**INTRODUCTION**

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

Part I: Administrative Fee Reserve. This part describes the PHA’s policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

Part IV: Owner or Family Debts to the PHA. This part describes policies for recovery of monies that the PHA has overpaid on behalf of families, or to owners, and describes the circumstances under which the PHA will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect a PHA.

Part VI: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

Part VII: Reporting and Record Keeping for Children with Elevated Blood Lead Level. This part describes the PHA’s responsibilities for reporting, data collection, and record keeping relative to children with elevated blood lead levels that are less than six years of age, and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the PHA’s policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

Part IX: Violence against Women Act (VAWA): Notification, Documentation, Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking; and maintaining the confidentiality of information obtained from victims.

PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

The PHA will maintain administrative fee reserves, or unrestricted net position (UNP) for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a PHA fiscal year. HUD requires the PHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the UNP account without specific approval.

🗹 **Decision Point: What is the maximum amount that may be charged against the administrative fee reserve without specific approval from the PHA Board of Commissioners or other authorized officials?**

Things to Consider

* In determining the maximum amount, PHAs may want to consider, the total amount of funding available in the UNP account, the amount that is likely to be expended on an annual basis, and the types of expenditures that will be made.
* The model plan adopts a limit of $10,000. This provides the Executive Director with flexibility in spending administrative fee reserve dollars.
* The maximum amount identified in this policy must be consistent with the PHA’s procurement policy, and the maximum amount the PHA can procure without prior approval from the Board of Commissioners.
* The model plan uses the term Board of Commissioners. If your PHA’s governing body goes by a different name, the policy should be edited to reflect this.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Expenditures from the UNP account will be made in accordance with all applicable federal requirements. Expenditures will not exceed $10,000 per occurrence without the prior approval of the PHA’s Board of Commissioners.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

**16-II.A. OVERVIEW**

This part discusses how the PHA establishes and updates payment standards and utility allowances.

🗹 **Decision Point: What is the PHA’s policy for making the payment standard and utility allowance schedules available for review and comment?**

# Things to Consider

* HUD regulations do not require Board approval or a comment period for changes in the PHA’s payment standards or utility allowance schedule. However, since these types of changes typically impact expenditures and the number of families that may be assisted, industry practice at most PHAs is typically to seek Board approval of revised amounts.
* Providing families, owners, and members of the public an opportunity to review and provide comments about the payment standard and utility allowance schedules creates more community support for PHA policies, and a sense of collaboration with those that are impacted by the PHA’s decisions.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Copies of any of the payment standard and utility allowance schedules are available for review in the PHA’s offices during normal business hours and on the PHA’s website.

Families, owners, and members of the public may submit written comments on the schedules discussed in this Part, at any time, for consideration during the next revision cycle.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

🗹 **Decision Point: How long will the PHA maintain documentation to support the annual review of payment standard and utility allowance schedules?**

Things to Consider

* + The PHA should retain documentation of its review of the payment standards schedule to support a determination to change or not to change the payment standards on the payment standard schedule. There is no specific requirement regarding the length of time the PHA is required to retain these types of records. However, three years is the standard time frame that HUD requires the PHA to maintain many other types of records, therefore, this is the time frame used in the model plan [24 CFR 982.158].

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least three years.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7**; and Notice PIH 2024-34**]

This section describes the purpose of payment standards and requirements for establishing a payment standard schedule that establishes payment standard amounts for each FMR area within the PHA’s jurisdiction, and for each unit size within each of the FMR areas.

**Small Area FMR PHAs (Mandatory and Opt-In) [Notice PIH 2018-01; Notice PIH 2023‑32; Notice PIH 2024-34; and Implementing Small Area Fair Market Rents (SAFMR) Guidebook]**

Certain PHAs are located in metropolitan areas designated for mandatory use of Small Area Fair Market Rents (SAFMRs). Under SAFMRs, PHAs use ZIP code-based fair market rents (FMRs) to set payment standards, rather than relying on a single FMR for the entire metropolitan area. When applicable, SAFMRs apply to all tenant-based vouchers in the PHA’s jurisdiction, including special vouchers such as the Veterans Affairs Supportive Housing (VASH) program, the Family Unification Program (FUP), and special housing types such as Single Room Occupancies (SROs) and homeownership vouchers.

🗹 **Decision Point: Is the PHA located in a designated SAFMR area?**

Things to Consider

* Since designated SAFMR agencies are required to adopt SAFMRs, Notice PIH 2018-01 states they are not required to amend their administrative plans to indicate that they will be doing so. However, in order to ensure that all stakeholders are aware of how the PHA sets its payment standards, the model policy identifies whether or not the PHA is subject to mandatory SAFMRs.
* If your PHA is not subject to mandatory SAFMRs, select Option 1. Select Option 2 if your agency is located in a designated SAFMR area. If so, delete the following section titled Voluntary Use of Small Area FMRs. If your PHA has chosen to voluntarily opt-in to the use of SAFMRs, this is identified in the following decision point.
* All PHAs—including Designated SAFMR PHAs, Opt-in SAFMR PHAs, and non-SAFMR PHAs—must set payment standards for each unit size at a level that falls between 90 and 110 percent of the FMR/SAFMR (unless HUD an exception payment standard or a payment standard below the basic range for the area is adopted).
* If the PHA is located in a designated SAFMR area, The PHA establishes the payment standard amounts for the ZIP code area for a unit size at any level between 90 percent and 110 percent of the published SAFMR for that unit size. The percent of the SAFMR that the payment standard equals may vary between different unit sizes and from ZIP code area to ZIP code area.
* For example, in lieu of establishing a unique payment standard for each ZIP code area within its jurisdiction, a PHA may use this flexibility to establish payment standards for “grouped” ZIP code areas, provided the payment standard in effect for each grouped ZIP code area is within the basic range of the SAFMR for each ZIP code area in the group. So, a PHA could establish a payment standard schedule that falls within the basic range for a group of ZIP code areas and identify that group of ZIP code areas as Group A, another as Group B, and so on.
* A PHA does not need to apply the same percentage of the SAFMR to each ZIP code area within a payment standard area.
* If the payment standard amount for the ZIP code area is within the basic range, the PHA may revise its payment standard amounts at any time for the ZIP code area, provided the revised payment standard amount remains within the basic range.
* Just like with payment standards that are set based on the FMR, the PHA must revise and implement the new payment standard amount no later than three months following the effective date of the published SAFMR if a change is necessary to stay within the basic range.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA is not a mandatory SAFMR PHA.

🞎 *Option 2: Delete the model plan language and substitute the language shown below.*

The PHA is located in a designated SAFMR area and is a mandatory SAFMR PHA.

🞎 *Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

If a metropolitan area meets the criteria listed in 24 CFR 888.113(c)(1), Small Area FMRs apply to the metropolitan area and all PHAs administering HCV programs in that area are required to use Small Area FMRs. **If your PHA is located in an area where Small Area FMRs are required, delete this section since it is not applicable to the PHA.**

PHAs that administer vouchers in either a metropolitan area where the adoption of SAFMRs is notrequired or in a non-metropolitan area for which HUD publishes Small Area FMRs may choose to voluntarily adopt SAFMRs after notification to HUD.

