or the Low Income Housing Tax Credit (LIHTC) program. In such cases, the owner must provide a copy of the notice requiring a retroactive reduction of the contract rent.

### **11.5 METHODOLOGY USED FOR ESTABLISHING UNIT COMPARABILITY**

The LACDA contracts with an outside agency to provide a Rent Comparable System. The system considers a variety of criteria to provide rent comparable information, including:

- Unit Location
- Quality
- Size
- Type
- Age of the contract unit
- Amenities
- Housing services
- Maintenance; and
- Utilities provided by the landlord.

The rent comparable system gathers open market rental data on an ongoing basis from websites and newspapers and applies a hedonic price analysis to compare a subject unit with similar comparable units in a geographic area. Comparable units represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions are not considered comparable units.

## **CHAPTER 12: RE-EXAMINATION**

### **12.1 INTRODUCTION** **[24 CFR §982.516(a)]**

To assure that tenancy is restricted to participants meeting the eligibility requirements for continued occupancy and are charged appropriate rents; the eligibility status of each participant is re-examined at least annually, based on the anniversary date, per HUD requirements. The initial contract establishes the anniversary date for all new admissions. For continuing participants, the anniversary date established as of November 1, 2010 will remain unchanged.

The effective date of an annual reexamination may be no more than twelve months from the effective date of the previous year's annual reexamination, or the anniversary date of the HAP contract if within the first year of the contract.

#### **12.1.1 Procedure**

To maintain program efficiency and integrity, the LACDA at its own discretion may conduct re-examination interviews by mail or in-person. The LACDA will attempt to conduct all annual re-examinations interviews through the mail or via the portal. Annual re-examinations not completed through the mail or via the portal, will be conducted in person.

### **12.2 RE-EXAMINATION NOTIFICATION TO THE FAMILY**

Participating families are advised of the annual re-examination requirement and the importance of reporting income and family composition changes as they occur during the initial re-examination.

#### **12.2.1 Persons with Disabilities** **[24 CFR §8.24(a)]**

Persons with disabilities who are unable to come in to the LACDA's office will be granted a reasonable accommodation of conducting the interview at the person's home or by mail, upon verification that the accommodation requested meets the need presented by the disability.

#### **12.2.2 Requirements to Attend**

If it is determined that a participant (family) will need to come to the LACDA's office then all adult household members 18 years and older will be required to attend the re-examination interview.

#### **12.2.3 Failure to Respond**

If a family fails to complete or return the required re-examination documents within the specified timeframe, the LACDA will schedule the family for a mandatory appointment. The appointment letter will provide the date and time of the appointment and a list of items that family will need to bring.

If the family fails to attend the appointment or fails to bring all the required information, the LACDA may proceed to propose termination of the family's assistance.

If the family is able to provide documentation of an emergency situation that prevented them from completing the required re-examination documents or attending the mandatory appointment, the Unit Supervisor at his/her own discretion may, on a case-by-case basis reschedule the appointment. The LACDA may also grant an exception to this policy as a reasonable accommodation.

#### **12.2.4 Documents Required from the Family**

The re-examination documents will include instructions and appropriate forms that need to be submitted to complete the re-examination. The required forms and documentation are the following:

1. Documentation of income for all family members;
2. Documentation of assets;
3. Documentation of medical or child care expenses;
4. Certified statement of family obligations;
5. Consent for Release of Information (signed by all household members over 18 years of age); and

Verification of these documents will be conducted in accordance with LACDA procedures and guidelines described in this plan.

#### **12.2.5 Effective Dates**

If the tenant rent increases, a 30-day notice of increase in rent is sent to the family before the anniversary date.

If less than 30 calendar days are remaining before the anniversary date, the new tenant rent will be effective on the first of the month following the 30-day notice, but the reexamination will be effective no more than 12 months from the effective date of the last annual reexamination. If the LACDA was unable to process the re-examination on a timely basis due to the family's failure to provide re-examination documents, then the rent increase will be effective retroactive to the appropriate anniversary date.

If the family causes a delay in the re-examination processing, there will be a retroactive increase in rent to the anniversary date. In this particular case, the owner will receive a retroactive HAP payment and every effort will be made to recover lost rent from the tenant.

### **12.3 INTERIM RE-EXAMINATION** **[24 CFR §982.516(c)]**

Interim Reexaminations can be scheduled when the LACDA has reason to believe that changes in income or expenses have occurred, or when the family reports a change. When a family reports a change, the LACDA may take different actions depending on

whether the family reported the change voluntarily, or because the family was required to do so.

### **12.3.1 LACDA-Initiated Reexaminations**

LACDA-initiated interim reexaminations are those that are scheduled by the LACDA based on the following circumstances.

- If at the time of the Annual Reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the LACDA will schedule a reexamination on a quarterly basis until it is feasible to project income.
- If at any time, the family is legitimately determined to be a zero-income family, the LACDA will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income. The head-of household and each adult family member will be required to submit a completed Household Expense Report to document expenses for the prior 3-month period. The family may be required to undergo a credit report review and attend an in-person interview.
- 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, the LACDA will conduct an interim reexamination.
- For Families receiving the Earned Income Disallowance (EID), the LACDA will conduct an interim reexamination at the start and conclusion of the second 12 month exclusion period (50 percent phase-in period).
- The LACDA may conduct an interim reexamination at any time to correct an error in a previous reexamination, or to investigate tenant fraud.

Families whose past employment has been sporadic, or that are on welfare, become employed then subsequently unemployed, or are self-employed, will not be scheduled for a LACDA-initiated reexamination. If such an income pattern has been established and is expected to continue, then a reasonable 12-month estimate of the income may be based on past income and present rate.

### **12.3.1 12.3.2 Family-Initiated Interim Reexaminations**

24 CFR 982.516(b)(2) and 24 CFR 982.516(c)

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. In addition, the LACDA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses

#### **➤ Required Reporting**

[24 CFR 982.516(b)(2)]

Families are required to report all changes in earned and unearned income, assets, expenses, full-time student status, and family circumstances within 10 calendar days of the date the change takes effect.

Families will be required to pay back overpayments of rental assistance resulting from failure to report a change in income or family composition.

If a family reports a decrease in income from the loss of welfare benefits due to fraud or noncompliance 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].

### **12.3.3 Processing the Family-Initiated Interim Reexamination**

#### ➤ **Standard for Reporting**

The LACDA requires that families report interim changes by completing an Interim Reexamination Request form within 10 days of when the change occurs. The family will be required to submit the Interim Reexamination Request form along with supporting documentation for the change.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the LACDA determines that an in-person interview is warranted, the family may be required to attend. Based on the type of change reported, the LACDA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 15 calendar days of the request. This time frame may be extended for good cause with LACDA approval. The LACDA will accept required documentation by mail, fax, email, through the tenant portal, or in person.

When income is calculated using anticipated annual average income, the LACDA may determine that the interim change is not necessary. The family will be sent a notice acknowledging the interim request and will be informed that no change is necessary. A downward change will not be made if it is determined that the change is temporary (less than 30-consecutive days).

Any changes that are reported as part of or concurrent with the timing of an annual recertification process will be made effective with the annual reexamination.

#### ➤ **Effective Dates**

If the family share of the rent is to *increase*:

The increase generally will be effective on the first of the month following 30-days' notice to the family, if the change was reported within the required time frames.

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. In this case, the LACDA will not provide 30-days' notice to the family. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with policies in Chapter 17 Owner and Family Debts to the LACDA.



If the family share of rent is to *decrease*:

The decrease will be effective on the first day of the month following the month the change was reported and all documents are received and verified.

If the family is responsible, in whole or in part, for any delay in obtaining documentation, the decrease will apply on the first of the month after all verification of income has been obtained.

Documents requested by the LACDA in support of a decrease must be submitted within 15 calendar days of the request. The LACDA may grant an extension for circumstances beyond the control of the family. However, if the family is not responsive to a request for documentation, the LACDA will consider the family nonresponsive if more than 15 calendar days have elapsed since the deadline for the information and the family has not had any communication with the LACDA. In such cases, the family will be advised that the LACDA is not processing the decrease and must start the process over again if they wish to receive the decrease.

## **12.4 CHANGES IN FAMILY COMPOSITION** **[24 CFR §982.516(d) and 24 CFR §982.551(h)(2)]**

The composition of the assisted family residing in the unit must be approved by the LACDA. An interim re-examination will be conducted for any changes in family composition.

The LACDA may verify changes in family composition as detailed in Section 7.11.5.

### **12.4.1 Allowable Family Additions** **[24 CFR §982.551(h)(2)]**

Allowable family additions are the following:

1. Addition due to birth, adoption or court awarded custody.
  - Must be reported to the LACDA, in writing, within 10 calendar days of the occurrence. Families should notify the owner and comply with any lease requirements to obtain owner approval.
2. Other allowable persons:
  - Addition of a foster child or foster adult that is in the legal guardianship or custody of the state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own home, under some kind of short-term or long-term foster care arrangement with the custodial agency. The custodial agency, such as the Department of Children and Family Services (DCFS) or the Department of Public and Social Services (DPSS), must have previously approved the addition.
  - Addition of marriage/or marital type relation (i.e., couples that certify that they intend to live in the same principal residence indefinitely and/ or register in California as domestic partners);

- Addition of a minor who is a child of the head of household, co-head, spouse or marital-type partner, who have been living elsewhere; and
- Addition of a LACDA-approved live-in aide;
- Addition of an adult child due to recent discharge from the military.
- Addition of a disabled adult who requires disability-related care.

The family must request approval from the owner and the LACDA before the person is added. Anyone who moves into the unit without written owner and LACDA approval is considered an unauthorized person.

As part of the approval process, the LACDA conducts a criminal background check, and may also conduct a credit review, on all new potential family members, 18 years of age and older. Criminal records will only be used to screen new household members. They will not be used for lease enforcement or eviction of residents already receiving tenant-based rental assistance.

If an approved change requires a larger size unit due to overcrowding, the change in voucher size will be made effective immediately (see Chapter 5). The LACDA will determine the assistance, based on funding availability.

#### **12.4.2 Decreases in Family Size**

When a family member leaves the household, the absence must be reported to the LACDA, in writing, within 10 calendar days of the occurrence, as detailed in Section 6.8.9 (Reporting Absences to the LACDA). The change in family composition may impact the voucher size, as explained in Chapter 5 (Subsidy Standards).

If a decrease in family size results in a decrease of the voucher size, the LACDA will downsize the family's voucher to the appropriate size at the family's next annual review following the reduction in household size.

The LACDA may make an exception as a reasonable accommodation for a person with a disability.

### **12.5 CONTINUATION OF ASSISTANCE FOR "MIXED" FAMILIES** **[24 CFR §5.504(b)]**

Families that include at least one citizen or eligible immigrant, and any number of ineligible members, are considered "mixed" families.

"Mixed" families that were participants on or before June 19, 1995, shall continue full assistance if they meet the following criteria:

1. The head of household, co-head, or spouse is a U.S. citizen or has eligible immigrant status, **and**
2. All members of the family other than head, co-head, spouse, parents of head, parents of co-head, parents of spouse, children of head, co-head, or spouse are citizens or eligible immigrants. The family may change the head of household designation to another adult member of the family to qualify under this provision.

If they do not qualify for continued assistance, the member(s) that cause the family to be ineligible for continued assistance may move, or the family may choose prorated assistance.



## **CHAPTER 13: ALLOWABLE MOVES/PORTABILITY**

### **13.1 INTRODUCTION**

This chapter defines the procedures, restrictions and limitations for moving, for new applicants and current participants.

As stated in HUD regulations, eligible families participating in the Housing Choice Voucher Program have the right to receive tenant-based voucher assistance anywhere in the United States, in the jurisdiction of a public housing agency (PHA) administering a Housing Choice Voucher program. This program feature is called “portability.” This chapter includes the LACDA’s procedures for new applicants and current participants that “port out” of the LACDA’s jurisdiction.

Additionally, this chapter specifies the LACDA’s policies for receiving “incoming ports” from other public housing agencies.

The option of portability does not apply to families assisted under the Moderate Rehabilitation Program or the Continuum of Care (CoC) Program.

### **13.2 ALLOWABLE MOVES AND RESTRICTIONS**

#### **13.2.1 Restrictions on Moves**

The LACDA may deny families permission to move if:

- There is insufficient funding for continued assistance;
- The family has violated a family obligation;
- The family is in the initial term of the lease (see 13.2.4 for exceptions);
- The family has already moved within the one-year period;
- The family owes money to this LACDA or another PHA. See Section 17.2 (Repayment Agreements for Families) for more information on allowable moves for families with repayment agreements; or
- There is insufficient funding to support a move with continued assistance.

In the event of insufficient funding, the LACDA may only deny a move to a higher cost area if the LACDA would not be unable to avoid termination of housing choice voucher assistance for current participants during the calendar year in order to remain within budgetary allocation (including any available HAP reserve). If the receiving PHA is willing to absorb the voucher, the LACDA may not deny the move to the higher cost area due to insufficient funding.

#### **13.2.2 Allowable Moves for New Applicants** **[24 CFR §982.353]**

A family who lives and/or works in the LACDA’s jurisdiction at the time they are admitted to the Housing Choice Voucher Program may choose, as their initial housing:

- To remain in their current unit (this is referred to as leasing-in-place);
- A unit anywhere within this LACDA's jurisdiction; or
- A unit outside of this LACDA's jurisdiction. For more information, see the Outgoing Portability section of this chapter.

If neither the head of household or spouse already had a "domicile" (legal residence) in the LACDA's jurisdiction at the time when the family first submitted an application for participation in the program, the family does not have any right to portability until they have leased up with rental assistance and have resided within the jurisdiction for at least 12 months [24 CFR §982.353(c)].

- Mainstream voucher applicants are not subject to the requirement above and are permitted to lease a unit outside LACDA's jurisdiction.
- Under limited conditions, the LACDA may waive this requirement. Examples of situations that may warrant an exception to this rule include life-threatening situations or as a reasonable accommodation. However, in all cases both the LACDA and the receiving jurisdiction must agree to allow the move. If the receiving public housing agency does not agree, the LACDA will not approve a transfer [24 CFR §982.353(c)(3)].

### **13.2.3 Allowable Moves for Current Participants**

#### **[24 CFR §982.354]**

A family that initially receives assistance for a unit leased in LACDA's jurisdiction may request to move to another unit and receive continued assistance. Families in good standing may move with continued assistance if:

1. The assisted lease for the old unit has ended because the LACDA has terminated the HAP contract for owner breach [24 CFR §982.314(b)(1)(i)];
2. The lease was terminated by mutual agreement of the owner and the family [24 CFR §982.314(b)(1)(ii)]. The LACDA must receive a copy of this notice. The LACDA will not approve the mutual lease termination during the first year of the lease;
3. The owner has given the family a notice to vacate for reasons other than a lease violation [24 CFR §982.314(b)(2)]. The LACDA must receive a copy of this notice; or
4. The family has given proper written notice of lease termination after the initial lease term and in accordance with State law. This generally requires a 30-day notice. The LACDA must receive a copy of this notice.

A family is considered to be in good standing if they have not violated the terms of the lease, any program regulations and do not owe any money to this LACDA or another public housing agency.

Families that are eligible to move with continued assistance may choose to move to a unit that is:

- **Within the LACDA's jurisdiction.** This type of a move is called a "reserve vacate." This means that the family is moving from a unit, which could result in a temporary vacancy in the program until another unit is secured;

however, the slot remains reserved for the family until the time they lease another unit.

- **Outside LACDA's jurisdiction.** See the Outgoing Portability section of this chapter for more information.

#### **13.2.4 Restrictions on Moves During the Initial Lease** **[24 CFR §982.354(c) and §982.309(a)(1)]**

Generally, families will not be permitted to move during the initial lease, or more than once in any 12-month period.

The LACDA will consider exceptions to this policy for the following reasons:

1. To protect the health or safety of the family (HQS emergency items).
2. Statutory conditions under the Violence Against Women Reauthorization Act of 2013 (e.g., the family or an affiliated individual is or has been the victim of domestic violence, dating violence, sexual assault, or stalking as provided in 24 CFR part 5, subpart L, and the move is needed to protect the health and safety of the family or affiliated individual. The LACDA may not terminate assistance if the family, with or without prior notification to the LACDA, already moved out of the unit in violation of the lease, if such move occurred to protect the health and safety of an affiliated individual who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the dwelling unit.); or
3. To address an emergency situation over which a family has no control (e.g., Natural Disaster or Unsafe Environment).

Verification must include a copy of the incident report from the local Fire Department, the Health Department, or other appropriate agency that the dwelling unit is now uninhabitable. It must also include the cause of the disaster if known.

In addition, the LACDA will allow exceptions to this policy for the reasonable accommodation request of a family member who is a person with disabilities. However, the owner of the property must agree to release the tenant from the lease.

### **13.3 PROCEDURES FOR MOVES FOR CURRENT PARTICIPANTS** **[24 CFR §982.354(d)]**

Eligible families who wish to move must send a written lease termination notice to the owner and copy to the LACDA no less than 30 calendar days before the vacate date. Once the LACDA has received a copy of the lease termination notice, the family will be scheduled for a briefing session where they will be issued the voucher along with the briefing packet (see Section 8.4 for information that is provided at the briefing session).

Eligible families also have the option to request a voucher before issuing a lease termination to their owner and the LACDA. However, a Request for Tenancy Approval or a Request to Transfer (portability) will not be processed without the proper written lease termination notice.

If the family's reexamination is current (within 12 months) the LACDA will not conduct a reexamination before issuing the voucher unless there are reported changes to income or the family composition that would require an interim reexamination.

### **13.4 OUTGOING PORTABILITY PROCEDURES** **[24 CFR §982.355(b)(c)]**

Both new applicants and current participant families must first identify the new area where they will be moving. If there is more than one Public Housing Agency (PHA) serving that area, the LACDA will provide the family with the contact information for the PHAs that serve that area for the family to select the PHA. The family must inform the LACDA which PHA it has selected. In cases where the family prefers not to select a PHA, the LACDA will select the PHA on behalf of the family.

Once the LACDA has identified the receiving PHA, the LACDA will:

1. Contact the receiving PHA, prior to approving the family's request to port, to determine whether the voucher will be absorbed or billed by the receiving PHA [24 CFR §982.355(c)(3)];
2. Obtain in writing, via email or other confirmed delivery method, the receiving PHA's decision to absorb or bill the voucher.
  - If the receiving PHA decides absorb the voucher, the receiving PHA cannot reverse its decision at a later date without consent of the LACDA.
  - If the receiving PHA decides to bill the voucher, the LACDA may deny the move if it will result in insufficient funding for continued assistance [24 CFR §982.354(e)(1)].
3. Determine the family's eligibility to move with continued assistance (port). Families found eligible to port must be issued a voucher (if not yet issued) and must be advised of how to contact and request assistance from the receiving PHA [24 CFR §982.355(c)(6)]; and
4. Provide the following documents and information to the receiving PHA [24 CFR §982.355(c)(7)]:
  - A copy of the family's voucher, with issue and expiration dates, formally acknowledging the family's ability to move under portability.
  - The most recent HUD 50058 form and verifications.
  - The Family Portability form (HUD-52665).

**Portability Administrative Fee:** If administrative fees are prorated, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill. The receiving PHA may bill for the lower of 80 percent of the initial PHA's prorated



ongoing administrative fee or 100 percent of the receiving PHA's prorated ongoing administrative fee.

New applicant families will be subject to the income eligibility requirements of the jurisdiction in which they will be receiving assistance [24 CFR §982.353(c)(9)].

**13.4.1 Briefing for Families Wishing to Exercise Portability**  
**[24 CFR §982.301(b)(4)]**

Since families wishing to move to another jurisdiction must understand that the policies and procedures of the receiving PHA prevail, the LACDA will provide counseling for those families who express an interest in portability. This will include a discussion of how portability works, the advantages of areas that do not have a high concentration of low-income families, the difference in payment standards, subsidy standards, and income limits, if applicable. See Chapter 8, Section 8.4 for a detailed list of the information provided at the briefing session.

**13.4.2 Payment to the Receiving PHA**  
**[24 CFR §982.355(d) and §982.355(e)]**

If the receiving PHA chooses to administer and bill assistance on the LACDA's behalf, the LACDA will reimburse the receiving PHA for costs associated with administering the voucher, as specified in HUD regulations.

The receiving PHA must submit to the LACDA the initial billing no later than 60 days following the expiration date of the family voucher issued or within 10 days of an executed contract.

The LACDA will ensure that the receiving PHA receives all subsequent monthly payments no later than the fifth working day of each month.

**13.5 INCOMING PORTABILITY PROCEDURES**  
**[24 CFR §982.355]**

Eligible participants in the Housing Choice Voucher Program in other public housing agencies may be assisted in the LACDA's jurisdiction.

For a family to port in to the LACDA's jurisdiction, the LACDA must receive a request to absorb or bill the voucher of the incoming portable family. The LACDA must provide the initial PHA, in writing, via email or other confirmed delivery method, a decision to absorb or bill the voucher. Rendered decisions to absorb a voucher cannot be reversed at a later date without consent of the initial PHA.

Once a decision has been rendered to the initial PHA, the LACDA must receive the following from the initial PHA:

- The Family Portability form (HUD-52665) with Part I completed.
- A copy of the family's most current voucher.
- The most recent HUD 50058 (Family Report) for the family, and all related verifications supporting the Family Report.

Should the family arrive with an expired voucher, the LACDA will contact the initial PHA to determine if it will extend the voucher. The initial PHA will decide to extend

the term of the initial PHA voucher before the LACDA can proceed with the portability process.

**13.5.1 Policies on Absorption and Administration**  
**[24 CFR §982.355(d) and §982.355(e)]**

For incoming ports, the LACDA may, if funding permits, accept a family with a valid voucher from another jurisdiction and absorb the voucher. The LACDA may also exercise the option to administer the initial public housing agency's voucher and bill the initial PHA as authorized in the regulations.

Portability Administrative Fee: If administrative fees are prorated, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill. The receiving PHA may bill for the lower of 80 percent of the initial PHA's prorated ongoing administrative fee or 100 percent of the receiving PHA's prorated ongoing administrative fee.