🗹 **Decision Point: Will the PHA voluntarily adopt the use of SAFMRs?**

Things to Consider

* An agency that chooses to adopt SAFMRs must submit a written notification to HUD in accordance with Notice PIH 2024-34.
* SAFMRs may open up lower poverty neighborhoods to voucher families that were formerly unaffordable. Research shows that SAFMRs have worked well at helping families move to higher-opportunity neighborhoods.
* According to the Poverty and Race Research Action Council, SAFMRs are intended to capture more granular discrepancies in rent across neighborhoods and therefore more accurately reflect market rents. SAFMRs allow voucher families to move to higher rent, lower poverty neighborhoods, giving voucher holders access to communities that are more likely to have quality jobs, lower crime rates, and high performing schools.
* According to the Center on Budget and Policy Priorities, SAFMRs have also made the voucher program more cost-effective. The interim evaluation found that average subsidy costs fell 13 percent at SAFMR agencies from 2010 to 2015, because the total subsidy reductions from using SAFMRs in low-rent neighborhoods exceeded increases in high-rent neighborhoods. Costs also fell at comparison agencies (partly because budget cuts during this period caused many agencies to lower subsidy levels), but by less than half as much.
* A PHA that exercises this option in one metropolitan area or non-metropolitan county is not required to exercise this option in other metropolitan areas or non-metropolitan counties.
* As described in Notice PIH 2018-01, voluntary adoption of SAFMRs requires a planning process by the PHA. The PHA must compare SAFMRs to “regular” metropolitan area FMRs and must:
* Consider whether adoption of SAFMRs is likely to have an adverse effect on the availability of affordable rental housing.
* Estimate the effect on families of SAFMR adoption and consider whether to adopt “hold harmless” or “gradual reduction in subsidy” options.
* Identify any areas where the difference between the metropolitan area FMR and the (lower) SAFMR is 10 percent or more and opt-in will therefore trigger the need for rent reasonableness determinations.
* A PHA that exercises this option in one metropolitan area or non-metropolitan county is not required to exercise this option in other metropolitan areas or non-metropolitan counties. A PHA that voluntarily uses SAFMRs for the entire jurisdiction, even if that jurisdiction consists of only one ZIP code, is considered an “Opt-in SAFMR” PHA. PHAs located in metropolitan and non-metropolitan counties may opt-in to using the SAFMR.
* As a best practice, when considering whether to opt-in to SAFMRs, PHAs should consider a variety of factors such as:
* Whether adoption of SAFMRs is likely to have a positive or adverse effect on the availability of rental housing that is both affordable and available to program participants and applicants.
* The effect of SAFMR adoption on family rent burdens, and whether to adopt the hold harmless or gradual reduction in subsidy options.
* Areas where the SAFMR is lower than the published FMR by exactly 10 percent and opt-in will therefore trigger the need for rent reasonableness determinations.
* Whether to apply SAFMRs to the PBV program, if applicable.
* The default policy states that the PHA will not voluntarily adopt SAFMRs.
* PHA must amend the administrative plan to include its policy of operating in accordance with the SAFMRs. If the PHA later decides to opt-out of SAFMRs, it must also revise the administrative plan.
* Select Option 2 if your agency is not located in a metropolitan area.
* If the PHA opts to adopt SAFMRs, select Option 3 and include tenant protection policies as described above.
* A PHA that opts in to SAFMRs may subsequently opt out, returning to the use of the published FMR, through revision of the administrative plan and notification to HUD.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will not voluntarily adopt the use of SAFMRs except to establish exception payment standards in certain ZIP code areas.

🞎 *Option 2: Delete the model plan language and substitute the language shown below.*

The PHA is not located in a metropolitan area or an area where HUD publishes Small Area FMRs and does not have the option of adopting SAFMRs except to establish exception payment standards in certain ZIP code areas.

🞎 *Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

**The Basic Range [24 CFR 982.503(c)** **and Notice PIH 2024-34]**

This section describes the “basic range.” **No policy decisions are required.**

**Designated Payment Standard Areas [24 CFR 982.503(a)(3) and Notice PIH 2024-34]**

The PHA may establish designated payment standard areas within each FMR area where the PHA establishes different payment standards, provided each area is no smaller than a census tract block group.

🗹 **Decision Point: Will the PHA establish designated payment standard areas?**

Things to Consider

* If the PHA designates payment standard areas, then it must include the criteria used to determine the designated areas and the payment standard amounts for those areas in the administrative plan.
* Option 1 states the PHA will not adopt designated payment standard areas.
* If the PHA chooses to designate payment standard areas, Option 2 should be used. The payment standards within designated areas may be established within the basic range of 90 to 110 percent of the FMR or may be based on exception payment standards established in accordance with 24 CFR 982.503(d).
* If the PHA establishes different payment standard amounts for designated areas within its jurisdiction, including exception areas, the criteria used to determine the designated areas and the payment standard amounts for those designated areas must be described in the PHA’s administrative plan or payment standard schedule. If the PHA adopts Option 2, the PHA should include the criteria used to determine designated areas. The PHA may list the actual payment standard amounts in the PHA’s payment standard schedule.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA has not established any designated payment standard areas.

🞎 *Option 2: Delete the model plan language and substitute the language shown below.*

The PHA will designate payment standard areas. **[Insert PHA criteria to determine designate areas.]**

🞎 *Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

**Exception Payment Standards [24 CFR 982.503(d), Notice PIH 2018-01, Notice PIH 2024‑34, and FR Notice 9/27/21]**

An exception payment standard is a payment standard that exceeds 110 percent of the published FMR. The PHA may establish exception payment standards for all units or for units of a particular size. An exception payment standard may be for the entire FMR area or for a designated part of the FMR area (called an “exception area”) provided each area is no smaller than a census tract block group.

🗹 **Decision Point: Will the PHA establish exception payment standards?**

Things to Consider

* When the PHA is required to notify HUD of the use of exception payment standards, Notice PIH 2024-34 contains details of the HUD notification process. The duration in which the PHA may use the exception payment standard after proper notification to HUD is:
* Until the effective date of the first newly published FMRs following 12 consecutive months of a sustained tenant-based success rate at 75 percent or higher, if the PHA qualified for the exception payment standard based on the success rate criteria above; or
* Until the effective date of the first newly published FMRs following 12 consecutive months of the PHA maintaining a rent burden where fewer than 40 percent of tenant-based voucher families are paying more than 30 percent of adjusted income as the family share, if the PHA qualified for the exception payment standard based on the rent burden criteria above.
* PHAs may combine exception payment standards based on the SAFMR, and exception payment standards greater than 110 and up to 120 percent. Prior to doing so, however, HUD encourages (but does not require) PHAs to first assess whether the SAFMR exception payment standard achieves the programmatic goals of the PHA.
* An exception area is a designated part of the applicable FMR area. So long as the exception area is smaller than the applicable FMR area but no smaller than a census tract block group, the PHA may determine what the requested exception area is. This is a non-inclusive list of potential exception areas:
* Census tract
* Census tract block group
* County
* City
* Town
* Neighborhood
* ZIP codes (for PHAs not in mandatory SAFMR areas or that have not opted-in to SAFMRs)
* A PHA may determine that they want to request an exception payment standard for the entire FMR area. For example, a PHA in a mandatory SAFMR area may want to request an exception payment standard for an entire ZIP code. Or, in another example, a PHA in a non-metropolitan county may want to request an exception payment standard for the entire county.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA has not established exception payment standards.

🞎 *Option 2: Delete the model plan language and substitute the language shown below.*

The PHA will determine whether to establish exception payment standards based on the same factors described in the Updating Payment Standards section below and with consideration of criteria listed in Notice PIH 2024-34.