If the LACDA chooses to administer:

- An initial billing will be submitted to the initial PHA within 10 days of an executed contract to ensure timely receipt of payment, but no later than 90 days following the expiration date of the family voucher issued by the initial PHA.
- The LACDA's policy on tolling in Section 8.7.2 of this Plan will apply [24 CFR §982.303].
- The LACDA will not extend the term of the voucher unless there is enough time to process the new contract and meet the billing deadline or unless the initial PHA extends the family's voucher. The LACDA will notify the initial PHA if such an extension is granted [24 CFR §982.355(c)(14)].

All subsequent monthly billing payments are to be received by the LACDA no later than the fifth working day of each month.

If the LACDA chooses to absorb, the LACDA may apply its policies on voucher tolling and extensions as stated in Sections 8.7.2 and 8.7.3 of this Plan.

**13.5.2 Income and Total Tenant Payment Review**  
**[24 CFR §982.355(c)]**

The LACDA will conduct an initial review of all incoming port families. The LACDA will:

- Conduct criminal background and registered sex offender registration checks of family members (see Section 13.5.3 below).
- Verify identifying documents, family income and composition.
- As necessary, the LACDA will change the bedroom size of a family's voucher to comply with the subsidy standards. If this occurs, the family will be notified in writing of the change.
- If family income documents are missing or there has been a change in the family's circumstances, the LACDA may re-determine the family's TTP.

- For incoming port families who have not yet leased a unit under the Housing Choice Voucher Program (initial applicants), the LACDA must verify that the family meets the HUD's income limits.

If a re-determination is necessary, the LACDA will not delay issuing the family a voucher or otherwise delay approval of a unit unless the re-determination reveals that the family is not eligible for assistance in the LACDA's jurisdiction. In such cases, the family will be referred to the initial PHA for further assistance [24 CFR §982.355(c)(11)].

All families porting into the LACDA's jurisdiction will be issued a voucher. The term of the voucher issued may not expire before 30 calendar days from the expiration date noted on the voucher issued by the initial public housing agency [24 CFR §982.355(c)(13)]. The LACDA will determine whether to extend the voucher term, if necessary, based on Section 13.5.1 of this Plan.

If a family that has ported into the LACDA's jurisdiction is unable to locate a unit within the allotted time authorized on the voucher, the LACDA will notify the issuing PHA that the voucher did not result in a HAP contract [24 CFR §982.355(c)(16)].

Approval of any unit is subject to rent reasonableness and a passed inspection [24 CFR §982.401(a)(3)].

### **13.5.3 Criminal Background Checks for Incoming Portability** **[24 CFR §982.355(c)(9) – (10)] and [PIH Notice 2004-12]**

The LACDA will conduct criminal background and sex offender registration checks for all incoming portability families. To establish eligibility under section 2.8.1 of this Plan, the LACDA will review criminal history within the established review period from the date a Request to Transfer is received from the originating PHA.

While criminal background and sex offender registration checks are conducted, the LACDA will not delay issuing the family a voucher but will take subsequent necessary action, including up to termination of a family's assistance (see Section 2.8 for details on screening).

The LACDA will take the following steps to minimize the number of terminations for families that are porting into its jurisdiction:

At voucher issuance,

- Families will receive a briefing that will contain information on the LACDA's portability process and general policies and procedures. See Chapter 8, Section 8.4 for a detailed list of information provided at the briefing session.
- Families will be informed of the LACDA's criminal background policies and that they will undergo a background check. The family will be offered an opportunity to return to their originating PHA.
- If it is determined before a contract is effective that a family member is unsuitable due to a criminal background check the family will be given the options of returning to the originating PHA or excluding the culpable family member.

- If it is determined after a contract is effective that a family member is unsuitable and the LACDA is billing the originating PHA, the family will have the option of returning to the originating PHA or exclude the culpable household member.
- If it is determined after the contract is effective that a family member is unsuitable and the LACDA has absorbed the contract, the family will only have the option of excluding the culpable household member and will not be allowed to return to the originating PHA.

The contract will be terminated if it has been absorbed and if the family chooses not to exclude the culpable household member or there are no other adult eligible household members.

#### **13.5.4 Terminations**

In cases where the LACDA is administering a contract on behalf of another PHA, the LACDA will notify the initial PHA in writing of any termination of assistance within 30 calendar days of the termination.

#### **13.5.5 Informal Hearings/Reviews** **[24 CFR §982.555]**

If an informal hearing is required and requested by the family, the LACDA will conduct the hearing only if the participant has been assisted within the LACDA's jurisdiction. Such hearings will be conducted using the regular hearing procedures included in this plan. Families who have not yet received assistance in the LACDA's jurisdiction are eligible for informal reviews, as detailed elsewhere in this administrative plan.

The initial PHA will be responsible for collecting amounts owed to that public housing agency by the family for claims paid and for monitoring repayment. If the initial PHA notifies the LACDA that the family is in arrears or the family has refused to sign a Repayment Agreement, the LACDA will terminate assistance to the family.

## **CHAPTER 14: CONTRACT TERMINATIONS**

### **14.1 INTRODUCTION**

The chapter identifies the key documents/contracts that set forth the responsibilities of each party involved in the rental assistance relationship and outlines the policies and procedures under which these contracts can be terminated.

### **14.2 DESCRIPTION OF DOCUMENTS**

There are three parties involved in the rental relationship: the assisted family, the owner and the LACDA.

The rights and responsibilities of the assisted family are defined in the voucher or certificate and the Certified Statement of Family Obligations. A copy of the voucher or certificate is provided to the family at admission and each time a new voucher is issued. The family signs the Certified Statement of Family Obligations annually.

The relationship between the family and the owner is outlined in the lease agreement. Generally, the term of the lease is for one year. Although the LACDA is not a part of the lease, HUD regulations allow public housing agencies to act against the family for serious or repeated violations of the lease.

The terms of the relationship between the owner and the LACDA are outlined in the Housing Assistance Payments (HAP) contract. The term of the HAP contract is the same as the term of the lease.

### **14.3 TERMINATION OF THE LEASE BY THE FAMILY: MOVES [24 CFR §982.309(c)]**

For continued tenant assistance, the family cannot terminate the lease until after a one-year period or the initial term of the lease, except for material breach of the lease by the owner, cases of foreclosure, or life threatening situations (as defined in Chapter 13). The lease determines the notice period for termination to the owner. Most leases require, at minimum, a 30-day notification. However, the LACDA recommends that families provide a minimum of a 60-day notice in order to allow enough time for a smooth transition of assistance from the old unit to the new unit. To initiate the lease termination, the family must send a written notice to the owner and the LACDA no less than 30 calendar days before the vacate date.

### **14.4 TERMINATION OF THE LEASE BY THE OWNER: DOMESTIC ABUSE**

An owner or manager may bifurcate (separate) a lease in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, or terminating assistance, or otherwise penalizing the victim of such violence which is also a tenant or lawful occupant. Criminal acts are defined as "criminal activity directly related to domestic violence,

dating violence, sexual assault, or stalking against an affiliated individual or other individual”.

**14.4.1 Terminating the Lease During the Initial Term of the Lease**  
**[24 CFR §982.310(a)]**

During the term of the lease, the owner may not terminate the tenancy except for good cause, which includes serious or repeated violations of the lease and/or violations of federal, state or local law that imposes obligations on the family in connection with the use of the unit.

Under such conditions, the owner must provide both the family and the LACDA with a copy of any notice to move or eviction action. An eviction action is defined as a notice to vacate, or a complaint, or other initial pleading used under State or local law to commence an eviction action. Any eviction notice served to a family must specify the grounds for the termination of the tenancy.

An owner may commence termination of a tenancy for good cause by serving a legal notice of termination on the family for the following reasons:

1. Serious or repeated violation of the terms and conditions of the lease [24 CFR §982.310(a)(1)];
2. Violation of federal, state or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises [24 CFR §982.310(a)(2)]; and
3. Other good cause, [24 CFR §982.310(a)(3)] including:
  - Criminal activity by the tenant, any member of the household, a guest or another person under the tenant's control that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, or persons residing in the immediate vicinity of the premises [24 CFR §982.310(d)];
  - Any drug-related criminal activity on or near the premises; or
  - Tenant disturbance of neighbors, destruction of property, or behavior resulting in damage to the premises.

**14.4.2 Terminating the Lease After the Initial Term of the Lease**

After the initial term of the lease, the owner may terminate the lease for other good cause. Examples of other good cause include:

- Business or economic reason for regaining possession of the unit;
- Owner's desire to repossess the unit for personal or family use or for a purpose other than residential property;

When terminating the lease for business or economic reasons, the owner is required to provide a 90-day notice to both the family and the LACDA.

**14.4.3 Requests for Criminal Records by Project-Based Section 8 Owners**  
**[24 CFR §5.903(d)(3)]**

Project-based Section 8 owners (excludes housing choice voucher owners), that have contracts with the LACDA, may request that the LACDA obtain criminal records, on their behalf, for the purpose of eviction or lease enforcement. The LACDA will, however, charge a fee in order to cover costs associated with the review of criminal records.

Project-based owners must submit the following items in order for the LACDA to process criminal records. Owner requests must include:

1. A copy of a signed consent form from each adult household members, age 18 years and older. Included in the consent form must be a legible name, the date of birth, a California Identification Number, and a Social Security number. This information will be used for the sole purpose of distinguishing persons with similar names or birth dates.
2. An owner's criteria or standards for evicting drug criminals in accordance with HUD regulations (§ 5.857 of 24 CFR Parts 5 et al.); or criteria for evicting other criminals (§ 5.858 of 24 CFR Parts 5 et al.); or criteria for lease enforcement.

Once the LACDA obtains the criminal records, a determination will be made as to whether a criminal act, as shown by a criminal record, can be used as a basis for eviction or lease enforcement. The LACDA will base its determination in accordance with HUD regulations and the owner criteria.

It is important to note that the LACDA will not disclose the participant's criminal conviction record, nor the content of that record to the owner unless the owner is proceeding with a judicial eviction process. In the case of a judicial eviction, the owner must provide the LACDA with a certification that the criminal records are necessary to proceed with the eviction.

#### **14.5 MUTUAL TERMINATION OF THE LEASE**

In cases where the owner and the family agree to terminate the lease, both parties have an obligation to notify the LACDA in writing at least 30 calendar days in advance of the vacate date in order that LACDA may avoid overpayment to the owner. A mutual termination of the lease will not be accepted if it is within a one-year period of the participant's last move or within the initial term of the lease.

#### **14.6 TERMINATION OF THE HAP CONTRACT BY THE LACDA [24 CFR §982.453 – §982.454]**

The LACDA will terminate the HAP contract as follows:

1. When the LACDA terminates program assistance for the family.
2. When the owner has breached the HAP contract.

Any of the following actions will be considered a breach of the HAP contract by the owner:

- The owner has violated any obligation under the HAP contract for the dwelling unit, including the owner's obligation to maintain the unit according to housing quality standards, including any standards the LACDA has adopted in this policy [24 CFR §982.453(a)(1)].

- The owner has violated any obligation under any other HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f) [24 CFR §982.453(a)(2)].
  - The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program [24 CFR §982.453(a)(3)].
  - The owner has failed to comply with regulations, the mortgage or note, or the regulatory agreement for projects with mortgages insured by HUD or loans made by HUD [24 CFR §982.453(a)(4)].
  - The owner has engaged in drug-related criminal activity [24 CFR §982.453(a)(5)].
  - The owner has committed any violent criminal activity [24 CFR §982.453(a)(6)].
3. If the family is required to move from a unit which is overcrowded based on the LACDA's current subsidy standards [24 CFR §982.403(a)].
4. If funding is no longer available under the ACC [24 CFR §982.454].
- Before terminating HAP contracts on the basis of insufficient funding, the LACDA is required to ensure that the determination of insufficient funding is documented. The LACDA will consider funding insufficient if it is determined that the projected year-end subsidy falls short of the authorized budget amount.
  - The LACDA will determine the number of families that must be terminated, and will present the Board of Commissioners with a recommended method for terminating HAP contracts. Following Board of Commissioner and HUD notification, the LACDA will terminate HAP contracts.
  - Contracts of elderly and disabled families will not be subject to termination.
  - Terminated families will be placed on the waiting list and will receive a preference for assistance from the waiting list.

The LACDA may terminate the HAP contract if the owner has violated any obligation under any other HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f) [24 CFR §982.453(a)(2)]. The LACDA will consider the following list of factors in determining whether to terminate the HAP contract for a violation of another HAP contract:

- The nature of the breach
- The location of the other units under contract compared to the subject unit
- The impacts on participants in other the units

Additionally, an owner who breaches a HAP contract may be disapproved to participate in LACDA programs, as detailed in Section 9.11 (Owner Disapproval). The LACDA's rights and remedies against the owner under the HAP contract include recovery of overpayments, abatement or other reduction of housing assistance payments, termination of housing assistance payments, and termination of the HAP contracts.

Request for reasonable accommodations relating to termination of HAP contracts will be reviewed on a case-by-case basis.



**14.7 HAP PAYMENTS AND CONTRACT TERMINATIONS**  
**[24 CFR §982.311]**

When a HAP contract terminates, the LACDA will make payments in accordance with the HAP contract and depending on the reason for the contract termination.

In cases involving a tenant notice to move or a mutual termination, not involving an eviction action, the LACDA will pay the owner for the entire last month that the family was in the unit regardless of the actual day of the month that the family moved out. The LACDA may also pay HAP on behalf of the family for the new unit in the same month.

In cases involving evictions, the LACDA will continue to pay the HAP until the day the family moves out or is evicted [24 CFR §982.311(b)].

In cases involving termination of assistance due to insufficient funding, families will receive a minimum of 30 days notice of termination of assistance.

In cases involving termination of assistance for reasons other than insufficient funding, the LACDA will notify the owner and the family of the proposed termination date. If the family does not request a hearing or the hearing is decided in the LACDA's favor, the HAP payments will terminate in accordance with the notification. If a family continues to occupy the unit after assistance is terminated, the family is responsible for the total amount of rent due to the owner.

If HAP payments are released to the owner for periods of time beyond the dates set forth above, the owner will be required to return all monies to the LACDA within 30 calendar days or within the time specified in any approved repayment agreement. The LACDA also reserves the right to deduct any monies from other HAP payments being made to the owner by the LACDA. If the owner fails to repay the HAP, the account will be forwarded for further action.



## **CHAPTER 15: TERMINATION OF ASSISTANCE**

### **15.1 INTRODUCTION** **[24 CFR §982.552(a)]**

HUD requires the LACDA to terminate assistance for certain offenses. HUD permits the LACDA to terminate assistance for a family because of the family's action or failure to act. The LACDA will provide families with a written description of the family obligations under the program, the grounds under which the LACDA can terminate assistance, and the LACDA's informal hearing procedures. This chapter describes when the LACDA is required to terminate assistance, and the LACDA's policies for the termination of assistance.

### **15.2 FORMS OF TERMINATION** **[24 CFR §982.552(a)(3)]**

Termination of assistance for a participant may include any or all of the following:

1. Refusal to enter into a HAP contract or approve a lease
2. Termination of HAP under an outstanding HAP contract
3. Refusal to process or provide assistance under portability procedures

The LACDA will not terminate assistance of a participant based solely upon incidences of domestic violence, dating violence, sexual assault, or stalking. If termination is based upon behavior resulting from disability, the LACDA will delay the termination in order to determine if there is a reasonable accommodation, pursuant to law, that would cure the grounds for the termination.

### **15.3 FAMILY NO LONGER REQUIRES ASSISTANCE (ZERO ASSISTANCE)** **[24 CFR §982.455]**

The LACDA is required to automatically terminate the HAP contract 180 calendar days after the last housing assistance payment is made to the owner. A family receiving no assistance may remain in the unit for up to 180 calendar days after the last HAP payment. If the family is still in the unit after 180 calendar days, assistance is terminated. If within the 180-day period, an owner rent increase or a decrease in the TTP causes the family to be eligible for a housing assistance payment, the LACDA will resume assistance payments for the family.

In order for a family to move to another unit during the 180 calendar days, the rent for the new unit would have to be high enough to necessitate a housing assistance payment.

### **15.4 MANDATORY TERMINATION OF ASSISTANCE**

HUD requires the LACDA to terminate assistance under the following circumstances:

1. Failure to Provide Consent [24 CFR §982.552(b)(3)].

If any member of the family fails to sign and submit to HUD or LACDA required consent forms for obtaining information

2. Failure to Document Citizenship [24 CFR §982.552(b)(4) and 24 CFR §5.514(c)]

The LACDA must terminate assistance if

- A family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status;
  - A family submits evidence of citizenship and eligible immigration status in a timely manner, but the United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family;
  - No member of the family is an U.S. citizen or eligible immigrant.
3. Failure to Disclose and Document Social Security Numbers [24 CFR §5.218(c)].

The LACDA is required to terminate assistance for participant families in which no members are U.S. citizens or eligible immigrants. If a family member does not establish citizenship or eligible immigration status as required, the LACDA will prorate the assistance, or if there are no eligible family members remaining, the LACDA will propose program termination and provide the opportunity for an informal hearing, as explained in Chapter 16.

Families are required to submit evidence and sign declarations of their citizenship or eligible immigration status. If the LACDA obtains substantive documentation (such as a permanent resident card or information from another agency) that contradicts a family member's declaration of citizenship, an investigation will be conducted and the individual given an opportunity to present relevant information.

- If the family (or any member) claimed eligible immigrant status and the USCIS primary and secondary verifications failed to document the status, the family may make an appeal to the USCIS and request a hearing with the LACDA either after the USCIS appeal or in lieu of the USCIS appeal.
- If the family member is unable to verify their citizenship, the LACDA may give the individual an opportunity to provide a new declaration as an eligible immigrant or to elect not to contend their status. The LACDA will then verify eligible status, and terminate, or prorate as applicable.
- Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

After the LACDA has made a determination of ineligibility, the family will be notified of the determination and the reasons, and informed of the option for prorated assistance (if applicable) or the proposed termination.

The LACDA will terminate assistance for misrepresentations or submission of false information.

4. Methamphetamine Manufacture or Production [24 CFR §982.553(b)(1)(ii)]

The LACDA 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.

5. Death of the Sole Family Member [24 CFR §982.311(d) and Notice PIH 2010-9]

The LACDA must immediately terminate program assistance for deceased single member households.

6. Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR §982.552(b)(5) and FR 4/10/2006].

If any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in Section 2.5

## **15.5 MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS**

### **[24 CFR §982.553(b) and §982.551(l)]**

HUD requires the LACDA to establish policies that permit the LACDA to terminate assistance if the LACDA 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.

#### **15.5.1 Use of Illegal Drugs and Alcohol Abuse**

In accordance with HUD requirements, the LACDA will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The LACDA 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.

#### **15.5.2 Drug-Related Criminal Activity**

Drug-related criminal activity includes the manufacture, dispensation, distribution, sale, use or possession of illegal drugs. An "illegal drug" is defined as any controlled substance, in any amount, as defined by the United States Code, Title

21, section 802, including but not limited to narcotics, amphetamines, hallucinogens, cocaine, marijuana, medical marijuana, designer drugs, or other intoxicants. This definition also specifically includes over the counter medications used in the manufacture of illegal drugs or for the purposes of becoming intoxicated, and pharmaceutical medications which are used either without being prescribed by a licensed physician or in excess of the amount prescribed by a physician for the purposes of becoming intoxicated.

Drug-related criminal activity does not include the prior use or possession of a controlled substance if the family member had an addiction to the substance and has recovered, or is recovering from the addiction and does not currently use or possess the substance and has demonstrated successful completion of a rehabilitation program [24 CFR §982.553(b)].

In accordance with HUD requirements, the LACDA's policy regarding drug-related criminal activity is as follows:

- The LACDA may propose termination against the family for drug-related criminal activity that occurs on or off the premises of the assisted unit, or drug-related criminal activity committed by a guest or invitee of any family member on the premises of the assisted unit. An arrest or conviction is not required to deny or terminate assistance.
- The LACDA may terminate a participant's assistance if they have been arrested, convicted or whose tenancy is being terminated due to drug-related criminal activity or whose activities, including the activities of their guests or invitees, have created a disturbance in the building or neighborhood.
- Will terminate assistance if the family violates the lease for drug-related criminal activity.

In appropriate cases, the LACDA may permit the family to continue receiving assistance provided that family members determined to have engaged in the prescribed activities will not reside and/or visit in the unit.

### **15.5.3 Violent Criminal Activity**

Violent criminal activity includes any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against a person or property, and the activity is being engaged in by any family member, their guests or invitees. Violent criminal activity also includes activity which occurs within the family, such as during domestic disputes.

In accordance with HUD requirements, the LACDA's policy regarding violent criminal activity is as follows:

- The LACDA may propose termination against the family for violent criminal activity that occurs on or off the premises of the assisted unit. An arrest or conviction is not required to deny or terminate assistance.
- The LACDA may terminate a participant's assistance if they have been arrested, convicted or whose tenancy is being terminated due to violent criminal activity or whose activities, including those of their guests and invitees, have created a disturbance in the building or neighborhood.

- The LACDA will terminate assistance if the family violates the lease for violent criminal activity.

Incidents or threats of abuse, or criminal activity related to abuse engaged in by a member or guest of the participant's household, will not be grounds for termination of the victim or threatened victim of the abuse.

In appropriate cases, the LACDA may permit the family to continue receiving assistance provided that family members determined to have engaged in the prescribed activities will not reside in the unit.

#### **15.5.4 Other Criminal Activity** **[24CFR§982.553(a)(ii)(A)(3)]**

Other criminal activity includes 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 of the premises.

### **15.6 OTHER AUTHORIZED REASONS FOR TERMINATION OF ASSISTANCE** **[24 CFR §982.552(c), Pub.L. 109-162]**

HUD permits the LACDA to terminate assistance under other circumstances. The LACDA may at any time terminate program assistance to a participant, for any of the following reasons:

1. The family fails to comply with any family obligation under the program as listed in Section 15.7 of this plan [24 CFR §982.551].
2. Any member of the family has been evicted from federally-assisted housing in the last five years and the family failed to disclose the information at admission to the program [24 CFR §982.552(c)(1)(ii)].
3. The family fails to provide critical eligibility information that may have deemed the family ineligible for assistance during the admissions process.
4. Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR §982.552(c)(1)(iv)].
5. The family currently owes rent or other amounts to the LACDA or to another housing agency in connection with Section 8 or public housing assistance under the 1937 Act [24 CFR §982.552(c)(1)(v)].
6. The family has not reimbursed the LACDA or any housing agency for amounts paid under a HAP contract to an owner for rent, damages to the unit, or other amounts owed by the family under the lease [24 CFR §982.552(c)(1)(vi)].
7. The family has breached the terms of a repayment agreement entered into with the LACDA. [24 CFR §982.552(c)(1)(vii)].
8. The family has engaged in or threatened abusive or violent behavior toward LACDA personnel [24 CFR §982.552(c)(1)(ix)].