The PHA will establish exception payment standards in the following areas: ***[Insert PHA areas with exception payment standards]***

🞎 *Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

**Reasonable Accommodation [24 CFR 982.503(d)(5), Notice PIH 2024‑34, and Notice PIH 2010-26]**

Unit-by-unit exceptions to the PHA’s payment standards generally are not permitted. However, an exception may be made on a case-by-case basis as a reasonable accommodation for a family that includes a person with disabilities. **No policy decisions are required.**

**Payment Standard below the Basic Range [24 CFR 982.503(e) and Notice PIH 2024-34]**

This section states that PHAs must request HUD approval to establish payment standards that are lower than the basic range, and that approval of lower payment standard amounts is at HUD’s sole discretion. **No policy decisions are required.**

**Updating Payment Standards [24 CFR 982.503(c)(3) and Notice PIH 2023-24]**

When HUD updates its FMRs, the PHA must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require the PHA to make further adjustments if it determines that rent burdens for assisted families in the PHA’s jurisdiction are unacceptably high 24 CFR 982.503(g)].

🗹 **Decision Point: What factors will the PHA consider when determining whether to update its payment standard amounts?**

# Things to Consider

* The PHA must review its payment standard amounts at least annually when the FMRs are published to ensure that they remain within the basic range.
* The level at which the payment standard is set affects the amount of subsidy a family will receive, and the amount of rent they will pay; therefore, it is important for the payment standard amounts not to be set too high or too low.
* In establishing or updating payment standards, the PHA must also consider funding availability and the number of households that the PHA will be able to serve.
* If the payment standards are set too low, families may need to pay more rent than they can afford, and may have a hard time finding acceptable units, or units in neighborhoods with a lower concentration of poor and minority households.
* If payment standards are set too high, the PHA’s per unit cost (PUC) will increase, resulting in the PHA being able to assist fewer families.
* The model plan language allows the PHA to consider a number of factors, which will help the PHA establish payment standards that will allow families a reasonable selection of decent, safe, and sanitary housing in a range of neighborhoods within the PHA’s jurisdiction and ensure that families are not over-burdened, while also taking into consideration the budgetary constraints the PHA must work under.
* The model plan language includes assessing family rent burdens. Conducting such an analysis provides the PHA with more specific information regarding rent burdens based on family unit size (voucher size).
* PHAs may set payment standards at different percentages of the FMRs, based on rent burdens. For example, a PHA may find that families issued a one-bedroom voucher are experiencing reasonable rent burdens in their jurisdiction, while families holding four-bedroom vouchers have high rent burdens.
* PHAs should also consider what percent of families are leasing units larger than their family unit size. For example, if a high percentage of families that hold a one-bedroom voucher are leasing in units larger than one-bedroom, the PHA should most consider this when establishing payment standards.
* PHAs may set payment standards for various unit sizes at different percentages of FMR. For example, a PHA that conducts an analysis and sees the two outcomes above might set the one-bedroom payment standard at 95 percent of the FMR while establishing the four-bedroom payment standard at 110 percent of the FMR.
* Your PHA may wish to consider additional factors, or different factors. If so, the model plan language will need to be edited accordingly.
* PHAs must include a copy of the payment standard schedule in the voucher briefing materials, and HUD strongly encourages PHAs to post their payment standard schedule on their website. Each of the options below state the PHA will include this information on their website. If the PHA will not do so, this should be deleted.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will review the appropriateness of the payment standards on an annual basis when the new FMR is published, and at other times as determined necessary. In addition to ensuring the payment standards are always within the “basic range,” the PHA will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

**Funding Availability**: The PHA will review projected HAP expenditures to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. The PHA will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

**Rent Burden of Participating Families:** Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the PHA will consider increasing the payment standard. In evaluating rent burdens, the PHA will not include families renting a larger unit than their family unit size.

**Quality of Units Selected**: The PHA may review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

**Changes in Rent to Owner**: The PHA may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases and decreases by bedroom size.

**Unit availability:** The PHA may review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

**Lease-up Time and Success Rate**: The PHA may consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

🗹 **Decision Point: When will changes to the payment standard schedule be effective?**

Things to Consider

* The HUD published Fair Market Rents (FMRs) are effective on approximately October 1 of every year. If changes to the FMRs result in the PHA’s current payment standards falling outside the basic range, the PHA must adjust those payment standards to be within the basic range no later than three months following the FMR effective date. This is a regulatory change which took effect in January 2017.
* For example, if the new FMR went into effect on October 1, 2017, the PHA would need to update its payment standard if necessary to fall within the basic range of the new FMRs no later than January 1, 2018.
* The option to implement mandatory payment standard revisions within a three-month time frame eliminates the need to make retroactive adjustments when payment standards have increased.
* If the PHA’s current payment standards are still within the basic range, no revisions are required. The PHA may choose to revise its payment standards to maintain standards at a set percentage of FMR; in this case, revisions would take effect on a date selected by the PHA.
* PHAs may also change their payment standards more than once during the year, or at other times than when HUD publishes FMRs, as long as the payment standards remain within the basic range. For example, a PHA may experience a significant increase or decrease in its Per Unit Cost (PUC) and may determine that a mid-year increase or decrease in payment standards is warranted.
* For a PHA that directly administers HCV assistance to families in metropolitan areas where the adoption of SAFMRs is mandatory, the PHA has no later than three months from the effective date of the FMRs to adopt payment standards within the basic range of the SAFMRs. In other words, the PHA must adjust the payment standard for any ZIP code area where the current payment standard falls outside of the basic range of the SAFMR for that ZIP code area.
* Under Option 1, the PHA is committing to ensuring that payment standards will be within the basic range, but leaving options open as far as when payment standards will be modified and effective.
* Under Option 2, the PHA will implement mandatory and discretionary payment standard revisions effective January 1 of each year. This option allows for uniform effective dates and reduces confusion as to when revised payment standards should be utilized for new admissions, movers, and annual reexaminations.
* Option 3 provides that the PHA will implement HUD-required payment standard revisions effective January 1 but will determine an alternate date for implementation of discretionary revisions.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Effective dates of changes to payment standard amounts will be determined at the time of update. The PHA will always ensure the payment standards will be within the basic range. The PHA will post its payment standards schedule on the PHA’s website and include a copy in the voucher briefing materials.

🞎 *Option 2: Delete model plan language and substitute language as shown below.*

Changes to payment standard amounts will be effective on January 1 of every year, or within three months of the FMR effective date, whichever is earlier. The effective date is applicable both to HUD-required revisions and to discretionary revisions. The PHA will post its payment standards schedule on the PHA’s website and include a copy in the voucher briefing materials.

🞎 *Option 3: Delete model plan language and substitute language as shown below.*

If changes to the FMRs result in the PHA’s current payment standards falling outside the basic range, revisions to the payment standards will be effective on January 1. The PHA will determine the effective date of discretionary payment standard revisions. The PHA will post its payment standards schedule on the PHA’s website and include a copy in the voucher briefing materials.

🞎 *Option 4: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

**16-II.C. UTILITY ALLOWANCES [24 CFR 982.517]**

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

**Energy Efficient Utility Allowance [24 CFR 982.517(b)(2)(ii)]**

In addition to the area-wide utility allowance standard, the PHA may maintain an area-wide, energy efficient utility allowance schedule to be used for units that are in a building that meets Leadership in Energy and Environmental Design (LEED) or Energy Star standards.