- "Abusive or violent behavior" includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate, may be cause for termination.
- "Threatening" refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.
- Actual physical abuse or violence will always be cause for termination.

The LACDA will not terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency program [24 CFR §982.552(c)(1)(viii)].

#### **15.6.1 Registered Sex Offenders**

If it is brought to the attention of the LACDA that a current program participant is subject to a lifetime sex offender registration requirement in any state, the LACDA will review the matter on a case-by-case basis. If the participant was erroneously admitted (the household member was subject to a lifetime registration requirement at admission and was admitted after June 25, 2001), the LACDA must immediately pursue termination of assistance for the household member.

If the LACDA erroneously admitted a lifetime sex offender, it must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the LACDA **must** terminate assistance for the household.

### **15.7 TERMINATING THE ASSISTANCE OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT OR STALKING VICTIMS AND PERPETRATORS**

#### **[24 CFR §5.2005(d)(2)]**

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

VAWA does not limit the LACDA's right to terminate the assistance of any participant if the LACDA "can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance."

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

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault or stalking
- Whether the threat is a physical danger beyond a speculative threat
- Whether the threat is likely to happen within a short period of time



- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location

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

### **15.7.1 Documentation of Abuse**

#### **[24 CFR §5.2007]**

When a participating family is facing termination of assistance for reasons related to domestic violence, dating violence, sexual assault or stalking, claims protections under VAWA, the LACDA will request in writing that the individual submit documentation affirming that claim.

The LACDA will accept either of the following forms of documentation:

- A completed and signed HUD-approved certification form (Form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim.
- A record of a Federal, State, tribal, territorial or local law enforcement agency (such as a police report), court, or administrative agency documenting the domestic violence, dating violence, sexual assault or stalking.
- Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider, an attorney, a medical or mental health professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

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

The LACDA reserves the right to waive the documentation requirement if it determines that a statement of other corroborating evidence from the individual will suffice.

The LACDA may, at its discretion, extend the deadline. Any extension granted will be in writing.

### **15.7.2 Conflicting Documentation**

#### **[24 CFR §5.2007(b)(2)]**

In the case where the LACDA receives conflicting certification documents from two or more members of the household each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the LACDA will determine which is the true victim by requiring third-party documentation within 30 calendar days in order to resolve the conflict.

If the participants fail or refuse to provide third-party documentation where there is conflicting evidence, the HA does not have to provide the tenant(s) with the protections contained in HUD form-5380, Notice of Occupancy Rights under the Violence Against Women Act.

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

#### **[24 CFR §5.2005(b)(2)]**

VAWA gives the LACDA 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.

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

In making the decision to terminate assistance, the LACDA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the LACDA by the victim in accordance with this section. The LACDA will also consider the factors in Section 15.8 Consideration of Circumstances. Upon such consideration, the LACDA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If the LACDA moves forward with terminating the assistance of the culpable family member, the LACDA will do so in accordance with applicable law, HUD regulations, and policies established in Chapter 16. Informal Reviews/Hearings.

### **15.7.4 Notification Requirement**

#### **[24 CFR §5.2005(a)(1)(i)(ii) and §5.2005(a)(2)(iii)]**

When moving forward with terminating assistance, the LACDA will include information about VAWA in notices of termination of assistance. The VAWA information provided will consist of the following documents:

- Form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation.
- Form HUD-5380, Notice of Occupancy Rights Under the Violence Against Women Act

### **15.7.5 VAWA Confidentiality**

#### **[24 CFR §5.2007(a)(1)(v)]**

All VAWA information provided to the LACDA, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault or stalking, shall be retained in confidence, and will not be entered into any shared database or provided to any related entity, except to the extent that disclosure is:

- Requested or consented to by the individual in writing to release the information on a time limited basis;
- Required for use in an eviction proceeding or hearing regarding termination of assistance from a covered program; or
- Otherwise required by applicable law.

## **15.8 FAMILY OBLIGATIONS** **[24 CFR §982.551]**

Failure to abide by any of the family obligations is grounds for termination.

1. The family must supply any information that the LACDA or HUD determines is necessary in the administration of the program [24 CFR §982.551(b)]. Information includes any requested certification, release or other documentation. Requirements include:
  - Submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR part 5);
  - Disclosure and verification of social security numbers (as provided by 24 CFR part 5);
  - Providing any information requested by the LACDA or HUD for use in a regularly scheduled or interim determination of family income and composition, including income, assets, and accurate family composition.
2. The family must report all changes in earned and unearned income, assets, expenses, full-time student status, and family circumstances within 10 calendar days of the date the change takes effect. The owner of the unit and the LACDA must approve changes in composition of the assisted family [24 CFR §982.551(b) and §982.551(h)(2)]. The family must:
  - Report the birth, adoption or court-awarded custody of a child;
  - Request LACDA approval to add any other family member;
  - Notify the LACDA when a family member no longer lives in the unit.

If the LACDA gives approval, a live-in aide, foster child, or foster adult may live in the unit. Failure to report changes, making false reports and/or allowing unauthorized people in the unit is cause for termination from the program.
3. All information supplied by the family must be true and complete [24 CFR §982.551(b)].
4. Maintain the rental unit [24 CFR §982.551(c)]. The family is responsible for any violation of Housing Quality Standards resulting from:
  - Failure to pay for tenant-paid utilities;

- Failure to furnish required stove and or refrigerator if to be provided by family; or
  - Damage to the unit or grounds by the family or its guests beyond normal wear and tear.
5. The family must allow the LACDA to inspect the unit at reasonable times and after reasonable notice [24 CFR §982.551(d)].
  6. The family may not commit any serious or repeated violation of the lease [24 CFR §982.551(e)].
  7. The family must notify the owner and, at the same time, notify the LACDA before the family moves out of the unit or terminates the lease on notice to the owner. The family must promptly give the LACDA a copy of any owner eviction notice [24 CFR §982.551(f) – (g)].
  8. The family must use the assisted unit for residence by the family. The unit must be the family's only residence. The family must not sublease or let the unit [24 CFR §982.551(h)(1), (6)].
  9. The family must not assign the lease or transfer the unit. In cases where there is a change in the head of household, the lease may be transferred to the new Head but only with the consent of the owner of the property and the LACDA [24 CFR §982.551(h)(7)].
  10. Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit as a residence by members of the family [24 CFR §982.551(h)(5)].
  11. The family must supply any information or certification requested by the LACDA to verify that the family is living in the unit, or relating to family absence from the unit, including any LACDA-requested information or certification on the purposes of family absences. The family must cooperate with the LACDA for this purpose. The family must promptly notify the LACDA of absence from the unit [24 CFR §982.551(i)].
  12. The family must not own or have any interest in the unit [24 CFR §982.551(j)].
  13. The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with the programs [24 CFR §982.551(k)].
  14. The members of the family, their guests or invitees, may 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.
  15. The members of the family, their guests or invitees, must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.
  16. An assisted family, or members of the family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the

same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) federal, State or local housing assistance program [24 CFR §982.551(n)].

17. The family must pay only the amount authorized by the LACDA on the approved lease. Any amount paid by the family other than the authorized amount is considered an illegal side payment and is cause for termination of the housing assistance subsidy. The LACDA may authorize additional payments for other amenities [24 CFR §982.451(b)(4)(ii)].
18. The family must not receive housing choice voucher program housing assistance while residing in a unit owned by a spouse, parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the LACDA 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 (See Section 9.4 for more information).
19. The family must not have a member that has committed a crime that subjects them to a lifetime sex offender registration requirement imposed by any State sex offender registration program reside in the unit. This is to ensure that no household member or guest is creating or maintaining a threat to the health and safety of other residents or the public.

#### **15.8.1 Missed Appointments and Deadlines**

##### **[24 CFR §982.551]**

It is a family obligation to supply information, documentation, and certifications as needed for the LACDA to complete required processes. The LACDA schedules appointments and sets deadlines in order to obtain the required information. Failure to supply requested information can result in termination of assistance. Examples of failing to supply requested information can include: failing to sign necessary documents, failing to return documents or returning incomplete or altered documents, failing to complete all information requested on documents, etc.

The obligations also require that the family keep all appointments and allow the LACDA to inspect the assisted unit. All scheduled inspections are considered “appointments.”

The family will receive information about the requirement to keep appointments, and the number of times that appointments are rescheduled as specified below. Appointments are scheduled and time requirements imposed for the following events and circumstances:

1. Eligibility for Admissions;
2. Verification Procedures;
3. Voucher Issuance and Briefings;
4. HQS Inspections;
5. Re-examinations; and

#### 6. Appeals (Informal Hearing/Reviews).

Examples of good cause for missing appointments or failing to provide information by deadlines are medical and/or family emergencies. In such cases, the family may be requested to provide verification of such circumstances.

An applicant or participant who fails to keep appointments, or to supply information required by a deadline without notifying the LACDA may be sent a notice of termination of assistance for failure to comply with program regulations.

The family may be granted up to two opportunities before they receive a notice of denial or termination for breach of a family obligation. After issuance of the denial or termination notice, if the family offers to correct the breach within the time allowed to request a review or hearing, the notice may be rescinded after the family corrects the breach, if the family does not have a history of non-compliance. For families with a history of non-compliance, the LACDA may elect to hold the review or hearing.

The LACDA may grant exceptions to this policy as a reasonable accommodation, in accordance with section 1.9.2 and 7.11.10.

### **15.8.2 Enforcing Family Obligations**

#### **Explanations and Terms**

- **HQS Breach**: The inspector will determine if an HQS breach as identified in 24 CFR §982.404(b) is the responsibility of the family. Families may be given extensions to correct HQS breaches as explained in Chapter 10.
- **Lease Violations**: The following criteria will be used to decide if a serious or repeated violation of the lease will cause a termination of assistance [24 CFR §982.310]:
  - If the owner terminates tenancy through court action for serious or repeated violation of the lease.
  - If the owner notifies the family of intention to terminate tenancy for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action, and the LACDA determines that the cause is a serious or repeated violation of the lease based on available evidence.
  - If there are police reports, neighborhood complaints or other third-party information, and the LACDA has verified the information. Lack of receipts or other proof of rent payments by the family may also be considered verification of lease violations.
- **Family Member Moves Out**: Families are required to notify the LACDA within 10 calendar days if any family member leaves the assisted household [24 CFR §982.551(h)(3)]. When the family notifies the LACDA, they must furnish the following information:
  - The date the family member moved out.
  - The new address, if known, of the family member.

- A statement as to whether the family member is temporarily or permanently absent.
- Related income, asset or deduction changes resulting from the member moving.
- **Limitation on Profit-making Activity in Unit [24 CFR §982.551(h)(5)]**: If the business activity area results in the inability of the family to use any of the critical living areas, such as a bedroom utilized for a business which is not available for sleeping, it will be considered a violation.  
  
If the LACDA determines that the use of the unit as a business is not incidental to its use as a dwelling unit, it will be considered a violation of family obligations.
- **Interest in Unit [24 CFR §982.551(j)]**: The owner may not reside in the assisted unit, under any circumstances, including as a live-in aide, regardless of whether the owner is a member of the assisted family, unless assistance is being provided for a mobile home and the family owns the mobile home and rents the pad under the Certificate or Housing Choice Voucher Program.
- **Fraud [24 CFR §982.551(k)]**: In each case, the LACDA will consider which family members were involved, the circumstances, and any hardship that might be caused to innocent members.

## **15.9 CONSIDERATION OF CIRCUMSTANCES**

### **[24 CFR §982.552(c)(2)]**

HUD authorizes the LACDA to consider all relevant circumstances when deciding whether to terminate assistance based on a family's past history except in the situations for which termination of assistance is mandatory.

When considering the circumstances of the case, the LACDA will consider the following factors prior to making its decision:

- The seriousness of the case, especially with respect to how it would affect the other residents.
- 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 a victim of domestic violence, dating violence, sexual assault or stalking.
- The length of time since the violation occurred and more recent record of compliance, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure to act, and
- Requests for reasonable accommodation

On a case by case basis the LACDA may counsel the family in lieu of termination.

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

**15.10 REQUIRED EVIDENCE**  
**[24 CFR §982.553(c)]**

The LACDA gathers publicly available arrest data related to its participants, and will take appropriate action related to program violations.

In determining whether to terminate assistance based on criminal activity, the LACDA may terminate assistance if the preponderance of evidence indicates that a family member has engaged in such activity, regardless of whether the family member has been arrested or convicted.

The LACDA may consider arrests, convictions, no contest pleas, fines, city ordinance violations or other credible preponderance of evidence in determining if a violation has occurred.

The LACDA does not use records for juvenile offenses to terminate assistance to the family, except as may be authorized by State or federal law. The LACDA may consider as evidence criminal records of a minor tried and convicted as an adult in criminal court for such offenses as murder, sex offenses, robbery and arson.

Preponderance of 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. The intent is not to prove criminal liability, but to establish that the act(s) occurred. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

**15.11 CONFIDENTIALITY OF CRIMINAL RECORDS**  
**[24 CFR §5.903(g)]**

Criminal records received by the LACDA shall be maintained confidential, not misused, nor improperly disseminated and kept locked during non-business hours. Also, all criminal records will be destroyed no later than 30 calendar days after a final determination is made.

**15.12 DISCLOSURE OF CRIMINAL RECORDS TO FAMILY**  
**[24 CFR §5.903(f) and §982.553(d)]**

The applicant or household member requesting to be added to the lease will be provided with a copy of the criminal record upon request and an opportunity to dispute the record. Applicants will be provided with the opportunity to dispute the record at an informal review. Participants may contest such records at an informal hearing.

**15.13 NOTICE OF TERMINATION OF ASSISTANCE**

In any instance where the LACDA decides to terminate assistance to the family, the LACDA must give the family a written notice that includes:

1. The reason(s) for the proposed termination;
2. The effective date of the proposed termination;
3. A copy of the most recent voucher or certificate issued to the HOH;



4. A copy of the most recent Certified Statement of Family Obligations signed by the HOH;
5. Information regarding the family's right to request an Informal Hearing to be held before termination of assistance;
6. The date by which a request for an informal hearing must be received by the LACDA; and
7. If applicable, notice of any criminal records, including arrests and convictions, being used as part of the decision to terminate assistance.

A Notice of Confirmation, which is a final notice of determination and date of termination, will then be sent to the participant if no hearing is requested within the allowable time or if the Informal Hearing confirms the termination.

The LACDA will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the termination of assistance. The notice to the owner will not include any details regarding the reason for termination of assistance.

#### **15.14 OPTION NOT TO TERMINATE FOR MISREPRESENTATION OF INCOME**

If the family has misrepresented any facts that caused the LACDA to overpay assistance, the LACDA may choose not to terminate and may offer to continue assistance provided that the family agrees to pay the LACDA the amount owed and either pays the LACDA in full or executes a Repayment Agreement and makes payments in accordance with the agreement.

#### **15.15 MISREPRESENTATION IN COLLUSION WITH OWNER**

If the family willingly and knowingly commits fraud or is involved in any other illegal scheme with the owner, the LACDA will deny or terminate assistance.

#### **15.16 REPORTING TERMINATED FAMILIES TO ENTERPRISE INCOME VERIFICATION (EIV) SYSTEM**

If a family is terminated due to an adverse action or leaves the program owing money to the LACDA, the family will be reported to EIV. Additionally, if any debt is owed, the amount of the debt will be recorded in EIV.



## **CHAPTER 16: INFORMAL REVIEWS/HEARINGS**

### **16.1 INTRODUCTION**

This chapter covers the LACDA's policy and procedures for informal reviews and informal hearings. This chapter defines the LACDA's responsibilities to applicants and participants.

### **16.2 REASONABLE ACCOMMODATION**

All requests for accommodation will be verified with a reliable, knowledgeable professional so that the LACDA can properly accommodate the need presented by the disability.

Requests for accommodation from persons with disabilities will be granted upon verification that they are reasonable, and they meet the need presented by the disability.

Reasonable accommodation will be made for persons with disabilities that require an advocate or accessible offices. A designee will be allowed to provide information as needed, but only with the permission of the person with the disability.

### **16.3 INFORMAL REVIEW PROCEDURES FOR APPLICANTS [24 CFR §982.554(a)]**

Under certain circumstances, the LACDA offers informal reviews for applicants. Applicants are defined as families who are on the Section 8 waiting list and are awaiting the issuance of a voucher or families who have been issued a voucher but have not yet been assisted under a Housing Assistance Payment (HAP) Contract.

When the LACDA denies assistance to an applicant, the family is notified in writing. The notice contains:

- The reason(s) for the decision;
- The procedure for requesting an informal review if the applicant does not agree with the decision; and
- The time limit for requesting a review.

The LACDA must provide applicants with the opportunity for an Informal Review of Decisions denying issuance of a voucher or participation in the program.

Applicants who are denied assistance based on ineligible immigration status are entitled to an informal hearing (rather than an informal review).

#### **16.3.1 When an Informal Review is Not Required [24 CFR §982.554(c)]**

Informal reviews are not required for established policies, procedures, and LACDA determinations such as:

1. Discretionary administrative determinations by the LACDA;
2. General policy issues or class grievances;
3. A determination of the family unit size under the LACDA subsidy standards;
4. Refusal to extend or suspend a certificate or voucher;
5. Disapproval of lease;
6. Determination that the unit is not in compliance with HQS; or
7. Determination that the unit is not in accordance with HQS due to family size or composition.

**16.3.2 Procedure for Review**  
**[24 CFR §982.554(b)]**

Applicants will be required to submit written objections to the LACDA by the close of business day, no later than 15 calendar days from the date of the LACDA's notification of "Notice of Cancellation of Application." The informal review will be conducted within 30 calendar days from the date the request is received.

The informal review will not be conducted by the person who made or approved the decision under review, nor a subordinate of such person. The review may be conducted by:

- A staff person who is not the person who made the decision or his/her subordinate, or
- An individual from outside the LACDA.

A Notice of the Review decision will be provided to the applicant within 30 calendar days after the review. It shall include the decision of the review officer, and an explanation of the reasons for the decision.

All requests for a review, supporting documentation, and a copy of the final decision will be retained in the applicant's file.

Requests for accommodations from persons with disabilities will be granted upon verification that the request is reasonable, and they meet the need presented by the disability on a case-by-case basis.

**16.4 INFORMAL HEARING FOR PARTICIPANTS**  
**[24 CFR §982.555]**

**16.4.1 When an Informal Hearing May Be Requested**  
**[24 CFR §982.555(a)(1)]**

A participant family must be given an opportunity for an informal hearing to consider whether certain LACDA decisions are in accordance with the law, HUD regulations and LACDA policies.

1. A determination of the family's annual or adjusted income, and the use of the income to compute the housing assistance payment.

2. A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the LACDA utility allowance schedule.
3. A determination of the family unit size under the LACDA's subsidy standards.
4. A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the LACDA's subsidy standards, or a LACDA determination to deny the family request for a waiver from the standards.
5. A determination to terminate assistance for a participant family because of the family's action or failure to act.
6. A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under LACDA policy and HUD rules.
7. A determination to terminate assistance for a participant family for breach of the HQS caused by the family.

In the cases described in paragraphs (4), (5), (6) and (7) of this section, the PHA must give the opportunity for an informal hearing before the PHA terminates the housing assistance payment for the family under an outstanding HAP contract.

**16.4.2 Notification**  
**[24 CFR §982.555(c)]**

- When the matter in question is:
  1. The determination of the family's annual or adjusted income or computation of the housing assistance payment;
  2. Appropriate utility allowance (if any) for tenant-paid utilities; or
  3. Family unit size,

The LACDA must notify the family that they may ask for an explanation of the basis of the LACDA's determination. The family must also be notified that if the family does not agree with the explanation, the family may request in writing an informal hearing on the decision.

- When the matter in question is:
  1. Certificate family residing in too large a unit, or the LACDA's refusal to issue a waiver to subsidy standards;
  2. Termination due to the family's action or failure to act; or
  3. Absence from the assisted unit for longer than the maximum period permitted,

The LACDA must give the family prompt written notice that the family may request in writing an informal hearing on the decision.

- When the LACDA has made a decision to:
  1. Terminate HAP on behalf of a participant under an active contract;

2. Refuse to re-issue a voucher; or
3. Refuse to execute a new contract with a program participant,

The family must be given written notice of the opportunity for an informal hearing before the termination of Housing Assistance Payments.

➤ The notice must:

1. Contain a brief statement of reasons for the decision;
2. Inform the participant regarding his/her right to an informal hearing;
3. Advise the participant that a request for an informal hearing must be in writing;
4. Advise the participant that the LACDA must receive the request within 15 calendar days of the date of the letter; and
5. Explain the basic elements of the informal hearing, i.e., right of the participant to present evidence, question witnesses, to have representation, the LACDA-designated impartial hearing officer written decision.

#### **16.4.3 Prior to Hearing** **[24 CFR §982.555(e)(2)]**

Before the informal hearing, the family may request an appointment to examine any documents in the family's portion of the file that are directly relevant to the hearing. The family must be allowed to copy any such document at the family's expense. If the LACDA does not make the document in the family's file available for examination on request of the family, the LACDA may not use the document at the hearing.

The LACDA may also provide information to participants on relevant documents in the possession of other public agencies in order for the participant to contact the agency and obtain a copy of the document. The LACDA may then reference the contents of the document at the hearing through witness testimony.

The LACDA requires that the family submit any documents that are directly relevant to the hearing either before or at the time of the hearing. The LACDA must be allowed to copy any such documents at the LACDA's expense. If the family does not make the document available for examination on request of the LACDA, the family may not rely on the document at the hearing.

During the course of the hearing, if the family offers to submit evidence, the Hearing Officer is not required to, but may exercise the discretion to allow the family to submit a document within a specified period.