🗹 **Decision Point: Will the PHA adopt an area-wide energy efficient utility allowance schedule in addition to the standard area-wide schedule?**

Things to Consider:

* In order to establish such a policy, the entire building must meet LEED or Energy Star standards. In future, HUD may allow for retrofitted units to use such a schedule, even if the entire building does not meet the standard. For now, there are only two design standards that meet the standard and the PHA may not apply an EEUA more broadly.

🞎 *Option 1: Use the model plan language shown below if your utility allowance schedule includes an allowance for air-conditioning.*

The PHA will not maintain an energy efficient utility allowance schedule.

🞎 *Option 3: Delete model plan language and substitute language as shown below.*

In addition to the area-wide utility allowance standard, the PHA will maintain an area-wide, energy efficient utility allowance schedule to be used for units that are in a building that meets Leadership in Energy and Environmental Design (LEED) or Energy Star standards. The PHA’s policies applicable to revision and application of the standard utility allowance schedule will also apply to this schedule.

🞎 *Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

**Air Conditioning [24 CFR 982.517(b)(1)(iii)]**

🗹 **Decision Point: Do the majority of housing units in the market have central air-conditioning or are they wired for tenant-installed air conditioners?**

Things to Consider:

* An allowance for air-conditioning must be provided when the majority of housing units in the market has central air-conditioning or are wired for tenant-installed air conditioners.
* The model plan language is based on the assumption that the majority of housing units in the PHA’s jurisdiction has central air conditioning or is wired for tenant-installed air conditioners. If this isn’t the case in your PHA’s jurisdiction, select Option 2.

🞎 *Option 1: Use the model plan language shown below if your utility allowance schedule includes an allowance for air-conditioning.*

The PHA has included an allowance for air-conditioning in its schedule. Central air-conditioning or a portable air conditioner must be present in a unit before the PHA will apply this allowance to a family’s rent and subsidy calculations.

🞎 *Option 2: Use the model plan language below if your utility allowance schedule does not include an allowance for air-conditioning.*

The majority of housing units in the PHA’s jurisdiction does not include central air-conditioning and is not wired for tenant-installed air conditioners. Therefore, the PHA has not included an allowance for air-conditioning in its utility allowance schedule.

**Reasonable Accommodation** **and Individual Relief**

This section states the requirement that PHAs must approve a utility allowance amount higher than shown on the PHA’s schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. **No policy decisions are required.**

**Utility Allowance Revisions**

This section describes the requirements to review and revise utility allowance schedules. **No policy decisions are required.**

PART III: INFORMAL REVIEWS AND HEARINGS

**16-III.A. OVERVIEW**

Both applicants and participants have the right to disagree with, and appeal, certain decisions of the PHA that may adversely affect them. PHA decisions that may be appealed by applicants and participants are discussed in this section.

The process for applicant appeals of PHA decisions is called the “informal review.” For participants (or applicants denied admission because of citizenship issues), the appeal process is called an “informal hearing.”

**16-III.B. INFORMAL REVIEWS**

**Decisions Subject to Informal Review [24 CFR 982.554(a) and (c)]**

This section lists the circumstances under which a PHA is required to offer an informal review, and the circumstances under which the PHA is not required to offer one.

🗹 **Decision Point: Will the PHA offer applicants the opportunity for an informal review for any reasons other than those required by the regulations?**

Things to Consider:

* Offering informal reviews takes time and resources. Therefore, to reduce the administrative burden on PHAs, the model language states that the PHA will only offer informal reviews when required by the regulations.
* PHAs may want to offer informal reviews for other PHA decisions or may want to offer applicants the option of meeting with the PHA to resolve specific concerns. For example, if an applicant is denied a preference, a PHA may want to offer them an opportunity for an informal review, or an opportunity to meet with PHA staff to resolve their concern.
* Informal meetings are a matter of courtesy and good customer service but do not need to be structured with policy requirements.
* If a PHA wants to offer informal reviews for reasons other than denial of assistance, the policy should state this and include a listing of the reasons or circumstances under which an applicant family will be offered an informal review.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes denying listing on the PHA waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

**Notice to the Applicant [24 CFR 982.554(a)]**

The PHA must give an applicant prompt notice of a decision denying assistance and the notice must contain certain information. **No policy decisions are required.**

**Scheduling an Informal Review**

🗹 **Decision Point: How many days does an applicant family have to request an informal review, and how quickly must the PHA schedule it?**

Things to Consider

* For administrative ease and consistency, this policy uses the standard of 10 business days that is used throughout much of the plan.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

A request for an informal review must be made in writing and delivered to the PHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the PHA’s denial of assistance.

The PHA must schedule and send written notice of the informal review within 10 business days of the family’s request.

If the informal review will be conducted remotely, at the time the PHA notifies the family of the informal review, the family will be informed:

Regarding the processes to conduct a remote informal review;

That, if needed, the PHA will provide technical assistance prior to and during the informal review; and

That if the family or any individual witness has any technological, resource, or accessibility barriers preventing them from fully accessing the remote informal review, the family may inform the PHA and the PHA will assist the family in either resolving the issues or allow the family to participate in an in-person informal review, as appropriate.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

**Informal Review Procedures [24 CFR 982.554(b)]**

This section describes the regulatory requirements for the informal review process. **No policy decisions are required.**

**Remote Informal Reviews [Notice PIH 2020-32]**

🗹 **Decision Point: Will the PHA conduct any informal reviews remotely under certain circumstances? If so, will the PHA consider conducting remote informal reviews upon request of the applicant for certain criteria?**

Things to Consider

* Advances in technology provide opportunities for families to participate in informal reviews remotely. Absent an applicant’s request for an in-person informal review, remote informal reviews may be conducted over the phone, via video conferencing, or through other virtual platforms. As such, the PHA has discretion as to when and whether to conduct remote informal reviews. If the PHA chooses to conduct remote informal reviews, applicants may still request an in-person informal review, as applicable.
* The PHA also has the authority to require remote informal reviews in cases such as local, state, or federal physical distancing orders, natural disasters, or inclement weather. While the PHA is not required to conduct informal reviews remotely in these cases, conducting reviews this way may aid the PHA in continuing normal operations and providing required services to families.
* The PHA should also consider offering remote informal reviews outside of times of extraordinary circumstances upon request of the applicant for certain PHA-defined criteria. The model policy suggests that these criteria include reasonable accommodation, lack of transportation or childcare, and when applicants are concerned about exposure to health risks by attending an in-person informal review. The PHA may wish to add other criteria to this list and consider other requests on a case-by-case basis.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA has the sole discretion to require that informal reviews be conducted remotely in case of local, state or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, the PHA will conduct an informal review remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have childcare or transportation that would enable them to attend the informal review, or if the applicant believes an in-person informal review would create an undue health risk. The PHA will consider other reasonable requests for a remote informal review on a case-by-case basis.

🞎 *Option 2: Delete model plan language and substitute language as shown below.*

The PHA will not conduct remote informal reviews.