#### **16.4.4 Hearing Process** **[24 CFR §982.555(d)]**

When a participant family has timely requested a hearing, the LACDA will proceed within 15 calendar days of receipt of the request to notify the participant of the date, time and location of the hearing.

- There may be one postponement of the hearing date by the participant. A request to reschedule must be requested before the scheduled date and may not extend beyond the proposed termination date.
- Any additional postponements may only be for good cause such as, but not limited to hospitalization, illness or injury. Second postponement requests must be supported by verification of the cause.

#### **16.4.5 Hearing Officer** **[24 CFR §982.555(e)(4)]**

The Hearing Officer may be either a LACDA employee or an outside third party contracted by the LACDA. The Hearing Officer must not have made or approved the decision under review nor be a subordinate of the person who made the decision. The Hearing Officer controls the informal hearing and may:

- Control the scope and method of direct and cross examination of witnesses;
- Control the admission and determine relevancy of offered evidence;
- Question witnesses and set time limitations for any portion of the informal hearing process.
- May consider evidence without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The Hearing Officer will audio record the hearing and follow the format set forth below.

#### **16.4.6 Opening**

The Hearing Officer will convene the informal hearing with both parties and their representatives present. (If the participant is represented, the participant will have provided the LACDA written authorization for the representative to do so.)

The Hearing Officer will explain the informal hearing procedures, state the purpose of the hearing, and inform the participant that the hearing will be recorded. The Hearing Officer may request clarification or ask questions of either side or witnesses at any time during the Informal Hearing. Each person present will introduce himself or herself.

#### **16.4.7 Presentations**

Each side will have an opportunity to present its case and be allowed to present witnesses and submit relevant evidence as determined by the Informal Hearing Officer. (Witnesses may be cross-examined at this time.) The LACDA begins the hearing by presenting the Notice of Hearing. The LACDA will then present a copy of the original notification to the participant regarding the matter, followed by the evidence, including testimony of witnesses, which supports the allegations in the notification.

#### **16.4.8 Rebuttals**

Each side will have an opportunity to present rebuttal to the evidence presented.

#### **16.4.9 Final Summary**

Each side is then allowed to summarize its arguments.

#### **16.4.10 Conclusion of Hearing**

The Hearing Officer may continue a hearing if additional information from either party is requested. Otherwise, the Hearing Officer will advise each side that the testimony and evidence will be reviewed, a final decision made and a determination letter issued stating the decision and the reasons for the decision within 10 calendar days. The decision of the Hearing Officer is final.

The Hearing Officer will use the following principles for the Informal Hearings and decisions:

1. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.
2. Determinations on the matter being reviewed shall be based on the evidence presented at the hearing.
3. If the issues and differences can properly be resolved at the hearing, the Hearing Officer should attempt to resolve them through mutual consent as long as the resolution is not contrary to applicable law, HUD regulations and/or LACDA's policies.
4. The purpose of the hearing is to determine if the original decision made in the case is in accordance with the law, HUD regulations and LACDA policies.
5. The Hearing Officer may not make a finding contrary to HUD regulations or requirements, contrary to federal, state or local law or exceeding the authority of the Hearing Officer.

### **16.5 WHEN AN INFORMAL HEARING IS NOT REQUIRED** **[24 CFR §982.555(b)]**

The LACDA is not required to provide a participant family an opportunity for an informal hearing for the following:

1. To review discretionary administrative determinations by the LACDA
2. General policy issues or class grievances;
3. A LACDA determination that an assisted unit is not in compliance with HQS. (However, the LACDA must provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family as described in §982.551(c) and Section 10.8 of this plan);
4. To review decision by the LACDA to exercise or not exercise any remedy against the owner under an outstanding Contract, including the termination of HAP to the owner;
5. To review the LACDA's decision not to approve a family's request for an extension or suspension of the term of the voucher;



6. Determination that the unit is not accordance with HQS due to family size;
7. Establishment of the LACDA's schedule of utility allowances for families in the program; or
8. A LACDA determination not to approve a unit or lease.



## **CHAPTER 17: OWNER OR FAMILY DEBTS TO THE LACDA**

### **17.1 INTRODUCTION** **[24 CFR §982.163 and §792]**

This chapter describes the LACDA's policies and guidelines for the recovery of debts and the use of repayment agreements. Before a debt is assessed against a family or owner, the file must contain documentation to support the LACDA's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the owner or the family, as appropriate.

When families or owners owe money to the LACDA, every effort will be made to collect the debt. A variety of collection tools to recover debts may be used including, but not limited to:

- Requests for lump sum payments
- Repayment agreements
- Abatements
- Deductions
- Collection agencies
- Credit bureaus
- Civil suits

### **17.2 REPAYMENT AGREEMENTS FOR FAMILIES** **[24 CFR §792.103]**

A Repayment Agreement as used in this plan is a document entered into between the LACDA and the person who owes a debt to the LACDA. The Repayment Agreement contains:

- Reference to the paragraphs in the family obligations whereby the person is in non-compliance and may be subject to termination of assistance; and
- A statement that the monthly retroactive rent repayment amount is in addition to the family's regular rent contribution and is payable to the LACDA; and
- The terms of the agreement may be renegotiated if there is a decrease or increase in the family's income; and
- Late and missed payments constitute default of the repayment agreement and may result in termination of assistance; and
- An acknowledgment by the person of the debt in a specific amount; and
- The terms of repayment; and
- Any special provisions of the agreement.

### **17.2.1 Late Payments**

A payment will be considered to be in arrears if the payment has not been received by the close of the business day on which the payment was due.

- If the due date is on a weekend or holiday, the due date will be at the close of the next business day.

If the family's repayment agreement is in arrears, the LACDA may do one or more of the following:

- Require the family to pay the entire arrearage plus current month's payment in order avoid loss of assistance;
- Require the family to pay the balance in full in order to avoid losing assistance;
- Pursue civil collection of the balance due; or
- Terminate the housing assistance.

### **17.2.2 Requests To Move**

If the family requests to move to another unit and has a repayment agreement in place, the family will be required to pay the balance in full prior to the issuance of a voucher, regardless of whether or not the family is current with its payments.

Under special circumstances indicated below, the LACDA may make an exception and allow a family to move without paying the entire balance of the debt if the family is current or can become current with its payments:

- HAP contract is terminated due to owner non-compliance
- A natural disaster
- The unit is uninhabitable or has major HQS deficiencies that are not the result of a family action or inaction.
- A life-threatening situation such as the family is a witness to or a victim of a crime and must move for safety reasons. The family will be required to provide proof in such cases.

### **17.2.3 Guidelines for Repayment Agreements**

The LACDA, at its sole discretion, will determine on a case-by-case basis whether or not to offer a family a repayment agreement for monies owed to the LACDA. The offer of a repayment agreement does not constitute an agreement to continue the family's assistance. However, the LACDA will propose termination of the family's assistance upon refusal by the family to enter into a repayment agreement.

Repayment Agreements will be executed between the LACDA and the head of household or other adult family member.

Monthly payments may be decreased in cases of hardship with the prior notice of the family, verification of hardship, and the approval of a LACDA Manager.

If the LACDA offers a repayment agreement, the family has the option to repay retroactive rent balances as follows:

1. In a lump sum amount; or
2. A monthly payment; or
3. A combination of a lump sum and monthly payment.

The LACDA will usually ask that the family pay an initial lump sum (in an amount determined by the LACDA) with the remaining balance to be paid in equal payments over a period of time not to exceed 12 months for amounts under \$2,400 or 24 months for any amount in excess of \$2,400.

In determining the initial lump sum, the LACDA will consider the total amount owed, the ability of the person to make the remaining payments and the percentage of the total sum owed. In most cases, the LACDA will ask the family to pay a significant initial lump sum as part of entering into a Repayment Agreement to help ensure full payment to the LACDA and to reduce the monthly payment. These terms will be negotiated with the tenant.

**Additional Debt Incurred:** If the family has a Repayment Agreement in place and incurs an additional debt to the LACDA:

- The LACDA may choose, at its discretion, to agree to more than one Repayment Agreement at a time with the same family.
- If a Repayment Agreement is in arrears more than 30 calendar days, any new debts must be paid in full.

### **17.3 FAMILY DEBTS OWED FOR UTILITY REIMBURSEMENT PAYMENTS**

Families must repay Utility Reimbursement Payments (URP) made by the LACDA for periods in which the family was not entitled to the URP.

If the amount of the URP owed to the LACDA is \$50 or less, the tenant will be required to pay the debt in full.

### **17.4 FAMILY DEBTS DUE TO FRAUD/NON-REPORTING OF INFORMATION [24 CFR §792.103]**

**HUD's Definition of Program Fraud and Abuse:** A single act or pattern of actions that constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead, and that results in payment of Housing Choice Voucher Program funds in violation of Housing Choice Voucher Program requirements.

#### **17.4.1 Family Error/Late Reporting**

Families who owe money to the LACDA due to the family's failure to report income or change in allowances or deductions will be required to repay in accordance with the guidelines set forth in 17.2 (Repayment Agreements for Families) of this chapter.

#### **17.4.2 Program Fraud**

At the LACDA's discretion, families who owe money to the LACDA due to program fraud will be required to repay the debt, and may be required to accept a repayment agreement in accordance with the guidelines set forth in Section 17.2 (Repayment Agreements for Families) of this chapter.

In addition, the case may be referred to the Inspector General and/or the LACDA may refer the case for criminal prosecution.

#### **17.5 FAMILY DEBTS PAID IN FULL**

If the LACDA determines not to enter into a Repayment Agreement, or if the Repayment Agreement is breached and the LACDA demands payment of the balance in full, the family must pay the full amount due and owing in one lump sum. If the family fails to pay, the LACDA will terminate the family's assistance and may pursue collection through a collection agency or a civil action and may notify credit agencies of the debt. Whether or not the amount is paid, the LACDA does not waive its right to take other action including termination of assistance or referral for criminal prosecution in appropriate cases.

#### **17.6 OWNER DEBTS TO THE LACDA**

If the LACDA determines that the owner has retained Housing Assistance or Claim Payments the owner is not entitled to, the LACDA may deduct the amounts owed from future Housing Assistance or Claim Payments owed the owner for any units under contract.

If future Housing Assistance or Claim Payments are insufficient to reclaim the amounts owed, LACDA may do one or more of the following:

- Require the owner to pay the amount in full within 30 calendar days;
- Pursue collections through the local court system;
- Pursue collections through a collection agency; or
- Restrict the owner from future participation;
- Agree to a repayment agreement with the owner for the amount owed. Repayment period may not exceed 2 months; however an owner may appeal to the Executive Director in writing for additional time.

##### **17.6.1 Owner Debts Due to Fraud**

If the landlord has been overpaid because of fraud, misrepresentation or violation of the contract, the LACDA may terminate the contract and arrange for restitution to the LACDA and/or family as appropriate.

The LACDA will make every effort to recover any overpayments made as a result of landlord fraud or abuse. Possible remedies available to the LACDA include: recovering monies owed from payments otherwise due to the owner, setting up a repayment agreement, referring the debt to a collection agency, or pursuing the matter in a civil court. A determination on the course of action to be taken will be based on the nature of the violation and the amount of the money owed. Generally,

if the owner is cooperative, is willing to pay back all monies owed, and all monies will be repaid within 2 months, the LACDA will offer the owner a chance to enter into a Repayment Agreement. However, in cases where the owner knowingly and willfully violated program rules, the LACDA may seek full repayment in one lump sum.

### **17.7 WRITING OFF DEBTS**

Debts may be written off if:

- The debtor's whereabouts are unknown and the debt is more than 3 years old.
- A determination is made that the debtor is judgment proof.
- The debtor is deceased and has an insufficient estate.
- The debtor is confined to an institution indefinitely or for more than 3 years.
- The amount is less than \$100 and the debtor cannot be located.
- If a family defaults on a repayment agreement for an amount less than \$50.





## CHAPTER 18: SPECIAL PROGRAMS

### 18.1 INTRODUCTION

The LACDA periodically has the opportunity to apply for targeted funding for special populations. The LACDA often enters into collaborative agreements with other agencies or County departments to qualify for and/or administer these funds. **Special Program policies and procedures are the same as that of the Housing Choice Voucher program except as otherwise noted. If there is a conflict between program regulations and the Admin Plan, the program regulations have precedence.**

Currently, The LACDA's Special Needs Housing and Special Program Units administer the following targeted programs:

- Family Unification Program (Family UP);
- Welfare-to-Work Program (WtW);
- Continuum of Care Program (CoC);
- Housing Opportunities for Persons with AIDS Program (HOPWA);
- Veterans Affairs Supportive Housing (VASH) Program, and
- The Family Self-Sufficiency Program (FSS).

This chapter provides details on the special programs currently administered by the LACDA. This section is divided into two main parts:

- Housing Assistance Programs, and
- Family Self-Sufficiency Program.

Housing Choice Voucher Welfare-to-Work Program (WtW) Program. This program originally provided assistance to families who were eligible for CalWORKs benefits, were in good standing with the employment/job training program offered by the Los Angeles County Department of Public and Social Services (DPSS) and were in need of housing in order to obtain or retain employment. The LACDA no longer accepts applicants for the Welfare to Work program, however original participants still receive assistance with a Welfare to Work voucher. The LACDA maintains these contracts in accordance with the policies found throughout this Plan for traditional Housing Choice Vouchers.

### 18.2 VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH) PROGRAM

This program provides rental assistance to homeless veterans and their families in combination with case management and clinical services through the Department of Veterans Affairs (VA) at Veterans Affairs Medical Center (VAMC) supportive service sites.

### **18.2.1 Referral Process/Waiting List**

The LACDA does not maintain a waiting list for the VASH Program. Instead, the VAMC utilizes a Coordinated Access System to refer homeless veterans and their families to the LACDA for VASH program rental assistance.

### **18.2.2 Eligibility**

To qualify for VASH rental assistance, applicants must meet HUD's income eligibility requirements. To determine final eligibility, the LACDA may verify all information submitted by applicants.

VASH applicants are not subject to a criminal background check, except to determine if any member of the family aged 13 and older is subject to a lifetime sex offender registration requirement.

For more specific information on eligibility requirements, refer to Chapter 2 Admission Eligibility Factors and Applicant Requirements.

### **18.2.3 Income Targeting**

VASH applicants are not subject to income targeting requirements. The LACDA may include the admission of an extremely low-income VASH applicant in its income targeting report for the fiscal year in which the family was admitted.

### **18.2.4 Denial of Participation**

**[24 CFR §982.552 and §982.553]**

VASH applicants may not be denied assistance except for failure to meet income eligibility or for being subject to a state lifetime sex offender registration requirement. If a VASH applicant is denied assistance, the LACDA will send a copy of the denial notice to HUD Headquarters, Office of Public and Indian Housing, as specified in PIH Notice 2008-37.

### **18.2.5 Verification Procedures**

Since HUD requires that factors of eligibility must be verified, applicants and program participants are required to provide proof of their statements whenever required by the LACDA.

The Homeless Condition Form is not required for VASH participants as the VAMC will verify if the participant is homeless.

### **18.2.6 Briefing Sessions and Voucher Issuance**

Briefing sessions are conducted for all eligible VASH applicants. Families are issued a Housing Choice Voucher with an initial search time of a minimum of 120 days.

See Chapter 8 for policies regarding voucher extensions.

### **18.2.7 Contracts/Tenant Payments**

Similar to the the Housing Choice Voucher Program, VASH program families are contracted based on the payment standards, and participants may pay up to 40% of their adjusted monthly income for the initial lease of a unit.

Unlike the Housing Choice Voucher program, VASH families may enter into an initial lease of less than 12 months [FR-5596–N–01].

For more specific information on determining total tenant payment, please refer to Chapter 6. For more specific information on the new contract process, request for tenancy approval and contract execution, please refer to Chapter 9.

### **18.2.8 Eligible Housing Types**

Along with other eligible housing types listed in Chapter 9 The New Contract Process , VASH families may also use the voucher in a unit owned by the VA on the grounds of the VAMC.

### **18.2.9 Re-Examinations**

The LACDA is required to process annual re-examinations. In cases where a family experiences a change in household composition and/or income between annual re-examinations, the LACDA will process an interim re-examination. The family is required to report all changes in earned and unearned income, assets, expenses, full-time student status, and family circumstances within 10 calendar days of the date the change takes effect.

For more specific information regarding causes for processing annual/interim re-examinations and the requirements for completing annual/interim re-examinations, please refer to Chapter 12 (Re-Examination).

### **18.2.10 Housing Quality Standards (HQS) Inspections**

#### **[24 CFR §982.401 and §982.405]**

Housing leased with a VASH voucher must meet the HQS performance requirements both at commencement of assisted occupancy, and throughout the assisted tenancy.

After initial occupancy, VASH housing will be subject to at least an annual inspection to ensure that the housing continues to meet HQS.

For more specific information, refer to Chapter 10 Housing Quality Standards and Inspections.

### **18.2.11 Terminations**

#### **[24 CFR §982.552 and §982.553]**

VASH families are required to participate in case management services provided by the VAMC. In cases where the VASH family failed to comply with this requirement without good cause, at the direction of the VA, the LACDA must propose termination of the family's assistance.

A VA determination that the family no longer requires case management is not grounds for termination.

VASH participants are subject to the Housing Choice Voucher program rules under the family obligations. For more specific information on family obligations, please see Section 15.8 Family Obligations.

#### **18.2.12 Program Transition**

If the VAMC determines the family no longer requires case management services, the LACDA will issue the family a regular Housing Choice Voucher in order to retain the VASH voucher for homeless veterans in need of case management services.

#### **18.2.13 Portability**

VASH families may port before initial lease-up, even when they did not reside in the LACDA's jurisdiction at the time of application.

If a VASH family ports to a Public Housing Agency where they can be served by the VAMC that services the LACDA's jurisdiction, the receiving Public Housing Agency must bill the LACDA. If a VASH family ports to another Public Housing Agency with an available VASH voucher and where the family will be served by the VAMC in that area, the receiving Public Housing Agency must absorb the family.

A VASH family may not port to another Public Housing Agency where there is no VAMC that can serve them. They also may not port where the family will receive case management through the receiving Public Housing Agency's VAMC and the receiving Public Housing Agency does not have an available VASH voucher.

For more specific information on allowable moves and eligibility for portability, please refer to Chapter 13 (Allowable Moves/ Portability).

### **18.3 HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS (HOPWA)**

This program specifically targets individuals and families afflicted by HIV/AIDS. Assistance under this program is provided for one year. After the one-year term, all HOPWA participants in good standing are allowed to transition to the regular Housing Choice Voucher Program. This program is also administered by the LACDA in other cities in addition to the cities currently within the LACDA's jurisdiction.

#### **18.3.1 Referral Process/Waiting List**

The LACDA does not maintain a waiting list for the HOPWA Program. Eligible families are identified to apply for this program by pre-selected service providers or other agencies and are referred to the LACDA.

#### **18.3.2 Eligibility**

Applicants must meet HUD's eligibility requirements for HOPWA to qualify for rental assistance. In order to determine final eligibility, the LACDA may verify all information submitted by applicants.

For more specific information on eligibility requirements, please see Chapter 2 (Admission Eligibility Factors and Applicant Requirements).

### **18.3.3 Verification Procedures**

Since HUD requires that factors of eligibility must be verified, applicants and program participants are required to provide proof of their statements whenever required by the LACDA.

The Verification of Disability and/or Diagnosis Form must be provided for all individuals claiming a disability, especially a disability that is cited as a qualifying factor for the HOPWA program. Written determinations must be made by a medical professional trained to make such determination.

### **18.3.4 Denial of Participation**

If a family previously participated in any special program and violated a family obligation and was terminated, the family may be denied future participation.

Families may be denied participation in the program if they owe the LACDA, or any other housing agency, money in connection with the Housing Choice Voucher Program or Public Housing assistance.

Families referred by contracted Community-Based Organizations (CBO's), will be sent a denial letter and referred to the CBO if there are any further questions.

### **18.3.5 Criminal Background**

Applicants of the HOPWA Program are not required to submit to a criminal background check to determine eligibility.

### **18.3.6 Briefing Sessions**

Briefing sessions are conducted for all special programs. HOPWA applicants are issued certificates.

For more specific information on voucher issuance and briefings, please see Chapter 8 (Voucher Issuance and Briefing).

### **18.3.7 Contracts/Tenant Payments**

The HOPWA program is contracted based on the Fair Market Rents published by HUD and tenant rental portions are limited to 30% of the participant's adjusted monthly income.

For more specific information on determining total tenant payment, please refer to Chapter 6. For more specific information on the new contract process, request for tenancy approval and contract execution, please refer to Chapter 9.

### **18.3.8 Re-Examinations**

The LACDA is required to process annual re-examinations. In cases where a family experiences a change in household composition and/or income between annual re-examinations, the LACDA will process an interim re-examination. The

family is required to report all changes in earned and unearned income, assets, expenses, full-time student status, and family circumstances within 10 calendar days of the date the change takes effect.

For more specific information regarding causes for processing annual/interim re-examinations and the requirements for completing annual/interim re-examinations, please refer to Chapter 12 (Re-Examination).

### **18.3.9 Housing Quality Standards (HQS) Inspections**

#### **[24 CFR §982.401 and §982.405]**

Housing leased with a HOPWA Program funds must meet the HQS performance requirements both at commencement of assisted occupancy, and throughout the assisted tenancy.

After initial occupancy, HOPWA housing will be subject to at least an annual inspection to ensure that the housing continues to meet HQS.

For more specific information, refer to Chapter 10 Housing Quality Standards and Inspections.

### **18.3.10 Terminations**

- **Proposed Terminations:** Community Based Organizations and/or other government units or departments currently contracted by the LACDA to provide supportive services may request termination of housing assistance for a program participant who is in violation of program requirements and/or conditions of occupancy.
- **Terminations:** Housing assistance may be terminated if a family violates specific program requirements and/or the family obligation.

For more specific information on family obligations, please see Chapter 15 (Family Obligations).

### **18.3.11 Portability**

HOPWA participants have no portability rights as long as they continue being assisted under this program. However, after 1 year of HOPWA assistance, eligible participants are converted to the regular Housing Choice Voucher program and become eligible to port out to another Public Housing Agency jurisdiction.

For more specific information on allowable moves and eligibility for portability, please refer to Chapter 13 (Allowable Moves/ Portability).