🞎 *Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

**Ensuring Accessibility for Persons with Disabilities and LEP Individuals**

This section describes the requirements to ensure accessibility for persons with disabilities and limited English Proficiency (LEP) as they relate to remote informal reviews. **No policy decisions are required.**

**Conducting Remote Informal Reviews**

🗹 **Decision Point: How will the PHA conduct informal reviews remotely?**

Things to Consider

* If the PHA chooses not to conduct remote informal reviews, this section should be deleted.
* The PHA must ensure that the applicant has appropriate technological access in order to fully participate in the remote informal review. Notice PIH 2020-32 states that the PHA should survey families participating in the remote informal review prior to the review to determine whether any technological barriers exist and to determine the resources to which families have access. This could mean asking whether the family has a computer, internet access, a phone, or a laptop, whether these items have cameras, and whether the family can go to a place with sufficient privacy and internet access.
* The PHA should attempt to resolve any identified technological barriers prior to the remote informal review. Section 6 of Notice PIH 2020-32 provides guidance on how to do so.
* Of the options presented in Notice PIH 2020-32, a voice-only or telephone option is the least preferrable due to challenges presented by the applicant being unable to view documents presented at the review and being unable to identify who is speaking during a phone call with multiple attendees. Attendees should be able to see, be seen, hear, and be heard. For this reason, the model policy states that the PHA will conduct remote informal reviews via video conferencing when available, unless families are unable to adequately access the video conferencing platform, in which case, telephone conferencing call-in will be used.
* In the event that the family still does not have proper technology access to allow them to fully participate, that is, if they cannot adequately access the video conferencing platform or the telephone call-in, Notice PIH 2020-32 states that the remote informal review should be postponed or an in-person alternative must be provided. The model policy reflects this language.
* Further, login information and all materials being presented, whether paper or electronic, must be provided to the family prior to the informal review. This may present challenges since families may be unfamiliar with how to access the video conferencing platform used by the PHA. The PHA should consider offering support to families around the time of the informal review to ensure that applicants are able to log into the video conferencing system.
* The default policy states that documents will be shared electronically whenever possible. The PHA must ensure that all electronic information stored or transmitted with respect to the informal review is secure per Notice PIH 2015-06, including personally identifiable information (PII). Also, keep in mind that for individuals with limited English proficiency (LEP), materials may need to be provided in a translated format.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will conduct remote informal reviews via a video conferencing platform, when available. If, after attempting to resolve any barriers, applicants are unable to adequately access the video conferencing platform at any point, or upon applicant request, the informal review will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal review will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least five business days prior to the scheduled remote review, the PHA will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the informal review and request the family notify the PHA of any known barriers. The PHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person informal review.

If the informal review is to be conducted remotely, the PHA will require the family to provide any documents directly relevant to the informal review at least 24 hours before the scheduled review through the mail, via email, or text. The PHA will scan and email copies of these documents to the PHA representative the same day.

Documents will be shared electronically whenever possible.

The PHA will follow up the email with a phone call and/or email to the applicant at least one business day prior to the remote informal review to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform.

The PHA will ensure that all electronic information stored or transmitted with respect to the informal review is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

**Informal Review Decision [24 CFR 982.554(b)]**

The PHA must notify the applicant of the PHA’s final decision, including a brief statement of the reasons for the final decision.

🗹 **Decision Point: What factors will the PHA consider in rendering its decision and how will the applicant be notified of the decision?**

Things to Consider

* Identifying the factors the PHA will consider when making an informal review decision, helps to ensure consistency in the way decisions are made and makes the decision process transparent to all involved.
* The model plan language clarifies that the final decision is made by the PHA, not by the person conducting the review. This is consistent with the regulation which states that “The PHA must notify the applicant of the **PHA final decision** after the informal review…” [24 CFR 982.554(b)(3)].
* For administrative ease and consistency, this policy uses the standard of 10 business days that is used throughout much of the plan.
* This policy clarifies that the PHA will maintain proof of mailing for all informal review decision notices. A proof or affidavit of mailing is a sworn statement that a person mailed something. Maintaining a proof of mailing will ensure that the applicant family receives the PHA’s decision. Many examples of a proof of mailing are available online and can easily be found using any search engine.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

In rendering a decision, the PHA will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the notice to the family.

The validity of the grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.

The validity of the evidence. The PHA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the PHA will uphold the decision to deny assistance.

If the facts prove the grounds for denial, and the denial is discretionary, the PHA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The PHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and their representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

**16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]**

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the PHA’s HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the PHA’s decisions related to the family’s circumstances are in accordance with the law, HUD regulations and PHA policies.

**Decisions Subject to Informal Hearing**

This section lists the circumstances under which a PHA is required to offer an informal hearing, and the circumstances under which the PHA is not required to offer one.

🗹 **Decision Point: Will the PHA offer participants the opportunity for an informal hearing for any reasons other than those required by the regulations?**

Things to Consider:

* Offering informal hearings takes considerable time and resources. Therefore, to reduce the administrative burden on PHAs, the model language states that the PHA will only offer informal hearings when required to by the regulations, with two exceptions.
  + Full review of any denial of a reasonable accommodation request is an important consideration. Although offering informal hearings for PHA denial of reasonable accommodation requests is not required by HUD regulation, it is added here as a PHA policy.
  + While an informal hearing is not required by HUD regulation, a careful review and appeal process should be considered by the PHA. The PHA should weigh the commitment of providing informal hearings as an appeal for denial of a request vs. the time and expense of a participant filing a fair housing complaint or taking legal action when a PHA denies a request for an accommodation.
  + Instead of adopting the model policy, the PHA could, instead, give this responsibility to the 504 coordinator. However, Section 504 only requires PHAs with 15 or more employees to designate a 504 coordinator, and in most cases, it will be the 504 coordinator who denies the request.
  + 24 CFR 984.303(i) states that the PHA may withhold the coordination of supportive services or terminate the FSS family’s participation in the FSS program if the PHA determines, in accordance with the FSS Action Plan hearing procedures, that the FSS family has failed to comply without good cause with the requirements of the FSS Contract of Participation (CoP).
  + If the PHA has an FSS program and there is an articulated hearing procedure in the FSS Action Plan, this provision can be deleted from the Admin Plan.
  + If, however, the PHA has an FSS program and there is not an articulated hearing procedure for FSS in the FSS Action Plan, it is recommended that the PHA establish the opportunity for an informal hearing for the above.
* If a PHA wants to offer informal hearings for reasons in addition to those required by the regulation, the policy should include a listing of those reasons or circumstances.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will also give participant families an opportunity for an informal hearing for:

Any denial of a request for a reasonable accommodation for a person with disabilities (see Chapter 2).

Families participating in the Family Self-Sufficiency (FSS) program, when the PHA withholds the coordination of supportive services or terminates a family’s participation in the FSS program because the PHA determines the FSS family has failed to comply without good cause with the requirements of the FSS Contract of Participation in accordance with the FSS Action Plan [24 CFR 984.303(i)].

🞎 *Option 2: Use the language shown below if the PHA wants to include informal hearings for denial of a reasonable accommodation but does not have an FSS program or if there is an articulated hearing process for FSS in the FSS Action Plan and edit the model plan language in Chapters 2 and 16.*

The PHA will also give participant families an opportunity for an informal hearing when the PHA denies a request for a reasonable accommodation for a person with disabilities (see Chapter 2).

🞎 *Option 3: Use the language shown below if the PHA establishes a policy that informal hearings are only offered when required by HUD regulation.*

The PHA will only offer participants the opportunity for an informal hearing when required to by HUD regulation.

🞎 *Option 4: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*.

**Remote Informal Hearings** **[Notice PIH 2020-32]**

The PHA’s essential responsibility is to ensure informal hearings meet the requirements of due process and comply with HUD regulations.