## **18.4 HOUSING CHOICE VOUCHER FAMILY UNIFICATION (FAMILY UP) PROGRAM**

This program provides assistance to families who are in imminent danger of losing or who cannot regain custody of their minor children due to lack of adequate housing and to foster care youth at risk of homelessness. This program is a collaborative effort between the LACDA and the Los Angeles Department of Children and Family Services (DCFS). Eligible program participants are identified

by DCFS and referred to the LACDA for rental assistance. The LACDA may also refer program participants from the LACDA waiting list to DCFS.

The FUP program is funded from the LACDA's routine voucher turnover, i.e. vouchers that are vacated throughout the year because families are terminated from the program or voluntarily leave.

For the purpose of the FUP program, the LACDA will not require that a program applicant qualify for a residential preference since most applicants are homeless and are unable to provide information about their last known permanent address. However, applicants must agree to reside in the LACDA's jurisdiction for the first year of assistance.

#### **18.4.1 Referral Process/Waiting List**

Eligible individuals and families are identified to apply for these programs by DCFS and are referred to the LACDA. Those referred will be maintained on the LACDA's waiting list.

#### **18.4.2 Eligibility**

Applicants must meet HUD's eligibility requirements for the FUP program to qualify for rental assistance. In order to determine final eligibility, the LACDA may verify all information submitted by applicants.

The eligibility requirements for FUP youth are limited to those ages 18 to 24 that are homeless or at risk of being homeless, and for those that left foster care at age 16 or older, or those that are within 90 days of leaving foster care.

For more specific information on eligibility requirements, please see Chapter 2 (Admission Eligibility Factors and Applicant Requirements).

#### **18.4.3 Verification Procedures**

Since HUD requires that factors of eligibility must be verified, applicants and program participants are required to provide proof of their statements whenever required by the LACDA.

#### **18.4.4 Denial of Participation**

If an applicant previously participated in any special program and violated a family obligation and was terminated, the applicant may be denied future participation.

Applicants may be denied participation in the program if they owe the LACDA, or any other housing agency, money in connection with the Housing Choice Voucher Program or Public Housing assistance.

Applicants will be sent a denial letter and referred to DCFS if there are any further questions.

#### **18.4.5 Criminal Background**

Program applicants will require criminal background checks.

For more specific information on the applicant screening standards used by the LACDA when reviewing criminal records, please see Section 2.8 (Denials of Assistance).

#### **18.4.6 Briefing Sessions**

Briefing sessions are conducted for all eligible applicants.

For more specific information on voucher issuance and briefings, please see Chapter 8 (Voucher Issuance and Briefing).

#### **18.4.7 Contracts/Tenant Payments**

The FUP program is contracted based on the payment standards, and participants may pay up to 40% of their adjusted monthly income.

For more specific information on determining total tenant payment, please refer to Chapter 6. For more specific information on the new contract process, request for tenancy approval and contract execution, please refer to Chapter 9.

#### **18.4.8 Re-Examinations**

The LACDA is required to process annual re-examinations. In cases where a family experiences a change in household composition and/or income between annual re-examinations, the LACDA will process an interim re-examination. The family is required to report all changes in earned and unearned income, assets, expenses, full-time student status, and family circumstances within 10 calendar days of the date the change takes effect.

For more specific information regarding causes for processing annual/interim re-examinations and the requirements for completing annual/interim re-examinations, please refer to Chapter 12 (Re-Examination).

#### **18.4.9 Terminations**

- **Proposed Terminations:** DCFS may request termination of housing assistance for a program participant who is in violation of program requirements and/or conditions of occupancy.
- **Terminations:** Housing assistance may be terminated if a family violates specific program requirements and/or the family obligation.

For more specific information on family obligations, please see Section 15.7 Family Obligations.

### **18.5 FAMILY SELF-SUFFICIENCY PROGRAM** **[24 CFR §984.101(a)]**

Family Self-Sufficiency promotes the development of local strategies to enable families to achieve economic independence and self-sufficiency. The program is designed to provide supportive services for families who are residents within the LACDA's jurisdiction. Supportive services include but are not limited to childcare, education, transportation, counseling, job preparation, vocational training and home ownership workshops.



New admissions to the Family Self-Sufficiency program will be limited to the level of available funding.

Upon becoming employed, FSS participants continue to pay rent in accordance with the LACDA's housing choice voucher procedures. Whenever the participant's rent increases due to earned income, the LACDA establishes an interest bearing Escrow Account in their name. If the family successfully completes the contract obligations within 5 years, the family can apply to graduate from the program and receive the accrued portion of their escrow account.

The LACDA is to establish a Program Coordinating Committee (PCC) consisting of at least one representative of the LACDA and at least one of the residents assisted under the section 8 housing voucher program; to assist in securing commitments of public and private resources for the operation of the FSS program.

### **18.5.1 FSS Application Process**

Applications are readily available to Section 8 program participating families. Upon request, an application will be sent to the family. Tenants will not be penalized for not participating in the FSS Program since it is a voluntary program. Once an application is submitted to the FSS office, eligibility is determined. If the application is not accepted, the tenant will be notified within 30 calendar days.

### **18.5.2 Waiting List**

**[24 CFR §984.203(b) and (c)]**

If there is no current availability to enroll eligible participants, applicants will be placed on the FSS waiting list in the order of the date and time their applications are received by the LACDA. When a slot becomes available, the next eligible family will be contacted for an interview with an FSS program specialist. Applicants who: 1) fail to respond; 2) do not attend the interview; and/or 3) are not willing to sign the FSS Contract of Participation will be removed from the waiting list in accordance with section 24 CFR §984.203(c).

The LACDA's FSS program will give priority to incoming portable families with an active FSS Contract of Participation.

### **18.5.3 FSS Eligible Families**

**[24 CFR §984.103]**

FSS eligible families are housing choice voucher holders and/or residents of County Public Housing.

- "FSS family" or "participating family" means a family that receives assistance under Public Housing or the Housing Choice Voucher Program and elects to participate in the FSS Program and whose designated head of FSS family has signed the Contract of Participation.
- "Head of the FSS family" means the adult member of the FSS family who is the head of household for purposes of determining income eligibility and rent.

### **18.5.4 Denial of Participation**

**[24 CFR §984.303 and §984.305(b)]**

If a family previously participated in the FSS Program but did not meet its obligations and was terminated, the family may be denied future participation.

Families may be denied participation in the program if they owe the LACDA or any other housing agency money in connection with the Housing Choice Voucher Program or Public Housing assistance.

#### **18.5.5 Contract of Participation (COP)** **[24 CFR §984.303]**

If the family is eligible to participate, the LACDA will prepare a Contract of Participation (CoP) and an Individual Training and Services Plan (ITSP) for the household within 30 calendar days of the date the application is returned. The COP is valid for five years and may be extended up to two years to allow the family to meet their goals. Following execution of the CoP and ITSP, participants are referred to an FSS case manager for contract administration and may also be referred to a contracted Community Based Organization (CBO) for supportive services. The contract will contain the effective date as well as the expiration date. It will outline the resources, supportive services, and the starting base for determining the escrow account. In addition, the contract will outline the guidelines for administering and disbursing the escrow funds in accordance with [24 CFR §984.303(b)(1)].

##### **18.5.5.1 Needs Assessment**

The LACDA will perform a needs assessment with the family using various needs assessment tools. Upon completion of the assessment, the FSS case manager will be able to establish the milestones, and short and long-term goals designated for the head of household on the ITSP and any other participating family members with an executed ITSP.

##### **18.5.5.2 Individual Training and Service Plan (ITSP)**

The contract must contain an ITSP for the FSS head of household. Other adult family members who wish to receive services must also have an individual training and services plan to participate in the FSS program. The resources and services to be provided must be contained in the plan. It must contain the milestones, interim goals and final goal for suitable employment.

Each individual FSS contract must contain an ITSP for the FSS head of household and any participating family member. The items included on the ITSP will include:

- The resources and services to be provided by the LACDA and contracted supportive services provider;
- The individual milestones, interim goals and final goal for suitable employment;
- Completion dates for each individual interim goals will be included on or before the contract expiration date;
- A mandatory interim goal for families receiving welfare is that all family members must be free of welfare assistance for 12 consecutive months prior to the expiration of the contract (including extensions) [24 CFR §982.306(b)(2)];

The requirement for the head of the FSS family to seek and maintain suitable employment throughout the term of the contract; and

Each ITSP plan must be signed by the participant and a LACDA representative.

Any changes to the ITSP must be included as a revision to the original plan. The revision may be based on the following reasons: factors keeping the client from effectively becoming suitably employed, lack of supportive services, and unforeseen circumstances/barriers. The revision must include:

- The item changed;
- Signature of the participant and a LACDA representative; and
- The date signed.

#### **18.5.5.3 Executing the FSS Contract of Participation (CoP)** **[24 CFR §984.303]**

The CoP establishes an agreement between the family and the LACDA as to the responsibilities of each party. The contract is to be signed by the head of the FSS family, which is the head of household for purposes of determining eligibility. The effective date of the contract will be the first of the month after the contract is executed. The limited term is 5 years. Copies of the documents will be furnished to the head of household.

The CoP may be modified in the following areas, if the LACDA and the family mutually agree [24 CFR §984.303(f)]:

- Individual Training and Services Plan
- The contract term (extension)
- Designation of the FSS head of the family in cases where the FSS head is deceased or becomes unassisted

A change in the designated FSS head must be included as an attachment to the Contract. It must contain the following:

- Name of new designated FSS head
- The signatures of the new FSS head and a LACDA representative
- The date signed

The following representative(s) is/are authorized to execute a contract on behalf of the LACDA: the Special Programs Manager, the FSS Coordinator, and the FSS Program Specialist.

#### **18.5.5.4 Contract Extensions** **[24 CFR §984.303(d)]**

The contract may be extended in writing and at the family's request, for up to 2 years for good cause. The LACDA will only grant an extension in rare circumstances that are beyond the control of the family, and which prevent completion of the training and services plan. Termination of employment for nonperformance by the FSS head is not justification for a contract extension. The LACDA may extend the CoP to allow families to meet the interim goal of being welfare-free at least 12 consecutive months prior to the expiration of the contract. During an extension to the contract, the family continues to have FSS amounts credited to the escrow account.

#### **18.5.5.5 Completion of the Contract** **[24 CFR §984.303(g)]**

The contract of participation is considered to be completed, and a family's participation in the FSS Program is considered to be concluded when one of the following occurs:

- The FSS family has fulfilled all of its obligations under the Contract of Participation on or before the expiration of the contract term, including any extension thereof; or
- For HCV FSS participants only, 30% of the monthly adjusted income of the FSS family equals or exceeds the published existing housing fair market rent for the size of the unit for which the FSS family qualifies based on the PHA's occupancy standards. The Contract of Participation will be considered completed and the family's participation in the FSS Program concluded on this basis even though the contract term, including any extension thereof, has not expired, and the family members who have individual training and services plans have not completed all the activities set forth in their plans. The head of the FSS family must certify that to the best of his or her knowledge, no member of the FSS family is a recipient of welfare assistance (cash maintenance payments) on the last day in which 30% of the monthly adjusted income of the FSS family equals or exceeds the published existing housing fair market rent for the size of the unit for which the FSS family qualifies for based on the PHA's occupancy standards.
- **NOTE:** Public Housing participant families are excluded from the second option, which allows for COP completion or graduation if 30% of the family's monthly-adjusted income is greater than or equal to the area's FMR.

The LACDA may set milestones for employment and other activities leading to self-sufficiency early in the 5-year contract term in accordance with the family's abilities. The family's obligations may terminate before the end of the 5-year contract term, and the family's participation in the FSS Program and entitlement to the escrow may be less than 5 years.

#### **18.5.5.6 Termination of the Contract** **[24 CFR §984.303(h)]**

The contract of participation is automatically terminated if the family's Section 8 assistance is terminated in accordance with HUD requirements. The Contract of Participation may be terminated before the expiration of the contract term, and any extension thereof, by:

- Mutual consent of the parties;
- The failure of the FSS family to meet its obligations under the contract of participation without good cause, including in the Section 8 FSS Program the failure to comply with the contract requirements because the family has moved outside the jurisdiction of the PHA;

- The family's withdrawal from the FSS Program;
- Such other act as is deemed inconsistent with the purpose of the FSS Program;  
or
- Operation of law

#### **18.5.6 Compliance With The Lease** **[24 CFR §984.303(b)(3)]**

The Contract provides that the family must comply with the assisted lease. Therefore, noncompliance with County Housing Development lease, or the lease with the owner in the Housing Choice Voucher Program, is grounds for termination of the FSS Contract of Participation.

In the Housing Choice Voucher Program, if the violation of the lease is "serious or repeated," the LACDA may also terminate program assistance.

#### **18.5.7 Escrow Accounts** **[24 CFR §984.305]**

The general concept of the escrow account is that FSS families continue to pay rent in accordance with their incomes (even as their incomes increase due to employment income). As a rule, the amount of the increase in earned income is escrowed. Because there are other factors that affect the family rent, it will not necessarily be dollar for dollar. The amount escrowed for the family will depend on whether the family is considered a very low- or low-income family.

- **Disbursing the FSS Escrow Account:** The amount in an FSS account, in excess of any amount owed to the LACDA by the FSS family, is paid to the head or designated remaining family member of the FSS family [24 CFR §984.305(c)]:
  - When the contract of participation has been completed. The head of the family must provide written certification that no member of the family is receiving welfare assistance (cash maintenance payments); and
  - For HCV FSS participants only, when 30% of the family's monthly adjusted income equals or is greater than the Fair Market Rent amount for the unit size for which the family qualifies. The family must provide written certification that no member of the family is receiving welfare assistance (cash maintenance payments).
- **NOTE:** Public Housing participant families are excluded from the second option, which allows for COP completion or graduation if 30% of the family's monthly-adjusted income is greater than or equal to the area's FMR.
- **Interim Disbursement:** The LACDA may, at its sole discretion, disburse a portion of the funds from the family's escrow account during the contract period for contract-related expenses if the family has fulfilled certain interim goals and needs a portion of the FSS account funds for purposes consistent with contract such as [24 CFR §984.305(c)(2)]:
  - School tuition;
  - Business start-up expenses;

- Car when public transportation is unavailable or inaccessible to the family; or
- Job training expenses.

The family may use the final disbursement of escrow account funds without restriction.

The LACDA cannot restrict a family's use of FSS escrow account funds withdrawn by the family unless the funds are withdrawn to aid in the completion of an interim goal.

- If a family receives an advance payment from their escrow account prior to completing the Contract, the advance payment does not have to be repaid to the LACDA if the family drops out of the FSS program, unless the payment was due to fraud or misinformation by the family.

If the family moves outside of the LACDA's jurisdiction under the Housing Choice Voucher Program portability procedures, the LACDA may transfer the balance of the family's FSS escrow account to another public housing agency [24 CFR §984.306(e)].

#### **18.5.7.1 Reporting on FSS Accounts** **[24 CFR §984.305(3)]**

- Each FSS family will receive an annual report on the status of the family's FSS escrow account, which will include:
- The balance at the beginning of the reporting period;
- The amount of the family's rent payment that was credited to the FSS account during the reporting period;
- Any deductions made from the account for amounts due to the LACDA before interest is distributed;
- The amount of interest earned on the account during the year; and
- The total in the account at the end of the reporting period.

#### **18.5.7.2 Forfeiting the FSS Escrow Account** **[24 CFR §984.305(f)]**

Amounts in the FSS escrow account will be forfeited if:

- The Contract of Participation is terminated;
- The Contract of Participation is completed but the family is receiving welfare assistance when the contract expires, including extensions; or
- The head of the family dies and the remaining members of the family choose not to continue participating in the program, and the contract obligations have not been met.

If families do not pay their rent to the owner, the funds may be forfeited because:

- Compliance with the applicable housing choice voucher or Public Housing lease is a family obligation under the Contract, and
- Nonpayment of rent is grounds for terminating a family's FSS participation and forfeiture of the escrow.

In the housing choice voucher program, FSS account funds forfeited by the family will be treated as program receipts for payment of program expenses under the LACDA's Housing Choice Voucher Program budget. Escrow funds may be used by the LACDA for HUD-approved expenses; such expenses may include rental assistance payments.

In Public Housing, the forfeited account will be credited to the LACDA's operating reserves and counted as other income in the calculation of the Public and Indian Housing Performance Funding System (PFS) operating subsidy eligibility for the next budget year. The escrow funds may be used by the LACDA for HUD-approved expenses such as Public Housing maintenance costs.

#### **18.5.8 Change in Family Composition**

If the head of the FSS family no longer resides with other family members in the assisted unit, the remaining family members of the family will have the right to designate another family member to receive the funds. The LACDA must approve this change.

If a family with two adults splits up, the LACDA will determine if the escrow should be paid. The family may be paid if the family member that continues to reside in a Housing Development and/or retains the rental assistance through the Housing Choice Voucher Program:

- Is already head of the FSS family, or
- Was not designated as head of the FSS family but now designates himself or herself to receive the escrow account.

#### **18.5.9 FSS Termination/Cancellation/Portability** **[24 CFR §984.303(h)]**

The LACDA is responsible for determining whether the family has violated the FSS contract and whether the family's rental assistance should be terminated.

##### **18.5.9.1 FSS Termination Due To Portability** **[24 CFR §984.306(f)]**

If an FSS family relocates to another Public Housing Agency located *outside* of the County of Los Angeles' geographic area, the family will be terminated from LACDA's FSS Program.

If an FSS family ports to another Public Housing Agency after the initial term of their FSS COP, and the receiving Public Housing Agency is absorbing the family, the family will have up to 1 year to transfer its FSS COP to the receiving Public Housing Agency, if the receiving Public Housing Agency is willing to enroll the family into its FSS program

If the receiving Public Housing Agency does not have an FSS Program or rejects the family, the family will be terminated from LACDA's FSS Program.

If a relocating FSS family is unable to fulfill its obligation under the FSS contract, the LACDA or the receiving Public Housing Agency, whoever is party to the FSS Contract of Participation may:

- Terminate the family from the FSS Program and the family's FSS account will be forfeited, and
- Terminate the family's rental assistance since the family failed to meet its obligations under the FSS contract.

If the family's FSS account is forfeited, the funds in the account will revert to the Public Housing Agency maintaining the FSS account for the family and will be treated as program receipts.



## **CHAPTER 19: ENHANCED HOUSING CHOICE VOUCHER ASSISTANCE**

### **19.1 INTRODUCTION [24 CFR §886 & §882]**

Enhanced voucher assistance will be offered to eligible residents under the following categories of Housing conversion actions - owner opt-outs and preservation prepayments, who are residing in the property on the date of the eligibility event (the contract expiration or the effective date of the prepayment).

In addition, although families affected by Section 8 moderate rehabilitation opt-outs are eligible for enhanced vouchers which are subject to the policies described by this section, these opt-outs are not considered a housing conversion action because the expiring contract is between the owner and the LACDA.

Families residing in eligible project-based developments on the date of the owner's prepayment/termination/opt-out will be offered a subsidy (enhanced voucher) if they meet other eligibility criteria. A family will be required to contribute a minimum amount toward rent.

Unlike a regular voucher, the subsidy is "enhanced" to cover the difference between the normally applicable payment standard and the possibly higher proposed rent of the unit that is going through the housing conversion action and Moderate Rehabilitation program opt-outs.

### **19.2 TERMS/PROVISIONS**

The residents of the project-based program under the HUD Section 8 Contract are eligible to receive an Enhance Housing Choice Voucher if the participant eligibility screening is approved, including the criminal background check requirement.

The LACDA issues a family an enhanced voucher based on the number of bedrooms the family qualifies for under the current subsidy standards, not actual size of the unit the family is occupying. If the bedroom size of the family's unit exceeds the number of bedrooms the family qualifies for under the current subsidy standards the family is *over-housed*.

#### **19.2.1 Characteristics of Enhanced Voucher Assistance**

Enhanced vouchers have several special requirements but in all other respects are subject to normal housing choice voucher program rules.

##### **1. Payment standard where the family chooses to stay in the same project.**

For families who choose to remain in place, the payment standard equals the new proposed gross rent. The payment standard equals the new gross rent for the unit after the opt-out or prepayment (provided the gross rent is reasonable based on comparable units).

If the Total Tenant Payment (TTP) exceeds the applicable payment standard at conversion, then the tenant is not eligible for assistance.

**2. Payment standard where the family chooses to move.**

In all cases where the family decides to move from the development, HCV rules apply. (The payment standard equals the lesser of the new gross rent or payment standard).

This payment standard includes situations where the family must move in order to receive assistance because the proposed new rent for the family's current unit in the preservation/opt-out development is reasonable in relation to comparable units.

**3. Housing Quality Standards (HQS) Inspections**

For families that chose to remain in place, the unit must meet the HQS performance requirements both at commencement and throughout the assisted tenancy. After the unit meets the initial HQS performance requirements, the unit will be subject to at least an annual inspection to ensure that the housing continues to meet HQS. For more specific information, refer to Chapter 10 Housing Quality Standards and Inspections.

**4. Rent Reasonableness**

When an in-place family receives an enhanced voucher, the LACDA ensures the rent reasonableness of the proposed gross rent for the family.

**5. Minimum Rent Requirement**

All families who stay in their current unit or move to an appropriate size unit within the same development and receive assistance with an enhanced voucher (whether previously assisted or non-assisted) are subject to a statutory minimum rent. The minimum rent is the amount of rent the family was paying on the date of the conversion action or Section 8 Moderate Rehabilitation owner opt-out. The minimum rent represents the lowest amount the family may pay as their family contribution. Depending on the circumstances, the family may have to pay more than the minimum rent.

**6. Calculating HAP Payments**

When a family with an enhanced voucher remains in-place (or moves to an appropriate size unit within the development) AND the new gross rent exceeds the applicable payment standard and is rent reasonable; the HAP equals the new gross rent for the unit minus the GREATER of:

- 30% of the monthly adjusted family income, or
- 10% of the family gross income, or
- The gross total tenant payment (TTP or family contribution for an assisted family) that the family was paying on the date of the prepayment/termination; i.e. minimum tenant rent.

**19.2.2 Availability of Appropriate Size Units in the Project**

The over-housed family must move to an appropriate size unit or suitable (smaller than the unit the family currently occupies but no smaller than the unit size the family qualifies for) in the project if one is available in order to receive enhanced

voucher assistance. The enhanced voucher housing assistance payment calculation is based on the gross rent of the appropriate size unit.

### **19.2.3 No Appropriate Size Units Currently Available in the Project**

If there is no appropriate or suitable size unit currently available for the family in the project, the LACDA executes a HAP contract on behalf of the family for the oversized unit, provided the rent is reasonable and the unit complies with all other program requirements such as the housing quality standards.

The enhanced voucher housing subsidy calculation is based on the gross rent for the oversized unit. The subsidy calculation will continue to be based on the gross rent (including subsequent rent increases) for the oversized unit until an appropriate or suitable size unit in the project becomes available for occupancy for the family.

### **19.2.4 Actions when Appropriate Size Units Later Become Available in the Project**

The owner must immediately inform the LACDA and the family when an appropriate or suitable size unit becomes available in the project. When an appropriate or suitable sized unit becomes available, the family residing in the oversized unit must move to the appropriate or suitable sized unit within 30 days from the date of the passed inspection, or within 60-days if an extension was granted (based upon extreme hardship), to continue to receive enhanced voucher assistance. One 30-day extensions may be authorized as a result of an extreme hardship that prevents the family from moving during the initial 30-day period. An extreme hardship includes, but is not limited to, financial hardship, personal illness, the illness or death of a relative (regardless of whether the person is a member of the proposed assisted household), and instances in which the head, spouse or co-head were required to be out of the local area or were otherwise unavailable to move into the available unit. Such matters will be considered on an individual basis and must be supported by verifiable documentation.

The family and owner will enter into a new lease and the LACDA will execute a new HAP contract with the owner for the smaller bedroom size unit. The enhanced voucher subsidy calculation will be based on the gross rent for the smaller bedroom size unit.

If an over-housed enhanced voucher family refuses to move to an available smaller unit, staff will calculate the family's housing assistance payment (HAP) for the oversized unit based on the current applicable voucher subsidy formula using the applicable payment standard. The family will be responsible for any amount of the gross rent not covered by the housing assistance payment.

### **19.2.5 Decrease in Family Size or Change in Family Composition**

If, as a result of a decrease in family size or change in family composition, an enhanced voucher family later becomes over-housed, the same policy regarding over-housed enhanced voucher families would apply. The family would continue to receive enhanced voucher assistance in the oversized unit until such time that an appropriate or suitable sized unit becomes available for occupancy by the family in the project.

If an over-housed enhanced voucher family refuses to move to the appropriate or suitable sized unit, staff will calculate the family's housing assistance payment (HAP) for the oversized unit based on the current applicable voucher subsidy formula using the applicable payment standard. The family will be responsible for any amount of the gross rent not covered by the housing assistance payment.

If there are more over-housed families than the number of available appropriate or suitable sized units in a project at any given time, the LACDA will require families to move to the appropriate or suitable size unit by prioritizing first according to the families that have been over-housed the longest (by move-in date) and secondly the family's anniversary date (if needed). If the family is unable to move due to a disability and a reasonable accommodation has been approved, we will move to the next household by date of their initial lease.

For families who choose to vacate, the enhanced voucher becomes a regular housing choice voucher and the eligibility requirements policy is the same as for screening regular admissions for the Housing Choice Voucher Program. Families are then also eligible for portability and the minimum rent requirement is no longer applicable.

### **19.3 COVERED HOUSING CONVERSION ACTIONS**

There are two types of housing conversion actions that the property owners can choose: preservation pre-payment or opt-out.

1. Pre-payment date is the date the owner officially "pays off" their HUD-insured mortgage. The property is no longer considered a Project-Based or Affordable Development, and the owner is free to increase rents to market levels. As early as 60 days after this "pre-payment date," the residents are no longer protected by the subsidy or affordable rents.
2. Opt-out is where owners elect to discontinue the existing contract with HUD and no longer desire to participate in any subsidy program. In cases when owners pre-pay either their mortgage loan or opt-out of the Section 8 Housing Assistance, federal law requires that owners provide the tenants with a 1-year notification before the expiration of the Section 8 Contract. The owners are required to give proper notice of intent to pre-pay or opt-out to HUD, a notice of intent to pre-pay loan to California Housing Partnership Office, the Participant City, the local LACDA, and the Legal Aid Foundation. These notifications must be sent at least 1 year in advance, along with the notice of intent to increase the rent with a minimum of 60-day notice to the tenants of such a rent increase.

#### **19.3.1 Family Eligibility for Enhanced Vouchers**

Preservation Prepayment: A family/individual is eligible to receive an enhanced voucher subsidy due to a preservation prepayment in an eligible development on the effective date of prepayment or voluntary termination of mortgage insurance and is income-eligible on that effective date:

- **The family is an elderly or disabled moderate-income family; (at least 80% but does not exceed 95% of area median income); or**
- The family annual income is low (at or below 80% of area median income) or very low-income (at or below 50% of area median income); or
- A moderate-income family residing in a low vacancy area (3% or less vacancy rate) as determined by the local HUD office; and
- The family resides in the development on the conversion date; and
- The unit is an appropriate size; and passes HQS.

A family not qualified in one of the categories on the effective date of the prepayment/termination is not eligible, regardless of whether the family's income situation changes during the next 12 months.

**Unassisted and Assisted Families:** Both unassisted and assisted families may be eligible for the enhanced voucher subsidy.

- Assisted Families are families residing in the development at the time of the prepayment/termination who currently receive tenant-based rental assistance from a local PHA. These participants must abide by the special provisions of the enhanced vouchers if the family chooses to remain in the unit. Continued residency at the development invokes minimum rent requirements.
- Unassisted Families are families residing in the development at the time of the prepayment/termination and are not current tenant-based voucher recipients.

**Opt-Out:** A family is eligible to receive an enhanced voucher subsidy due to an owner electing not to renew an expiring Section 8 project-based contract (Opt-Out) if:

- The family has an annual income that is at or below 80% of area median income, and
- The family resides in a unit covered by the expiring contract on the date of the expiration, and
- The amount the family pays for gross rent exceeds 30% of their adjusted monthly income as a result of the owner's rent increase, and
- The unit the family presently occupies or chooses to occupy is an appropriate sized unit and passes an HQS inspection.

#### **19.4 DENIAL OF ENHANCED VOUCHER SUBSIDY**

The LACDA may deny a family an enhanced voucher for the same reasons listed for denial of rental assistance in the regular HCV program, including income ineligibility, delinquencies, classification as a lifetime sex offender, or for other criminal activity.

The LACDA must provide a family that is denied assistance an opportunity for an informal review according to Chapter 16 (Informal Reviews/Hearings).



## **CHAPTER 20: MODERATE REHABILITATION PROGRAM**

### **20.1 INTRODUCTION**

#### **[24 CFR §882]**

The Moderate Rehabilitation (Mod Rehab) Program was designed in 1978 to be an expansion of the rental certificate program. The rental certificate program was initially amended to permit moderate levels of rehabilitation to upgrade and preserve the housing stock. The rental certificate program required a minimum expenditure of \$1,500 in repairs to meet the program housing quality standards.

After the work was completed, owners entered into a 15-year Housing Assistance Contract with the local Public Housing Agency. Using this 15-year rental certificate contract, the Public Housing Agency helped the owner repay the loan by subsidizing the rents of low-income participants at a higher-than-fair market rate. The contract tied rental subsidies to the building not the participant. Although funding is no longer available for new participants, the Housing Assistance Division continues to administer existing contracts under this program. **Mod Rehab policies and procedures are the same as those of the Housing Choice Voucher program except as otherwise noted. If there is a conflict between program regulations and the Admin Plan, the program regulations have precedence.** For the re-examination process for the participant, see Chapter 12 (Re-Examination). On family obligations, see Section 15.7 Family Obligations. These rulings apply to the Section 8 Certificate Program and the Housing Choice Voucher Program.

### **20.2 THE EXPIRED 15-YEAR CONTRACTS**

The 15-year contracts have since expired. HUD has authorized housing authorities to extend expiring Moderate Rehabilitation Contracts under certain conditions. These conditions are as follows:

- The project must have five or more units. If a building has five or more units, but only one of the units is under Moderate Rehabilitation Program then the unit is covered under the contract. The building still qualifies for an extension because the requirement is tied to the project not the contract.
- The owner must be in good standing with the current contract. Examples of non-compliance: on-going non-compliance with the Housing Quality Standard inspections.

### **20.3 REQUESTING AN EXTENSION**

The LACDA closely monitors the expiration dates for all Moderate Rehabilitation contracts and sends the owners a letter asking if they would like to request an extension. Owners need to reply immediately to this letter if they wish to extend another year. The extension of the contract is for 1-year. HUD has allowed the LACDA to continue to extend the “extension” contract for another year. This has been the practice since 1996. However, there is no guarantee that the contracts will continue to be extended in the future.

If an owner does not wish to extend the Mod Rehab Contract for their building, they are under no obligation to extend the contract. Rules governing the Moderate Rehabilitation program require that the owners give their tenants 1-year notice in advance of the expiration of the contract and their intent to opt-out of the program. The families will receive enhanced vouchers and have the right to remain in the units as long as the units are used for rental housing. If the family chooses to vacate the Mod Rehab unit, then the family will be given a Housing Choice Voucher.

If an owner does not provide a family with the required notice, the family is protected as if they were under an assisted tenancy until 1 year from the time the owner actually provides the notice. This means that if the owner elects not to renew the contract and the family chooses to remain in the unit as an unassisted tenant, the owner will be required to accept the family portion of the rent as full payment until he/she has complied with the notification requirement.

#### **20.4 ANNUAL INCREASE FOR THE EXPIRED 15-YEAR CONTRACTS**

The LACDA will send the owner a letter regarding their upcoming expiration date and advise them of their annual increase that may be granted to them providing that they choose to extend their contract. The owner must respond immediately for an extension so that the LACDA can expedite the process to secure funding for the new coming year.

The methodology used to calculate the rent that an owner may be eligible to receive under the renewal contract is different. To determine the rent under the extension contract the LACDA must compare the following three rent analyses:

- Existing contract rents multiplied by the Operating Cost Adjustment Factors (OCAF);
- The Mod Rehab FMR (120% of the existing Fair Market Rents) minus the Utility allowance; and
- Comparable market rents

The rent under the extension contract is based on the lowest of the above three figures. The LACDA will complete this analysis for the building and provide the owner with a copy.

For the participant's re-examination process, see Chapter 12 (Re-Examination). For family obligations, see Section 15.7 Family Obligations. These two rulings apply to the Section 8 Certificate Program and the Housing Choice Voucher Program.

#### **20.5 NON-EXPIRED MOD REHAB CONTRACTS**

For those Mod Rehab contracts that have not reached their 15-year contract, the annual increases may be granted providing:

- The owner submits a proper 60-day notice, prior to the anniversary date, of their rent increase amount to the LACDA.



- The new rent increase does not exceed the annual adjustment factor and comparables justify the increase.
- The unit has passed inspection.

## **20.6 REQUEST TO MOVE**

Since the assistance is attached to the unit and not the participant, assistance will be terminated for participants who relocate from their Mod Rehab unit. Participants who were selected from the Housing Choice Voucher waitlist and have been issued a voucher must submit their proper 30 day notice to their owner and provide a copy to the LACDA prior to vacating their unit. At the time of vacate an owner may claim vacancy loss (see Section 20.13 Owner Claims) waiting lists.

## **20.7 WAITING LIST** **[24 CFR §882.513]**

The LACDA will use a separate waiting list for each project under the Mod Rehab program. Applicants currently on the tenant-based assistance waiting list will be given an opportunity to place their name on a Mod Rehab waiting list, with their original date and time intact. If a new applicant applies to the tenant-based waiting list, the applicant will be given the opportunity to also place their name on any open Mod Rehab waiting list.

If a Mod Rehab waiting list is opened to the public, it will be advertised on the LACDA's website, along with its admissions preferences, in accordance with HUD fair housing guidelines and using the equal housing opportunity logotype, statement and slogan.

## **20.8 REFERRALS** **[24 CFR §882.514]**

All assisted units must be leased to families found eligible and referred to the owner by the LACDA from the LACDA's waiting list. Admissions procedures will follow those outlined in Chapter Four of this Plan.

When vacancies occur, the LACDA will refer to the owner one or more appropriate size families on its waiting list.

If the LACDA is unable to refer a sufficient number of interested applicants on the waiting list to the owner within 30 days of the owner's notification to the LACDA of a vacancy, the owner may advertise or solicit applications from income-eligible families and refer them to the LACDA to determine eligibility.

Since the owner is responsible for tenant selection, the owner may refuse any family provided that the owner does not unlawfully discriminate. Should the owner reject a family and should the family believe that the owner's rejection was the result of unlawful discrimination; the family may request the assistance of the LACDA in resolving the issue. If the issue cannot be resolved promptly, the family may file a complaint with HUD, and the LACDA may refer the family to the next available Moderate Rehabilitation unit.

## **20.9 NEW LEASE PROCESS**

Once the applicant has been determined eligible by the LACDA for the Mod Rehab program, the LACDA will contact the applicant and schedule them for a briefing. After the briefing the applicant will then be referred to the owner for tenancy approval (this includes the owner selection process in Section 20.8 Referrals). Once the tenant is approved by the owner, the LACDA will contact the owner/manager to schedule a new lease inspection.

Upon passing of the initial inspection, the LACDA will contact the owner to obtain the new lease which will include the effective date and security deposit information.

Upon receipt of the signed lease, the LACDA will release the HAP payment to the owner.

## **20.10 PHYSICAL CONDITION AND INSPECTION REQUIREMENTS**

### **[24 CFR §882.404 and §5.705]**

Housing assisted through the Moderate Rehabilitation program must be maintained and inspected in accordance with the requirements in 24 CFR part 5, subpart G.

The LACDA is responsible for conducting a physical inspection of Moderate Rehabilitation program housing annually in accordance with HUD-prescribed physical inspection procedures. The housing is subject to the Lead-Based Paint requirements specified at 24 CFR §882.404(d) and Chapter 10. Housing Quality Standards and Inspections.

## **20.11 SECURITY DEPOSITS**

### **[24 CFR §882.414]**

If at the time of the initial execution of the lease the owner wishes to collect a security deposit, the maximum amount shall be the greater of one month's Total Tenant Payment or \$50. For units leased in place, security deposits collected prior to the execution of a Contract which are in excess of this maximum amount do not have to be refunded until the family vacates the unit subject to the lease terms. The family is expected to pay security deposits and utility deposits from its resources and/or other public or private sources.

## **20.12 OVERHOUSED AND UNDERHOUSED TENANTS**

### **[24 CFR §882.509]**

If the LACDA determines that a unit is not decent, safe, and sanitary by reason of an increase in family size or that a unit is larger than appropriate for the size of the family according to the LACDA's occupancy standards, housing assistance payments with respect to the unit will not be abated.

The owner must offer the family an appropriate size unit should one be available and the family will be required to move. If the owner does not have a suitable available unit, the LACDA will assist the family in locating other standard housing in the area within the Family's ability to pay. The family will be required to move to such a unit as soon as possible.

In no case will a family be forced to move nor will housing assistance payments under the Contract be terminated unless the family rejects, without good reason, the offer of a unit which the LACDA judges to be acceptable.

**20.13 TERMINATION OF TENANCY**  
**[24 CFR §882.511]**

The must not terminate or refuse to renew a family's lease, except on the following grounds:

- (1) Serious or repeated violation of the terms and conditions of the lease.
- (2) Violation of applicable Federal, State or local law.
- (3) Other good cause.

**20.13.1 Notice of Termination of Tenancy**

The Owner must serve a written notice of termination of tenancy on the family which states the date the tenancy shall terminate. Such date must be in accordance with the following:

- (i) When termination is based on failure to pay rent, the date of termination must be not less than five working days after the family's receipt of the notice.
- (ii) When termination is based on serious or repeated violation of the terms and conditions of the lease or on violation of applicable Federal, State or local law, the date of termination must be in accordance with State and local law.
- (iii) When termination is based on other good cause, the date of termination must be no earlier than 30 days after the notice is served on the family.

The notice of termination must:

- (i) State the reasons for such termination with enough specificity to enable the family to prepare a defense.
- (ii) Advise the family that if a judicial proceeding for eviction is instituted, the tenant may present a defense in that proceeding.
- (iii) Be served on the family by sending a prepaid first class properly addressed letter (return receipt requested) to the tenant at the dwelling unit or by delivering a copy of the notice to the dwelling unit.

**20.13.2 Continuation of Housing Assistance Payments**

A family's eligibility for Housing Assistance Payments shall continue until the Total Tenant Payment equals the gross rent. The termination of eligibility for HAP at such point will not affect the family's other rights under its lease, nor will such

termination preclude the resumption of payments as a result of later changes in income, rents or other relevant circumstances during the term of the Contract.

## **20.14 OWNER CLAIMS**

Under the Moderate Rehabilitation Program, owners may make a special claim for damages, unpaid rent, and vacancy loss after the tenant has vacated the unit. Owner claims for payment for unpaid rent, damages, or vacancy loss will be reviewed for accuracy and completeness and compared with records in the file. The LACDA establishes standards by which to evaluate claims, but the burden of proof rests with the owner.

If vacancy loss is claimed, the LACDA will ascertain whether the family gave proper notice of its intent to move. The file will also be reviewed to verify owner compliance at the time the contract was terminated.

The LACDA will pay properly filed claims to the owner as a function of the contract; however, any amount paid to the owner by the tenant will be reimbursed to the LACDA from the owner.

### **20.14.1 Unpaid Rent [24 CFR §882.414 (d)]**

Unpaid rent only applies to the tenant's portion of rent while the tenant is in residence under the assisted lease and only until the termination date of the HAP contract.

Separate agreements are not considered a tenant obligation under the lease and the LACDA will not reimburse the owner for any claims under these agreements.

### **20.14.2 Vacancy Loss [24 CFR §882.411]**

Vacancy loss under the Mod Rehab Program is paid if an eligible family moves from the assisted unit, unless the move was a consequence owner action in violation of the lease or contract..

In order to claim vacancy loss, the unit must be available for lease and the landlord must:

1. Notify the LACDA within 72 hours upon learning of the vacancy, or prospective vacancy, and
2. The LACDA will require documentation from the owner that the owner pursued all possible activities to fill the vacancy, including, but not limited to:
  - Not rejecting potentially eligible applicants except for good cause acceptable to the LACDA; or
  - Providing a list of income-qualified applicants to the LACDA in the case where the LACDA's waiting list cannot provide sufficient eligible applicants for the unit. The owner must document that attempts to find eligible applicants, such as:

- Contacting applicants on the owner's waiting list, if any;
- Advertising the availability of the unit.

When a tenant moves, the landlord may claim vacancy loss for the amount of Housing Assistance Payment (HAP) the owner was entitled to for the rest of the month in which the tenant vacated. Additionally, the owner may receive HAP in an amount not to exceed 80% of the contract rent for an additional month. However, if the owner collects any of the family's share of the rent for this period, the payment must be reduced to an amount which, when added to the family's payment, does not exceed 80 percent of the Contract Rent. Any such excess must be reimbursed by the owner to the LACDA.

In the event that a unit becomes vacant because of death, the LACDA will permit the owner to keep the HAP for the month in which the tenant died, but will pay no further HAP.

### **20.14.3      Damage Claims**

To ensure valid claim processing, the LACDA will conduct a thorough move-in inspection noting conditions as well as HQS deficiencies, take pictures of questionable items, and send a report of all items to the owner and tenant.

The owner must be present during the move-out inspection and only damages claimed by the owner are reimbursable.

All claims for damages must be supported by the actual bills for materials and labor and a copy of the canceled checks or other receipts documenting payment. Estimates are accepted at the discretion of the LACDA depending upon the nature of the work to be done.

Bills from individuals providing labor must include their name, Social Security number, address and phone number. The owner may not bill himself/herself for labor since that is not considered by the LACDA to be an "actual cost". However, the actual cost of the owner's employees' labor, such as the resident manager, to make repairs may be included.

Persons making repairs or replacements must be licensed to do business in Los Angeles County.

Reasonableness of costs will be based on practices consistent with industry standard.

The LACDA may require verification of purchase date, quality, and price of replaced items in order to calculate depreciation.

Claims for unpaid utility bills cannot be approved as part of a claim.

Claims for normal wear and tear, previously existing conditions, routine turnover preparation, and cyclical interior painting are not paid.

The LACDA will inspect the unit to verify that repairs were made.

#### **20.14.4 Move-Out and Close-Out Inspections**

Move-out (vacate) inspections are performed for the Mod Rehab Program after the tenant has vacated the unit. These inspections are performed by Program Specialists/Inspectors to assess the condition of the unit, not to evaluate the HQS.

The owner must notify the LACDA of the move-out and request an inspection within 5 calendar days of learning of the move-out, or contract termination, whichever is first, in order to submit a claim for damages.

If the contract was terminated due to owner breach, or the owner was in violation of the contract at the time that it was terminated, there will be no entitlement to claims and therefore no inspection.

The owner and tenant will be notified of the date and time of the inspection. If the owner is not present, the move-out inspection will not be rescheduled.

The LACDA will conduct a move-out inspection on the tenant's request.

In the event that the LACDA is unable to inspect within 10 calendar days, the owner will be permitted to use date-stamped photographs to substantiate the claim.

#### **20.14.5 Processing Claims [24 CFR §882.414]**

Any amount owed by the tenant to the owner for unpaid rent or damages will first be deducted from the maximum security deposit that the owner could have collected under the program rules. If the maximum allowable security deposit is insufficient to reimburse the owner for the unpaid tenant rent or other amounts which the family owes under the lease, the owner may request reimbursement from the LACDA for the lesser of:

1. The remainder of the amount owed to the owner; or
2. Two months' contract rent minus the greater of the actual amount of the security deposit collected or the maximum amount of security deposit that could have been collected. However, no reimbursement may be requested for unpaid rent after the period in which the family vacates the unit.

#### **20.14.6 Other Requirements for Claims Processing**

- The LACDA will require proof that the owner has complied with State and local laws applicable to security deposits before making payment on any claim.
- All notices to tenants during the processing of a claim must include proof of mailing or of personal delivery.
- Costs of filing eviction to remove the tenant or any other legal fees, shall not be reimbursed.