🗹 **Decision Point: Will the PHA conduct any informal hearings remotely under certain circumstances? If so, will the PHA consider conducting remote informal hearings upon request of the participant for certain criteria?**

Things to Consider

* There is no requirement that informal hearings be conducted in-person, and as such, HUD allows PHAs to conduct all or a portion of their informal hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote informal hearings, applicants may still request an in-person informal hearing, as applicable.
* The PHA also has the authority to require remote informal hearings in cases such as local, state, or federal physical distancing orders, natural disasters, or inclement weather. While the PHA is not required to conduct informal hearings remotely in these cases, conducting hearings this way may aid the PHA in continuing normal operations and providing required services to families.
* The PHA should also consider offering remote informal hearings outside of times of extraordinary circumstances upon request of the applicant for certain PHA-defined criteria. The model policy suggests that these criteria include reasonable accommodation, lack of transportation or childcare, and when applicants are concerned about exposure to health risks by attending an in-person informal hearing. The PHA may wish to add other criteria to this list and consider other requests on a case-by-case basis.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA has the sole discretion to require that informal hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, the PHA will conduct an informal hearing remotely upon request as a reasonable accommodation for a person with a disability, if a participant does not have childcare or transportation that would enable them to attend the informal hearing, or if the participant believes an in-person hearing would create an undue health risk. The PHA will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

🞎 *Option 2: Delete model plan language and substitute language as shown below.*

The PHA will not conduct remote informal hearings.

🞎 *Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

**Ensuring Accessibility for Persons with Disabilities ad LEP Individuals**

This section describes the requirements to ensure accessibility for persons with disabilities and limited English Proficiency (LEP) as they relate to remote informal hearings. **No policy decisions are required.**

**Conducting Informal Hearings Remotely**

🗹 **Decision Point: How will the PHA conduct informal hearings remotely?**

Things to Consider

* If the PHA chooses not to conduct remote informal hearings, this section should be deleted.
* The PHA must ensure that the family has appropriate technological access in order to fully participate in the remote informal hearing. Notice PIH 2020-32 states that the PHA should survey families participating in the remote informal hearing prior to the hearing to determine whether any technological barriers exist and to determine the resources to which families have access. This could mean asking whether the family has a computer, internet access, a phone, or a laptop, whether these items have cameras, and whether the family can go to a place with sufficient privacy and internet access.
* The PHA should attempt to resolve any identified technological barriers prior to the remote informal hearing. Section 6 of Notice PIH 2020-32 provides guidance on how to do so.
* Of the options presented in Notice PIH 2020-32, a voice-only or telephone option is the least preferrable due to challenges presented by the applicant being unable to view documents presented at the hearing and being unable to identify who is speaking during a phone call with multiple attendees. Attendees should be able to see, be seen, hear, and be heard. For this reason, the model policy states that the PHA will conduct remote informal hearings via video conferencing when available, unless families are unable to adequately access the video conferencing platform, in which case, telephone conferencing call-in will be used.
* In the event that the family still does not have proper technology access to allow them to fully participate, that is, if they cannot adequately access the video conferencing platform or the telephone call-in, Notice PIH 2020-32 states that the remote informal hearing should be postponed or an in-person alternative must be provided. The model policy reflects this language.
* Further, login information and all materials being presented, whether paper or electronic, must be provided to the family prior to the informal hearing. This may present challenges since families may be unfamiliar with how to access the video conferencing platform used by the PHA. The PHA should consider offering support to families around the time of the informal hearing to ensure that applicants are able to log into the video conferencing system.
* The default policy states that an electronic copy of all materials being presented will be provided via email. The PHA must ensure that all electronic information stored or transmitted with respect to the informal hearing is secure per Notice PIH 2015-06, including personally identifiable information (PII). Also, keep in mind that for individuals with limited English proficiency (LEP), materials may need to be provided in a translated format.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will conduct remote informal hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, participants are unable to adequately access the video conferencing platform at any point, or upon request, the informal hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least five business days prior to the scheduled remote hearing, the PHA will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the PHA of any known barriers. The PHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

The PHA will follow up with a phone call and/or email to the family at least one business day prior to the remote informal hearing to ensure that the family received all information and is comfortable accessing the video conferencing or call-in platform.

The PHA will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

**Informal Hearing Procedures**

***Notice to the Family* [24 CFR 982.555(c)]**

When the PHA makes a decision that is subject to informal hearing procedures, the PHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

🗹 **Decision Point: What information will be contained in the notice to the family?**

Things to Consider

* The model plan language includes all of the items that a PHA is required to put in the notice, along with two additional items: to whom the hearing request should be addressed, and a copy of the PHA’s hearing procedures.
* It is important to identify to whom the hearing request should be addressed, due to the time sensitive nature of the request. The family only has 10 business days to request the hearing, and the PHA only has 10 business days to schedule and notify the family of the hearing date. Including this information will ensure that the request is received by the appropriate person in a timely manner.
* It is imperative that the PHA include a copy of the PHA’s hearing procedures with the notice. Without this information, the family will be unable to properly prepare for the hearing. Providing this information as a matter of policy provides assurance that the PHA has done all it can to inform the family of their rights and responsibilities in the hearing process.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

In cases where the PHA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

The proposed action or decision of the PHA.

A brief statement of the reasons for the decision, including the regulatory reference.

The date the proposed action will take place.

A statement of the family’s right to an explanation of the basis for the PHA’s decision.

A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.

A deadline for the family to request the informal hearing.

To whom the hearing request should be addressed.

A copy of the PHA’s hearing procedures.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

🗹 **Decision Point: If the PHA establishes policy to conduct remote informal hearings, what information needs to be added to the notice to the family?**

Things to Consider

* If the PHA chooses not to conduct informal hearings remotely, the following section should be deleted.
* In order to ensure due process, it is important that the PHA notifies the family of its hearing procedures, including that the informal hearing must be, or may be, conducted remotely.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

That the family may request a remote informal hearing.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

***Scheduling an Informal Hearing* [24 CFR 982.555(d)]**

When an informal hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

🗹 **Decision Point: How many days does a participant family have to request an informal hearing, and how quickly must the PHA schedule it?**

Things to Consider

* For administrative ease and consistency, this policy uses the standard of 10 business days that it used throughout much of the plan.
* The regulation states that the PHA must proceed with the hearing in a “reasonably expeditious” manner upon the request of the family. Therefore, if you decide to use a time frame different than the model language, this requirement should be kept in mind.
* Per Notice PIH 2020-32, if the informal hearing will be conducted remotely, the PHA must ensure that the family has appropriate technological access in order to fully participate in the remote informal hearing, and to remove any technological barriers prior to the hearing. For this reason, the default policy contains language to facilitate this process in the event of a remote informal hearing.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

A request for an informal hearing must be made in writing and delivered to the PHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the PHA’s decision or notice to terminate assistance.

The PHA must schedule and send the notification of the informal hearing to the family within 10 business days of the family’s request.