All unpaid rent, damage, and vacancy loss claim forms must be fully complete when they are submitted, and they must be submitted within 30 calendar days of the date the owner learned of the move-out.

## **CHAPTER 21: PROJECT-BASED VOUCHER PROGRAM**

### **21.1 INTRODUCTION** **[24 CFR §983.5 and §983.2]**

The Project-Based Voucher (PBV) program is administered by Public Housing Agencies (PHA's) who also administer the tenant-based Housing Choice Voucher program under an Annual Contributions Contract (ACC) with HUD. PBV is assistance that is tied directly to a unit in an approved project, unlike the Housing Choice Voucher program, where assistance is tied to the participant. HUD permits PHA's to take up to 20 percent of its authorized units and attach the funding to specific units rather than using it for tenant-based assistance. The policies regarding the Housing Choice Voucher program apply to the PBV program, except where they are specifically altered in this chapter.

In administering the Project-Based Voucher program, LACDA's goals are to:

- Attract more affordable developments to the LACDA's jurisdiction;
- Preserve affordable units that might otherwise become market-rate units;
- Increase affordability of housing for families making below 30% of the area median income;
- Further HUD and LACDA goals of deconcentration; and
- Increase housing opportunities for target populations (ex. Elderly, Disabled, Chronically Homeless, Special needs families, Transition aged youth)

The LACDA may enter into contracts for Project-Based Vouchers based on the policies outlined in this chapter.

### **21.2 LEVEL OF ASSISTANCE** **[24 CFR §983.6; FR Notice 1/18/2017]**

The LACDA will operate a project-based voucher program using up to 20% of the authorized units for Project-Based Vouchers.

When PBV units are already selected for project-based assistance either under an agreement to enter into HAP contract or a HAP contract, the LACDA is not required to reduce the number of the units if the amount of authorized units is subsequently reduced. However, the LACDA 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, regardless of whether the LACDA has vouchers available for project-basing.

#### **21.2.1 Additional project-based units** **[FR Notice 1/18/2017; Notice PIH 2017-21]**

As permitted, LACDA may project-base an additional 10 percent of its vouchers above the 20 percent program limit. The vouchers may be distributed among

one, all, or a combination of the categories as long as the total number of vouchers does not exceed the 10 percent cap. Vouchers under this requirement will be tied to units that qualify under this exception only if the units:

- Are specifically made available to house individuals and families that meet the definition of homeless under Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) and contained in the Continuum of Care Interim Rule at 24 CFR 578.3.
- Are specifically made available to house families that are comprised of or include a veteran. A veteran means an individual that has served in the United States Armed Forces.
- Provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR §5.403.
- Are located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year Estimates.

**Impact on Existing Contract.** PBV units that fall into one of the four categories listed above may be covered by this 10 percent exception authority only if the units are covered under a HAP contract that was first executed on or after April 18, 2017. Units added on or after April 18, 2017, through an amendment of a HAP contract that was first executed prior to April 18, 2017, are not eligible for the 10 percent exception authority.

### **21.2.2 Units Not Subject to the PBV Program Limitation** **[FR Notice 1/18/2017; Notice PIH 2017-21]**

PBV units under the RAD program and HUD-VASH PBV set-aside vouchers do not count towards the 20 percent limitation when the PBV assistance is attached to them.

In addition, units that were previously subject to certain federal rent restrictions or were receiving another type of long-term housing subsidy provided by HUD are not subject to the cap. The unit must be covered under a PBV HAP contract that first became effective on or after April 18, 2017.

### **21.3 HUD NOTIFICATION OF INTENT TO PROJECT-BASE**

The LACDA must notify HUD of its intent to project-base its vouchers. The LACDA must submit to the local HUD Office the following information:

- The number of units authorized under the ACC for LACDA;
- The number of PBV units entirely excluded from the percentage limitation;
- The number of units qualifying under the 10 percent program cap exception category;
- The number of units currently committed to PBV (excluding those PBV units meeting an exception). To arrive at the “number of units committed to PBV,” total the number of units that are:
  1. Currently under PBV HAP contract;
  2. Under an Agreement to Enter into HAP contract (AHAP); and/or
  3. Covered by a notice of proposal selection (24 CFR §983.51(d)); and
- The number of units to which the LACDA is proposing to attach project-base assistance through the new Request for Proposal (RFP) or selection.



The above information must be submitted no later than 14 calendar days prior to undertaking any of the following actions:

- Issuing a request for proposal (RFP) (24 CFR §983.51(b)(1));
- Selecting a project based on a previous competition (24 CFR §983.51(b)(2));
- If applicable, selecting a project without following a competitive process (certain PHA-Owned projects).

The LACDA must await a response from HUD prior to proceeding with the proposal.

## **21.4 OWNER PROPOSAL SELECTION PROCEDURE** **[24 CFR §983.51]**

The LACDA may use one of the following methods to select owner proposals:

1. Request for Proposal (RFP): The LACDA may issue a competitive request for PBV proposals. An RFP may not be limited to a single site and may not impose restrictions that practically preclude owner submission of proposals for PBV on different sites.

The LACDA will publish an RFP in at least one newspaper of general circulation, as well as post the RFP on the LACDA's website. The submission deadline will be included in the RFP and a detailed application and selection criteria will be provided to all interested parties.

2. At the discretion of the LACDA, projects may be selected for PBV assistance using proposals for housing developed using federal, state, or local government housing assistance, community development, or a supportive services program that requires competitive selection of proposals (e.g., HOME, competitively-awarded Low-Income Housing Tax Credit, Affordable Housing Trust Funds), where the proposal has already been selected in accordance with such program's competitive selection requirements within three years of the LACDA's PBV selection date, and the earlier selection proposal did not involve any consideration that the project would receive PBV assistance.

Once a project is selected to receive PBV assistance, the LACDA will give public notice within 60 days of its selection on its website at [www.lacda.org](http://www.lacda.org).

### **21.4.1 Units Selected Non-Competitively**

#### **[FR Notice 1/18/2017 and PIH Notice 2017-21]**

Project-based assistance for Housing Authority-owned properties will not be competitively bid. To project-base Housing Authority-owned units, the LACDA must be engaged in an initiative to improve, develop, or replace a public housing property or site. The LACDA can make project-based funding available in its owned properties in response to a written request. A separate request is required per property and must include the following: name and address of the property; the total number of units; requested number of units project-based vouchers, number of vouchers requested per unit size (including square footage

for SRO's), proposed rent per unit size, population to be served, and name, title and contact information for the project liaison. An original signature from the Department Director or authorized delegate is required on the written request. E-mailed and/or faxed requests will not be accepted.

## **21.5 HOUSING ELIGIBLE FOR ASSISTANCE** **[24 CFR §983.52 AND §983.53]**

The LACDA will consider proposals for existing, newly constructed, and rehabilitated housing.

The following types of housing are ineligible under the Project-Based Voucher Program:

- Shared housing;
- 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 an assisted-living facility that provides home health care services such as nursing and therapy for residents of the housing;
- Units owned or controlled by an educational institution or its affiliate and are designated for occupancy by students of the institution;
- Manufactured homes; and
- Transitional Housing;
- Units occupied by owners; and
- Units occupied by ineligible families.

PBV assistance may not be attached to units for which construction or rehabilitation has started after the proposal submission and prior to the execution of an AHAP.

A member of a cooperative who owns shares in the project assisted under the PBV program is not to be considered an owner for purposes of participation in the PBV program.

## **21.6 CAP ON NUMBER OF PBV UNITS IN EACH PROJECT** **[24 CFR §983.56]**

The LACDA may not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter into a HAP 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 the greater of 25 units or 25 percent of the number of dwelling units (assisted or unassisted) in the project.

### **21.6.1 Exception to 25 Percent per Project Cap** **[24 CFR §983.56 and PIH Notice 2017-21]**

As of April 18, 2017, units are not counted against the 25 percent per project cap if:

- The units are exclusively for elderly families.
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project.
- If the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of units in the project.

The Housing Opportunity Through Modernization Act of 2016 (HOTMA) eliminated the project cap exemption for projects that serve disabled families and modified the exception for supportive services

Projects where the caps were implemented prior to HOTMA (HAP Contracts were executed prior to 04/18/2017) must continue to use the former exceptions until the project's HAP contract under the old requirements is renewed or unless the PHA and owner agree to amend the conditions of the HAP contract. However, the LACDA will not make changes to a HAP contract if it is determined that the change would jeopardize an assisted family's eligibility for continued assistance in the project.

### **21.6.2 Supportive Services – HOTMA**

As of 04/18/2017, the project and LACDA must make supportive services available to all families receiving PBV assistance in the project, but the families does not actually have to accept and receive supportive services for the exception to apply to the unit. It is not necessary that the supportive services be provided at or by the project, but must be reasonably available to families receiving PBV assistance at the project and designed to help families in the project achieve self-sufficiency or live in the community as independently as possible.

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, 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.

The LACDA will not require families living in excepted units to receive supportive services. Families will be offered the opportunity to enroll in either LACDA's FSS program or other Supportive Services Program offered through the project, as a condition of occupancy.

Supportive Services offered include, but are not limited to:

- LACDA's Family Self-Sufficiency (FSS) program;
- Case Management
- Mental Health Care
- Substance Use Services

- Employment and Training
- Education program where there is a reasonable expectation of leading to self-sufficiency
- Life Skills
- Physical Health Care
- Benefits Assistance
- Representative Payee
- Legal Assistance
- Child Care (if applicable)
- Adult Day Care

### **21.6.3 Pre HOTMA Projects**

Projects under HAP contract in effect prior to April 18, 2017, remain obligated by the terms of those HAP contracts with respect to the requirements that apply to the number and types of excepted units in a project, unless the owner of the project and LACDA mutually agree to change those requirements.

The LACDA and owner may agree to change such HAP contract requirements as it pertains to the exception categories of elderly families and families eligible for supportive services. The LACDA and owner must not change the terms of an existing HAP contract to add a new category of excepted unit.

The PBV contract may not be changed to conform with the HOTMA requirement if the change would jeopardize an assisted family's eligibility for continued assistance at the project (e.g. the excepted units at the project include units designated for families with a household member with disabilities, and changing to the HOTMA standard would result in those units no longer being eligible as excepted units unless the owner makes supportive services available to all assisted families in the project).

A HAP contract may be amended, at LACDA's discretion, to add additional PBV units in the same project. The LACDA may use this amendment process to add units where applying the new project cap definition results in more PBV units. HOTMA overrides existing regulation so that new units may be added at any time during the term of the HAP contract without being subject to competitive selection procedures. All other requirements of 24 CFR §983.207(b) must be met, including not exceeding the 20 percent program cap.

### **21.6.4 Supportive Services – Pre-HOTMA Projects**

For projects using the former supportive services statutory exemption (which required that the family be receiving the supportive services) and/or the exemption for families with a household member with disabilities, the LACDA and the owner will continue to operate under the pre-HOTMA requirements and will continue to renew HAP contracts under the old requirements, unless the LACDA and the owner agree by mutual consent to change the conditions to conform with the HOTMA requirement.

### **21.6.5 Qualifications for Supportive Services – Pre HOTMA Projects**

It is not necessary that the supportive services be provided at or by the project.

At least one member of the family must be receiving the supportive service for the unit to remain excepted from the 25% cap.

Participation in medical- or disability-related services is not required as a condition of living in an excepted unit, other than a substance use treatment program for the member of the family with the substance misuse disorder, although such services may be offered.

### **21.6.6 Supportive Services Monitoring – Pre HOTMA Projects**

Participant compliance with a supportive service contract will be monitored at least annually. The LACDA will request a status update for the participant's supportive service contract at the anniversary of said contract. The LACDA may request a status update on the supportive service contract more frequently, at its discretion.

Providers of supportive services must provide the LACDA any changes to the program within thirty days of when those changes occur. Providers must also immediately report to the LACDA when a family fails to meet the supportive service contract requirements.

### **21.6.7 Failure to Meet Supportive Service Requirements – Pre HOTMA Projects**

When a family living in an excepted unit fails to meet the requirements of a supportive service contract, and is living in the excepted unit because of the supportive services received, the LACDA will propose termination of the contract. The family will not be issued a voucher to move.

The owner and participant will be given a sixty-day notice of the proposed termination of the HAP contract. The owner may at that time terminate the lease and issue an order to vacate by the HAP contract termination date.

If a family fails to meet the requirements of the supportive service contract for good cause, as determined by the LACDA, and is qualified to become reinstated in the supportive service program within a reasonable time period, the LACDA may counsel the family on its obligations and allow reinstatement of the supportive service contract.

## **21.7 PROJECT SELECTION CRITERIA** **[24 CFR §983.57]**

The following criteria will be considered when evaluating proposals for Project-Based Voucher assistance:

1. Housing that serves homeless families;
2. Housing that serves disabled families or individuals;
3. Housing that serves elderly families or individuals;
4. Housing that serves families with children, consistent with the needs indicated by HACoLA's waiting list; and/or

5. Other documented needs
6. Serving very low-income families in mixed-income projects;
7. Other appropriate criteria consistent with regulation.
8. Housing that provides an appropriate level of supportive services to residents;
9. Housing that serves low- to extremely low-income families for the life of the project;
10. Other criteria consistent with regulation.

#### **21.7.1 Selection Requirements for All PBV Assisted Proposals**

Eligible projects must meet the following LACDA requirement:

If any portion of a proposed development site is within 500 feet of a freeway, the project must be designed in such a way as to exclude from this 500-foot freeway “buffer” area any portion of the residential building, as well as play areas, community rooms, gardens, patios, and other areas where residents may reasonably be expected to congregate. The LACDA shall review and approve, at its sole discretion, any site plans for developments of this type.

#### **21.7.2 Selection Requirements for All Housing Types**

A project may be selected to receive PBV assistance only if it is or will be located in a census tract that meets one of the following criteria:

- (i) A HUD-designated Enterprise Zone, Economic Community or Renewal Community;
- (ii) The concentration of assisted units will be or has decreased as a result of public housing demolition;
- (iii) Is undergoing significant revitalization;
- (iv) State, local, or federal dollars have been invested in the area that has assisted in the achievement of the statutory requirement;
- (v) New market rate units are being developed that will positively impact the poverty rate in the area;
- (vi) Meaningful opportunities for educational and economic advancement exist.

Additionally, the site must be suitable in terms of furthering and facilitating all Fair Housing requirements.

The site must also meet the HQS site and neighborhood standards found in section 10.3.11 of this Plan.

#### **21.7.3 Requirements for Selecting Existing and Rehabilitated Housing** **[24 CFR §983.151]**

The LACDA will only select existing and rehabilitated housing projects that meet the following criteria:

- (1) The site is adequate in size, exposure, and contour to accommodate the number and type of units proposed, and adequate utilities and streets must be available to service the site. (The existence of a private disposal system and private sanitary water supply for the site, approved in accordance with law, may be considered adequate utilities.)
- (2) Promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.
- (3) Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.
- (4) Be so located that travel time and cost via public transportation or private automobile from the neighborhood to places of employment providing a range of jobs for lower-income workers is not excessive. This requirement does not apply to senior projects.

#### **21.7.4 Requirements for Selecting New Construction Housing**

The LACDA will select only new construction housing projects that meet the following criteria:

- (1) The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed, and adequate utilities (water, sewer, gas, and electricity) and streets must be available to service the site.
- (2) The site must not be located in an area of minority concentration, except as permitted under number (3) of this section.
- (3) A project may be located in an area of minority concentration only if:
  - (i) 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;
    - a. Application of this sufficient, comparable opportunities standard involves assessing the following factors:
      - i. Significant number of assisted housing units is available outside areas of minority concentration.
      - ii. There is significant integration of assisted housing projects constructed or rehabilitated in the past 10 years, relative to the racial mix of the eligible population.
      - iii. There are racially integrated neighborhoods in the surrounding area.
      - iv. Minority families have benefited from local activities (e.g., acquisition and write-down of sites, tax relief programs for homeowners, acquisitions of units for use as assisted housing

- units) undertaken to expand choice for minority families outside of areas of minority concentration.
- (v) Comparable housing opportunities have been made available outside areas of minority concentration through other programs.
  - (vi) The project is necessary to meet overriding housing needs that cannot be met in that housing market area.
    - 1. Application of the “overriding housing needs” criterion may permit approval of sites that are an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood and of sites in a neighborhood experiencing significant private investment that is demonstrably improving the economic character of the area (a “revitalizing area”).
    - 2. An “overriding housing need,” may not serve as the basis for determining that a site is acceptable, if the basis for the decision is that discrimination related to race, color, religion, sex, national origin, age, familial status, or disability renders sites outside areas of minority concentration unavailable or if the use of this standard in recent years has had the effect of circumventing the obligation to provide housing choice.
- (4) The site must promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas poverty concentration.
- (5) The neighborhood must not be seriously detrimental to family life or one in which substandard dwellings or other undesirable conditions predominate, unless there is actively in progress a concerted program to remedy the undesirable conditions.
- (6) The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.
- (7) Except for new construction housing designed for elderly persons, travel time, and cost via public transportation or private automobile from the neighborhood to places of employment providing a range of jobs for lower-income workers, must not be excessive.

#### **21.7.5 PHA-owned Units**

##### **[24 CFR §983.51(e), §983.59, FR-5976-N-03 and PIH Notice 2017-21]**

A Housing Authority-owned project may be assisted under the project based program only if the independent entity reviews the selection process and determines that the Housing Authority-owned units were appropriately selected based on the selection process and determines that the Housing Authority-owned units were appropriately selected based on the selection procedures outlined in the LACDA’s Administrative Plan. When the LACDA selects a proposal for housing that is owned or controlled by the LACDA, the LACDA must



identify the entity that will review the LACDA proposal selection process and perform specific functions with respect to rent determinations and inspections.

In the case of Housing Authority-owned units, the term of the HAP contract and any HAP contract renewal must be agreed upon by the LACDA and the independent entity. In addition, an independent entity must determine the rent to owner, the redetermined rent to owner, and reasonable rent. Housing Quality Standards inspections must also be conducted by an independent entity.

The independent entity that performs these program services may be the unit of general local government for the LACDA's jurisdiction, or another HUD-approved public or private independent entity.

## **21.8 AGREEMENT TO ENTER INTO THE HAP CONTRACT** **[24 CFR §983.152]**

If a rehabilitated or newly constructed project, as defined by regulation, is selected by the LACDA to receive Project-Based Vouchers, the LACDA will enter into an Agreement to enter into a Housing Assistance Payment (AHAP) contract with the owner in the form required by HUD.

In the AHAP, the owner agrees to develop the contract units to comply with HQS, and the LACDA agrees that, upon timely completion of the development in accordance with the terms of the AHAP, the LACDA will enter into a HAP contract with the owner for the contract units.

The LACDA may not pay or enter into an agreement if commencement of construction or rehabilitation occurs after proposal submission. Rehabilitation begins with the physical commencement of rehabilitation activity on the housing. Commencement of construction occurs when excavation of site preparation (including clearing of the land) begins.

Delays in completion of rehab/construction may result in termination of the agreement.

The PHA may extend the completion deadline for unforeseen factors outside of the owner's control.

The owner must obtain the PHAs approval for any changes in work. If the owner does not do so, the PHA may set a lower initial rent.

### **21.8.1 Subsidy Layering Review (SLR)** **[24 CFR §983.55]**

The LACDA may only provide assistance in accordance with HUD subsidy layering regulations and other requirements.

A subsidy layering review will not be required to enter into an agreement or to execute a contract between the LACDA and the owner when a project has not received any form of government housing assistance, other than the PBV assistance.

A subsidy layering review is required for any new construction or rehabilitation project receiving a form of government housing assistance in addition to project-based vouchers. The LACDA will not enter into an AHAP with the owner until the

project has successfully passed a subsidy layering review by HUD or other HUD-approved agency

The owner must certify in the HAP contract that the project has not received and will not receive any other form of public assistance during the life of the HAP contract other than that disclosed in the subsidy layering review.

**21.8.2 Environmental Review**  
**[24 CFR §983.58]**

The Project Based Voucher program is subject to National Environmental Policy Act environmental review pursuant to the requirements at 24 CFR Part §983.58 and 24 CFR Part 58.

If it is determined that an environmental review is required for new construction or rehabilitation projects, the LACDA will not commit any funds under PBV assistance nor enter into an AHAP with the owner until HUD approves a release of funds.

**21.9 SELECTION OF PARTICIPANTS**  
**[24 CFR §983.251]**

The LACDA will only provide PBV assistance to families determined eligible, consistent with Chapter Two of this Plan.

**21.9.1 Waiting List**

The LACDA will use a separate waiting list for each project receiving Project-Based Voucher assistance or sets of units within a project if there are multiple eligibility restrictions for special needs populations.

If applicable, projects receiving Project-Based Voucher or Project-Based VASH assistance are required to use a Coordinated Access System to identify and refer 80 percent of its eligible applicants for the project's waiting list.

Applicants currently on the tenant-based assistance waiting list will be given an opportunity to place their name on a PBV waiting list, with their original date and time intact. If a new applicant applies to the tenant-based waiting list, the applicant will be given the opportunity to also place their name on any open PBV waiting list.

Upon admission to the PBV program, the applicants name will be removed from any other project-based voucher waiting lists that the applicant has applied for.

**21.9.2 Protection of In-Place Families**

Families who reside in units selected to receive PBV assistance on the proposal selection date and who are also eligible in accordance with Section 2.2 of this Plan, will be given the opportunity to place their name on the appropriate PBV site-based waiting list. An absolute preference will be given to that family to be selected from the waiting list. If the family is then determined fully eligible for the PBV program under all LACDA eligibility criteria, the family will then be referred to the owner for an appropriately-sized unit in the project.

### **21.9.3 Local Preferences**

Applicants on any PBV waiting list are subject to the system of local preferences as it pertains to that particular waiting list. PBV site-based waiting lists will have admissions preferences that reflect the target population of each project.

When PBV buildings are selected, the LACDA will publicly notice the selection, as well as the target population of each project. As new waiting lists are opened, a notice will be sent to the Housing Choice Voucher (Section 8) tenant-based waiting list identifying available site-based PBV lists and their respective admissions preferences. If a site-based waiting list is opened to the public, it will be advertised on the LACDA's website, along with its admissions preferences.