If the PHA hearing will be conducted remotely, at the time the notice is sent to the family, the family will be notified:

Regarding the processes involved in a remote informal hearing;

That the PHA will provide technical assistance prior to and during the informal hearing, if needed; and

That if the family or any individual witness has any technological, resource, or accessibility barriers, the family may inform the PHA and the PHA will assist the family in either resolving the issue or allow the family to participate in an in-person hearing, as appropriate.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

🗹 **Decision Point: Under what circumstances can a family request to have a hearing rescheduled and how must the request be made?**

Things to Consider

* The model plan allows the family to request to reschedule a hearing only for good cause, which is defined in the policy. This type of policy reduces the number of hearings that have to be rescheduled, which can be particularly important when the PHA is relying on hearing officers who do not work for the PHA.
* The model plan allows the family to make the request orally or in writing. This gives the family flexibility if the timing or nature of their conflict makes it difficult for the family to complete and submit a written request.
* The model plan also allows the PHA to request documentation from the family, if the PHA determines it is necessary in order to determine good cause.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the PHA may request documentation of the “good cause” prior to rescheduling the hearing.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

🗹 **Decision Point: Will the PHA reschedule a hearing if a family does not appear at the scheduled hearing and has not made previous arrangements to reschedule?**

Things to Consider

* If a family does not appear at a scheduled hearing, and did not make previous arrangements to reschedule it, the model language states that the PHA will only reschedule the hearing if the family contacts the PHA within 24 hours of the scheduled hearing date, and the family can show good cause.
* This type of policy reduces the number of no-shows and the number of hearings that have to be rescheduled, while still allowing families who face last minute legitimate emergencies to have a second chance to have a hearing.
* PHAs may wish to automatically schedule a second appointment if a participant family does not appear at the first scheduled appointment. See Option 2 for this type of policy.
* A third option is also provided. This option is the most streamlined and the strictest. Unless a family reschedules for good cause prior to the hearing, or qualifies for a reasonable accommodation, the family will not be offered a second opportunity for hearing if they fail to appear at the hearing. If a family has an emergency the day of the hearing, and is unable to make contact with the PHA prior to the time of the hearing, this policy prevents the family from having a hearing rescheduled.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

If the family does not appear within 20 minutes of the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the PHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The PHA will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities. If the family cannot show good cause for the failure to appear, or a rescheduling is not needed as a reasonable accommodation, the PHA’s decision will stand.

🞎 *Option 2: Delete model plan language and substitute language as shown below.*

If the family does not appear within 20 minutes of the scheduled time, the PHA will automatically reschedule the hearing. Applicants who fail to attend two scheduled hearings will not be given another opportunity for a hearing, and the PHA’s original decision will stand.

🞎 *Option 3: Delete model plan language and substitute language as shown below.*

If the family does not appear within 20 minutes of the time stated in the letter of notification, the PHA will not reschedule the hearing unless needed as a reasonable accommodation for a person with a disability.

🞎 *Option 4: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

***Pre-Hearing Right to Discovery* [24 CFR 982.555(e)]**

Participants and the PHA are permitted pre-hearing discovery rights.

🗹 **Decision Point: How much will the PHA charge the family for copies of documents related to the hearing, and what is the deadline for the family to request discovery of the documents?**

Things to Consider

* The model plan states that families will not be charged.
* If the PHA chooses to charge the family, whatever cost the PHA uses, it should be reasonable for both the PHA and the family. For example, the PHA could use $.25 per page.
* The model plan requires the family to request discovery of the documents no later than noon on the business day prior to the hearing. This policy clearly sets expectations, and prevents the family from making any last minute requests that could cause a delay in the hearing.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The family will be allowed to copy any documents related to the hearing at no cost to the family. The family must request discovery of PHA documents no later than 12:00 p.m. on the business day prior to the hearing.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

🗹 **Decision Point: In the case of remote hearings, how will the PHA provide the family the opportunity to examine any relevant PHA documents prior to the hearing?**

Things to Consider

* If the PHA chooses not to conduct remote informal hearings, this section should be deleted.
* If the hearing will be conducted remotely, special consideration must be given to how the PHA will provide for pre-hearing discovery for the family. The model policy calls for the creation of a hearing packet containing all documents the PHA intends to produce at the hearing.
* The model plan also states that the original hearing packet will be retained by the PHA.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

If the hearing will be conducted remotely, the PHA will compile a hearing packet, consisting of all documents the PHA intends to produce at the informal hearing. The PHA will mail copies of the hearing packet to the family, the family’s representatives, if any, and the hearing officer at least three days before the scheduled remote informal hearing. The original hearing packet will be in the possession of the PHA representative and retained by the PHA.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

🗹 **Decision Point: Will the PHA share hearing-related documents with the family electronically whenever possible?**

Things to Consider

* Regardless of whether the PHA chooses to conduct the informal hearing in person or remotely, sharing hearing-related documents electronically is cost-effective and convenient for both the PHA and the family.
* As such, the model plan states that hearing-related documents will be shared electronically whenever possible.
* Providing documents electronically may speed the delivery of documents, but low-income families may not be able to readily access documents in this way. For this reason, rather than requiring documents be made available electronically, the policy states this method will be used when possible.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Documents will be shared electronically whenever possible.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

🗹 **Decision Point: Will the PHA require pre-hearing discovery by the PHA of family documents directly relevant to the hearing?**

Things to Consider

* HUD regulations allow, but do not require, that the PHA may establish a policy requiring the PHA be given the opportunity to examine at the PHA offices before the hearing any family documents that are directly relevant to the hearing.
* If the PHA establishes such policy, the PHA must be allowed to copy any such document at the PHA’s expense.
* If the family does not make the documents available for examination on request of the PHA, the family may not rely on the document at the hearing.
* Many advocates do not believe that establishing pre-hearing discovery by the PHA of family documents is a best practice because the balance of power (knowledge of HUD regulations, PHA expertise, and PHA in-house representation) weighs more heavily on the side of the PHA.
* In addition, families may understand the case more completely after receiving the PHA documents directly relevant to the hearing.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

For in-person hearings, the PHA will not require pre-hearing discovery by the PHA of family documents directly relevant to the hearing.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

🗹 **Decision Point: If the PHA conducts remote hearings, will the PHA require pre-hearing discovery by the PHA of family documents directly relevant to the hearing? If so, when and how will the PHA require the family to submit them, and when will it provide them to the hearing officer and PHA representative?**

Things to Consider

* If the PHA chooses not to conduct remote informal hearings, this section should be deleted.
* Although the model plan does not require pre-hearing discovery by the PHA of family documents directly relevant to the hearing for in-person hearings, it does require them for remote hearings. In contrast to in-person hearings, where the family is not required to submit documents ahead of time and may simply present documents to the PHA the day of the hearing, submission of documents must be given special consideration for remote hearings due to their remote nature. That is, the family will not be able to submit documents at the PHA on the day of the hearing, so it is necessary that they submit any hearing-related documents they intend to use ahead of time.
* The model plan states in the case of remote hearings, the PHA will require the family to provide any hearing-related documents to the PHA at least 24 hours before the scheduled hearing, and that the PHA will scan and email copies of these documents to the hearing officer and the PHA representative the same day.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

If the informal hearing is to be conducted remotely, the PHA will require the family to provide any documents directly relevant to the informal hearing at least 24 hours before the scheduled hearing through the mail, via email, or text. The PHA will scan and email copies of these documents to the hearing officer and the PHA representative the same day.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

🗹 **Decision Point: If the PHA requires pre-hearing discovery by the PHA of hearing-related family documents, or if the PHA will conduct hearings remotely, will the PHA opt for electronic documents whenever possible?**

Things to Consider

* If the PHA chooses not to require pre-hearing discovery by the PHA of family documents directly relevant to the hearing, or if the PHA will not conduct remote informal hearings, this section should be deleted.
* Sharing hearing-related documents electronically is cost-effective and convenient for both the PHA and the family. As such, the model plan states that hearing-related documents will be shared electronically whenever possible.
* However, the PHA should also consider family preference here as families may not have access to reliable internet or have the ability to print emailed documents.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Documents will be shared electronically whenever possible.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