Disabled families who need an available accessible unit at a particular project may be awarded first preference from the waiting list.

Disabled families may not be required to accept the supportive services offered nor can a preference be granted for those with a particular disability.

### **21.9.4 Refusal of Assistance**

If a family refuses an offer of PBV assistance or the owner rejects a family for admission to the owner's PBV units, the LACDA may remove the family from the site-based waiting list from which they were selected. Such refusal will not affect the family's position on the tenant-based waiting list or any other PBV site-based waiting list, nor affect any admissions preference for which the family qualifies.

## **21.10 INFORMATION FOR ACCEPTED FAMILIES** **[24 CFR §983.252]**

When a family accepts an offer of PBV assistance, the LACDA will provide the family an oral briefing. Attendance at this briefing is mandatory. The briefing will include:

- A description of how the program works;
- Family and owner responsibilities.

A briefing packet will be provided with information regarding:

1. How the LACDA determines total tenant payment;
2. Family obligations; and
3. Applicable fair housing information.

## **21.11 LEASING OF CONTRACT UNITS** **[24 CFR §983.253]**

Owners must lease contract units only to eligible families, selected and referred by the LACDA's from the waiting list, during the term of the HAP contract.

Owners must develop written tenant selection procedures consistent with the purpose of improving housing opportunities for very low-income families, related to program eligibility and an applicant's ability to perform lease obligations.

An owner must promptly notify, in writing, any rejected applicant of the grounds for rejection.

Owners must follow the LACDA's subsidy standards when leasing units to referred families.

**21.12 VACANCIES**  
**[24 CFR §983.254]**

The owner must promptly notify the LACDA of any current or expected vacancy in a contract unit. After owner notice, the LACDA will promptly refer a sufficient number of families to the owner to fill the vacancy.

If any contract unit has been vacant for at least 120 days since the owner notice of vacancy, the LACDA may give notice to the owner amending the HAP contract to reduce the number of contract units by the number of units that have been vacant for that period.

**21.13 TENANT SCREENING**  
**[24 CFR §983.255]**

The LACDA may take into consideration any admission criteria outlined in Chapter Two of this Plan in order to screen applicants for eligibility; however, it is the responsibility of the owner to screen applicants for behavior and suitability for tenancy.

The LACDA will provide the owner with the tenant's current and former address, as well as the name and address of the current and/or former landlord, if known. This policy is consistent with information provided to owners under the Housing Choice Voucher program.

**21.14 HOUSING ASSISTANCE PAYMENTS CONTRACT**

The LACDA must enter into a Housing Assistance Payments (HAP) contract with the owner in order to provide housing assistance payments for eligible families. The LACDA will make housing assistance payments to the owner in accordance with the HAP contract, for contract units leased and occupied by eligible families during the term of the HAP contract.

The LACDA will use the most recent HUD-approved form of the HAP contract.

**21.14.1 Execution of the HAP Contract**  
**[24 CFR §983.204, 24 CFR §983.209]**

Before the HAP contract may be executed, the LACDA will inspect each contract unit in accordance with section 21.15 of this chapter and Chapter Ten of this Plan.

For existing housing, the HAP contract must be executed within 90 days of passed inspections for all proposed units under the HAP contract.

For new construction or rehabilitated housing, the HAP contract is executed within 60 days after the LACDA has inspected the completed units and is satisfied that

said units are completed in accordance with the AHAP and the owner has furnished the required evidence of completion.

By execution of the HAP contract, the owner certifies:

- The owner is and will maintain all contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and in the leases with assisted families;
- Each contract unit is leased to an eligible family and the lease complies with the HAP contract and HUD requirements;
- Members of the assisted family reside in the contract unit and it is their only residence;
- The owner is not a relative of any member of the assisted family by blood or operation of law;
- The amount of the housing assistance payment is the correct amount due under the HAP contract;
- The rent to owner for each contract unit does not exceed the rent due to owner for any comparable, unassisted unit;
- The owner will not receive any other payments beyond the tenant rent and housing assistance payments for the contract unit; and
- The family does not own or have any interest in the contract unit.

**21.14.2 Term of the HAP Contract  
[24 CFR §983.205 and PIH Notice 2017-21]**

As of April 18, 2017, the LACDA may enter into a new HAP contract with an owner for an initial term of up to twenty years. The length of the initial term of the HAP contract may not be less than one year.

For any PBV HAP contract that is still within the initial term, the LACDA and owner may mutually agree to extend the contract for up to the maximum initial term of 20 years. If the HAP contract is no longer in the initial term, the LACDA will not extend the initial term.

The LACDA may further extend the HAP contract beyond 20 years from the end of the initial term as long as the following conditions are met:

- The LACDA must determine such extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities;
- The determination must be made no earlier than 24 months prior to the expiration of the HAP contract.
- The term of the new extension may not exceed 20 years.

Regardless of the length of the extension, all such extensions must meet the same conditions.

The HAP contract may be terminated by the LACDA for insufficient funds. If it is determined there are insufficient funds available to continue to assist all contract units for the full term, the LACDA may give notice to the owner for all or any of the contract units, in accordance with HUD instructions.

**21.14.3 Amendments to the HAP Contract**  
**[24 CFR §983.207]**

**Amendment to Substitute Contract Units** – The LACDA may amend the HAP contract to substitute a different unit with the same number of bedrooms in the same building for the previously assisted unit. Prior to the substitution, the LACDA will inspect the proposed substitution unit and determine reasonable rent.

**Amendment to Add Contract Units** – At the discretion of the LACDA and provided the number of PBV-assisted units in a project will not exceed the 25% cap or the 20% budget authority for the PBV program, the HAP contract may be amended during the three-year period immediately following the execution date of the HAP contract to add additional PBV units to a building.

If there are already exception units (units in excess of the 25% cap) designated in the HAP contract, the contract may be amended during the same three year period to add additional exception units, provided that the addition does not exceed the 20% budget authority.

The anniversary and expiration date for the added units in either situation will be the same as for the existing units under the HAP contract.

**21.14.4 Termination of the HAP Contract by the LACDA**  
**[24 CFR §983.205(c) and FR Notice 1/18/2017]**

The HAP Contract provides that the term of the PHA's contractual agreement is subject to the availability of sufficient appropriated funding as determined by HUD or the PHA in accordance with HUD instruction. 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.

In times of insufficient funding, HUD requires that the PHA first take all cost-saving measures prior to failing to make payments under existing PBV HAP Contracts.

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 PHA may terminate the HAP contract by notice to the owner.

As such, the LACDA will implement the HAP Contract termination in accordance with HUD instructions.

**21.14.5 Termination of the HAP Contract by the Owner**  
**[24 CFR §983.205(d)]**

If in accordance with program requirements the amount of rent to an owner for any contract 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

LACDA. In such cases, families living in the contracted units must be offered tenant-based assistance.

**21.14.6 Statutory Notice Requirements - Contract Termination or Expiration**

**[24 CFR §983.206; FR Notice 01/18/2017; and Notice PIH 2017-21]**

Not less than one year before the HAP contract terminates, or if the owner refuses to renew the HAP contract, the owner must notify the LACDA and assisted tenants of the termination. The notice must be provided in the form prescribed by HUD. If the owner does not give timely notice, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of the owner's inability to collect an increased tenant portion of rent. An owner may renew the terminating contract for a period of time sufficient to give tenants one-year advanced notice under such terms as HUD may require.

Upon termination or expiration of the contract, a family living at the property is entitled to receive a tenant-based voucher. Tenant-based assistance would not begin until the owner's required notice period ends. The LACDA must provide the family with a voucher and the family must also be given the option by the LACDA and owner to remain in their unit with HCV tenant-based assistance as long as the unit complies with inspection and rent reasonableness if the gross rent exceeds the applicable payment standard. The family has a right to remain in the project as long as the units are used for rental housing and are otherwise eligible for HCV assistance. The owner may not terminate the tenancy of a family that exercises its right to remain except for serious or repeated lease violations or other good cause. Families that receive a tenant-based voucher at the expiration of the PBV HAP contract are not new admissions to the HCV tenant-based program, and are not subject to income eligibility requirements or any other admissions requirements. If the family chooses to remain in their unit with tenant-based assistance, the family may do so regardless of whether the family share would initially exceed 40 percent of the family's adjusted monthly income.

**21.15 HOUSING QUALITY STANDARDS (HQS) INSPECTIONS**  
**[24 CFR §983.103]**

HQS inspections will be conducted in accordance with Chapter Ten of this Plan. The LACDA may not perform inspections on units where there is a direct or indirect interest by any of its employees or officers.

The LACDA will inspect PBV units at the following times:

- Pre-selection – the LACDA will inspect the proposed site before the proposal of Existing Housing selection date. For existing units, units must substantially comply with HQS before the proposal selection date. Units must fully comply before the HAP contract may be executed;
- Pre-HAP Contract;
- Turnover – the LACDA must inspect a unit before a new family moves in. The unit must fully comply with HQS before a family may receive assistance in that unit;

- Annual – The LACDA will conduct inspections on a random sample of at least 20% of contract units in a building annually. Turnover inspections are not counted toward annual inspections.
- If more than 20% of the annual sample fails the HQS inspections, 100% of the contract units in the building must be inspected.
- Other times – the LACDA will inspect PBV units at other times as necessary to insure the contract units are in compliance with HQS and that the owner is providing utilities, maintenance and other services in accordance with the HAP contract.

**21.15.1 HQS Violation**  
**[24 CFR §983.207]**

The LACDA may make no HAP payments to the owner during any period in which the contract unit does not comply with HQS or any other HAP contract requirement.

Remedies for HQS violation include abatement or reduction in HAP payments, reduction of contract units, and termination of the HAP contract.

**21.15.2 Inspecting PHA-owned Units**  
**[24 CFR §983.103(f)]**

In the case of Housing Authority-owned units, the inspection must be performed by an independent agency designated by the LACDA and approved by HUD. The independent entity must furnish a copy of each inspection report to the LACDA and to the HUD field office where the project is located. The LACDA must 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 the Housing Authority-owner.

**21.16 RESTRICTIONS ON RENTING TO RELATIVES**  
**[24 CFR §983.251(a)(4)]**

The LACDA will not approve a tenancy if the owner, including principal owners or other interested parties, is the parent, child, grandparent, grandchild, sister, or brother of any member of the family unless the approval is the result of a reasonable accommodation for a disabled family member.

**21.17 LEASE**  
**[24 CFR §983.256]**

Owners must use the same lease for contract units as for unassisted units, with the lease being in accordance with state law.

The lease must include the HUD tenancy addendum. All provisions in the tenancy addendum must be included in the lease. Provisions in the addendum shall prevail over provisions in the lease.

The initial term of the lease must be for at least one year.

In addition to an initial term of at least one year, the lease must provide for automatic renewal after the initial term. Automatic renewal may be in the form of:



- Renewal for successive definite terms (ex: Month to month or year to year)
- Automatic indefinite extension of the lease term

The lease must specify:

- Names of the owner and tenant;
- Identifying information of the unit rented;
- Term of the lease and any provision for renewal;
- The amount of tenant rent to owner;
- Specification of services, maintenance, equipment, and utilities to be provided by the owner;
- The amount of any charges for food, furniture, or supportive services.

#### **21.17.1 Changes in the Lease**

If the tenant and owner agree to any changes in the lease, the change must be in writing and must be submitted to the LACDA immediately.

The owner must notify the LACDA of any proposed change in the lease regarding responsibility for utilities. Such changes may only be made with approval of the LACDA. If the LACDA approves a change in responsibilities for utilities, rent reasonableness must then be re-determined. The rent to owner will be re-calculated from the effective date of the change.

#### **21.17.2 Absence from the Unit**

The LACDA's absence policies found in Chapter Six of this Plan will apply to the PBV program. The lease may specify a maximum period of family absence from the unit that is shorter than that specified by the LACDA.

The HAP contract will not be terminated if the family is absent for longer than the maximum period permitted by the LACDA.

#### **21.17.3 Owner Termination of Tenancy and Eviction**

Grounds for owner termination and eviction reflect the policies outlined in Chapter Fourteen of this Plan, except that an owner may not terminate tenancy after the initial term of the lease for business or economic reasons, or to repossess the unit for personal, family, or nonresidential use.

If an owner refuses to renew the lease without good cause, the family will be issued a tenant-based voucher and the unit will be removed from the HAP contract.

The lease terminates if the owner terminates the lease for good cause, or the owner and tenant agree to terminate the lease

Owners who wish to terminate a HAP contract by either allowing it to expire or refusing to renew it must give the LACDA and the tenants at least 1 year notice. If a proper notice is not given, the owner must allow families to remain in their units for the balance of the notice period without an increase in the tenant's portion of

rent. Under this circumstance, the owner may not evict a family due to an inability to collect an increased tenant portion of rent. An owner may renew a terminating contract for a period long enough to give tenants at least a 1 year notice.

**21.17.4 PHA Terminations**  
**[24 CFR §983.2(c)(5)]**

The LACDA may terminate a family that violates the family obligations of the PBV program. Subsequent to a proposed termination of a family's assistance, the LACDA will advise the family of its right to an informal hearing as outlined in chapter sixteen of this plan.

The LACDA is required to automatically terminate the HAP contract 180 calendar days after the last housing assistance payment is made to the owner.

- If the family still resides in the unit after the 180 day period and there is still no HAP payment on their behalf, the unit will be removed from the contract.
- If the family has resided in the unit for more than one year, they may request a tenant based voucher and attempt to find a unit for which there will be a HAP payment. No voucher will be issued to a family whose assistance has already been terminated.
- If the unit is in a fully assisted project it may be reinstated once the ineligible family vacates the unit, and in a partially assisted project, another unit may be substituted for the ineligible unit. In both cases the reinstatement/substitution must be in compliance with PBV regulations.

Additionally, the lease terminates if the LACDA terminates the HAP contract or if the LACDA terminates the family's assistance.

The termination of a family's assistance by the PHA alone does not result in an eviction. An owner must pursue eviction in local court. If the owner decides not to pursue eviction, the LACDA may elect to either substitute the ineligible unit or remove the ineligible unit from the HAP contract.

**21.17.5 Security Deposits**  
**[24 CFR §983.258]**

The owner may collect a security deposit from the tenant. The amount may not exceed that allowed by state and local law or that charged to unassisted units in the same building.

When the tenant moves out, the owner may use the amount of the deposit, in accordance with the lease and state and local law, as reimbursement for any unpaid tenant rent, damage to the unit, or any other amount the tenant owes 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 balance is not sufficient to cover amounts the tenant may owe under the lease, the owner may seek the remainder from the tenant. The LACDA has no

liability or responsibility for payment of any amount owed by the family to the owner.

**21.18 CURRENT PARTICIPANT RIGHT TO MOVE WITH TENANT-BASED ASSISTANCE**  
**[24 CFR §983.260]**

Eligible families may terminate the assisted lease at any time after the first year of occupancy. Families who wish to move must first contact the LACDA to request a voucher before submitting a lease termination notice to the owner. Once the LACDA has received a written request for a voucher, the family will be issued a new voucher. If the reexamination is current (within 12 months) the LACDA will not conduct a reexamination before issuing the voucher unless there are reported changes to income or the family composition that would require an interim reexamination. At the same time the voucher is issued, the family will receive a Request for Tenancy Approval (RTA). The family should begin looking for housing immediately in order to ensure a smooth transition to the new unit.

If the family terminates the assisted lease before the end of one year, the family relinquishes the opportunity for continued tenant-based assistance.

Requests to move for families wishing to port to another jurisdiction must be submitted in writing.

If a tenant-based voucher is not available at the time of the family's request, the PHA will give the family priority to receive the next available opportunity for continued tenant-based assistance.

**21.19 FAMILY OCCUPANCY OF WRONG-SIZE OR ACCESSIBLE UNIT**  
**[24 CFR §983.260]**

If the LACDA determines that a family is occupying the wrong-size unit, or a unit with accessibility features the family does not require, and is needed by a family that requires the accessibility features, the LACDA will offer the family continued assistance in another unit and will notify the family and owner immediately of its offer of continued assistance and determination.

The LACDA may offer continued assistance either in another PBV unit or a tenant-based voucher. If appropriate, the LACDA may refer the family to an available public housing unit or other public or private tenant-based assistance (e.g. HOME).

If the family is given a tenant-based voucher, policies under the Housing Choice Voucher program regarding voucher issuance and expiration will apply. If a family fails to lease a unit with the tenant-based voucher, assistance will be terminated upon expiration of the voucher (and any subsequent extensions granted by the LACDA)

Upon determination that the family is occupying a wrong-size unit or a unit with accessibility features not required by the family and continued assistance is offered in the form of a project-based voucher, the family will have ninety days in which to move to another unit. If the family fails to move or refuses the offer of continued assistance in another unit, assistance to the family will be terminated.

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**21.20 DETERMINING RENT TO OWNER****[24 CFR §983.301, 24 CFR §983.302, and 24 CFR §983.303(b)(1)]**

The amount of estimated rent to owner must be included in the Agreement for rehabilitated or newly constructed housing. The actual rent to owner must be determined at the beginning of the HAP contract term for all types of housing.

The LACDA may include as part of the HAP contract, a provision that the rent to owner will not be reduced below the initial rent. If the LACDA elects to include such a provision, the rent to owner will not be reduced below the initial rental amount during subsequent reasonable rent re-determinations. Additionally, rents will only be reduced below the initial amounts to correct errors in calculations or if additional housing assistance has been combined with the PBV assistance after the execution of the initial HAP contract and a decrease is required due to subsidy layering requirements.

The amount of rent to owner is redetermined at the owner's request for a rent increase and when there is a 10% decrease in the published FMR.

Except for certain tax credit units specified below, the amount of rent to owner must not exceed the lowest of:

- An amount determined by the PHA that does not exceed 110% of the FMR (or any exception payment standard approved by HUD), minus the utility allowance; The LACDA will cap this amount at the current payment standard in effect at the time of the determination.
- The reasonable rent; or
- The rent requested by the owner.

**21.20.1 Housing Authority – Owned Units****[24 CFR §983.301(g)]**

For Housing Authority-owned PBV units, the amount of reasonable rent must be determined by an independent agency approved by HUD in accordance with PBV requirements. The independent entity must provide a copy of the determination of reasonable rent for PHA-owned units to the LACDA and to the HUD field office where the project is located.

Therefore, 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. The LACDA must use the rent to owner established by the independent entity.

**21.20.2 Redetermination of Rent to Owner****[24 CFR §983.302]**

The LACDA will only redetermine rent to the owner when the owner requests an increase at the annual anniversary of the HAP contract or when there is a 10% decrease in the published FMR. Notice of rent increase and other limitations on rent adjustments must conform to the above stated policies and section 11.3 of this Plan.

If there is a decrease in rent due to a 10% decrease in the published FMR, the rent to owner must be decreased, whether or not the owner requested a rent adjustment.

The notice of rent adjustment from the LACDA constitutes an amendment of rent to owner specified in the HAP contract.

Rent reasonableness will be determined by a HUD-approved, independent entity for units owned by the LACDA. The entity will provide a copy of the determination to the LACDA and the HUD Los Angeles field office.

The LACDA will not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with all requirements of the HAP contract, including compliance with Housing Quality Standards. The owner may not receive any retroactive increase of rent for any period of noncompliance.

**21.20.3 Rent Determination for Projects with Other Subsidies**  
**[24 CFR §983.304]**

Rents may not exceed rent limits as established by the applicable federal program for units subsidized under the following programs:

1. HOME;
2. Insured or non-insured Section 236 project;
3. Formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
4. Section 221(d)(3) below market interest rate (BMIR) project;
5. Section 515 project of the Rural Housing Service;
6. Any other type of federally subsidized project specified by HUD.

The LACDA may set reasonable rents up to 110 percent of the HUD Market Rent in projects receiving Low-Income Housing Tax Credits (LIHTC), even if the rent level exceeds the maximum rent under the LIHTC program.

The LACDA may, at its discretion include provisions in the HAP contract to reduce the initial amount of rent to the owner because of other governmental subsidies.

**21.20.4 Rent Control and Other Rent Limitations**  
**[24 CFR §983.305]**

Rent control and other rent limitations under local, state or federal law will apply.

**21.21 PAYMENT TO OWNER**  
**[24 CFR §983.351]**

The LACDA will make HAP payments to the owner in accordance with the HAP contract for the months in which the contracted unit is leased to and occupied by an eligible family. Except for discretionary vacancy payments described in section 21.20.1 of this chapter, the LACDA will not make any payments for any month after the month in which the family moves out of the unit. In order to continue receiving

HAP payments, the owner must comply with all provisions of the HAP contract, including HQS.

**21.21.1 Vacancy Payments**  
**[24 CFR §983.352]**

If a family moves out of a contract unit, the owner may keep the payment for the full calendar month in which the family moves out. The owner may not keep the payment if the LACDA determines that the vacancy is the owner's fault.

Subject to available funding, the LACDA may provide for vacancy payments to the owner not to exceed two months following move out. The vacancy payment may not exceed the amount of monthly rent under the assisted lease, minus any rent received by the owner, including any available amount from the tenant's security deposit.

Vacancy payments may only cover periods the unit is actually vacant.

The LACDA will only make vacancy payments to the owner if:

- The owner gives prompt, written notice to the LACDA certifying that the family vacated the unit, including the date the family moved out within 72 hours upon learning of the move out, and certifies:
  - The vacancy is not the fault of the owner and the unit was vacant during the period claimed;
  - The owner has taken every reasonable step to minimize the likelihood and length of the vacancy.

The owner must then submit a form requesting vacancy payments and provide the amount of the tenant's security deposit with any amount available to reimburse unpaid rent. The form must accompany receipts substantiating any damages the owner claims from the security deposit. The owner must certify on this form that no other payments were received for the unit during the period vacancy claimed.

**21.21.2 Other Charges and Fees**  
**[24 CFR §983.354]**

The owner may not require the family to pay charges for any meals or supportive services unless the project is an assisted living development, in which case owners may charge tenants, family members, or both for meals and supportive services. These charges may not be included in the rent to owner and may not be used to calculate rent reasonableness. Nonpayment of such charges is grounds for termination under the lease only in an assisted living development.

The owner may not charge tenants or family members extra amounts for items customarily included in the rent in Los Angeles County, or provided at no additional cost for unsubsidized tenants on the premises.