***Participant’s Right to Bring Counsel* [24 CFR 982.555(e)(3)]**

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing. **No policy decisions are required.**

***Informal Hearing Officer [24 CFR 982.555(e)(4)]***

Informal hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision. **No policy decisions are required.**

***Attendance at the Informal Hearing***

🗹 **Decision Point: Who is authorized to attend informal hearings?**

Things to Consider

* Including a listing of who is authorized to attend the hearing in the informal hearing procedures makes the process more transparent to all involved, and ensures that participants are aware that they have the right to bring counsel or other representation, as well as witnesses.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Hearings may be attended by a hearing officer and the following applicable persons:

A PHA representative(s) and any witnesses for the PHA

The participant and any witnesses for the participant

The participant’s counsel or other representative

Any other person approved by the PHA as a reasonable accommodation for a person with a disability

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

***Conduct at Hearings***

🗹 **Decision Point: Who manages the conduct of the hearing and what are the standards of conduct?**

Things to Consider

* This policy is important because it clarifies that the hearing officer, not the PHA representative involved in presenting the case, is responsible for managing the conduct of the hearing.
* It also emphasizes the requirement for all hearing participants (PHA staff and participants) to behave appropriately at the hearing.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

***Evidence* [24 CFR 982.555(e)(5)]**

🗹 **Decision Point: What are the types and standards of evidence that can be used in the informal hearing process?**

Things to Consider

* Defining the types of evidence that can be presented, and reiterating the admissibility rules provides transparency and helps those involved in the hearing to better understand the rules and process.
* A note about hearsay: Courts have consistently overturned PHA termination cases based solely on hearsay, unless there is clear “probative value” and credibility of the hearsay evidence, demonstrating preponderance of the evidence. Therefore, in the event hearsay evidence is the only evidence presented, the probative value and credibility of statements must meet the standard of proof.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

**Oral evidence**: the testimony of witnesses

**Documentary evidence**: a writing which is relevant to the case, for example, a letter written to the PHA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

**Demonstrative evidence**: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

**Real evidence**: A tangible item relating directly to the case.

*Hearsay Evidence* is evidence based not on a witness’ personal knowledge. In and of itself, hearsay evidence carries no weight when making a finding of fact. The hearing officer may include hearsay evidence when considering their decision if it is corroborated by other evidence. Even though hearsay evidence is generally admissible in a hearing, the hearing officer will not base a hearing decision on hearsay alone unless there is clear probative value and credibility of the evidence, and the party seeking the change has met the burden of proof.

If either the PHA (or the family, if required in a remote hearing) fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

***Procedures for Rehearing or Further Hearing***

🗹 **Decision Point: Under what circumstances will a rehearing or further hearing be conducted?**

Things to Consider

* There may be circumstances in which a hearing officer determines it is necessary to allow the family to provide additional information, or to reconvene at a later date. The model plan language allows for this circumstance and explains what will happen if a family does not comply with the hearing officer’s requests.
* Option 2 allows the PHA or the participant to request a rehearing or further hearing for good cause. This type of policy is not required, but does allow for errors to be corrected, or for important information that was not known at the time of the hearing to be considered.
* Option 2 states that it is at the sole discretion of the PHA to grant a rehearing or further hearing. This language allows the PHA to deny a rehearing in cases where it is unwarranted.
* Option 2 requires the request to be made in writing and uses the standard of 10 business days that is used throughout much of the plan.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the PHA will take effect and another hearing will not be granted.

🞎 *Option 2: Delete model plan language and substitute language as shown below.*

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the PHA will take effect and another hearing will not be granted.

In addition, within 10 business days after the date the hearing officer’s report is mailed to the PHA and the participant, the PHA or the participant may request a rehearing or a further hearing. Such request must be made in writing and postmarked or hand-delivered to the hearing officer and to the other party within the 10-business-day period. The request must demonstrate cause, supported by specific references to the hearing officer’s report, as to why the request should be granted.

A rehearing or a further hearing may be requested for the purpose of rectifying any obvious mistake of law made during the hearing or any obvious injustice not known at the time of the hearing.

It shall be within the sole discretion of the PHA to grant or deny the request for further hearing or rehearing. A further hearing may be limited to written submissions by the parties, in the manner specified by the hearing officer.

🞎 *Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

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

🗹 **Decision Point: What factors will the hearing officer consider when making their decision?**

Things to Consider

* Clearly identifying the factors the hearing officer will use when making their decision and including this information in policy, makes the process transparent to the hearing officer, the PHA, and the participant, and also helps to ensure consistency in how decisions are made. This is particularly important when the PHA relies on multiple hearing officers.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

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

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

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

**PHA Evidence to Support the PHA Decision**: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the PHA’s conclusion.

**Validity of Grounds for Termination of Assistance (when applicable)**: The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and PHA policies. If the grounds for termination are not specified in the regulations or in compliance with PHA policies, then the decision of the PHA will be overturned.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

🗹 **Decision Point: When will the hearing decision be issued and what will the decision notice contain?**

Things to Consider

* For administrative ease and consistency, this policy uses the standard of 10 business days that is used throughout much of the plan.
* Describing in detail the contents of the hearing report ensures that all hearing decisions contain the same information. Again, this information is helpful to all involved in the hearing. It sets a standard for the hearing officer to follow, and informs participants of what information they can expect to receive in the hearing report.
* The definition of *preponderance of the evidence* is the same as is used in Chapters 3, 12, and 14. Therefore, any changes made to the definition here must also be made in those chapters.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The hearing officer will issue a written decision to the family and the PHA no later than 10 business days after the hearing. The report will contain the following information:

**Hearing information:**

Name of the participant;

Date, time and place of the hearing;

Name of the hearing officer;

Name of the PHA representative; and

Name of family representative (if any).

**Background**: A brief, impartial statement of the reason for the hearing.

**Summary of the Evidence**: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of their testimony and that are admitted into evidence.

**Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

**Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the PHA’s decision.

**Order:** The hearing report will include a statement of whether the PHA’s decision is upheld or overturned. If it is overturned, the hearing officer will instruct the PHA to change the decision in accordance with the hearing officer’s determination. In the case of termination of assistance, the hearing officer will instruct the PHA to restore the participant’s program status.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

***Issuance of Decision* [24 CFR 982.555(e)(6)]**

🗹 **Decision Point:How will the PHA and the family be notified of the hearing officer’s decision?**

Things to Consider:

* The administrative plan should describe the notification methods the PHA will utilize for the hearing officer’s decision.
* In the interest of fairness, the default policy provides that the hearing officer will mail copies of the decision to the PHA and to the family on the same day.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The hearing officer will mail a “Notice of Hearing Decision” to the PHA and to the participant on the same day. This notice will be sent by first-class mail. The participant will be mailed the original “Notice of Hearing Decision” and a copy of the proof of mailing. A copy of the “Notice of Hearing Decision” will be maintained in the PHA’s file.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

***Effect of Final Decision* [24 CFR 982.555(f)]**

🗹 **Decision Point: What will be included in the PHA’s “Notice of Final Decision”?**

Things to Consider

* The PHA is not bound by the decision of the hearing officer for matters in which the PHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to federal, state, or local laws.
* If the PHA determines it is not bound by the hearing officer’s decision in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination.
* The model plan clarifies what will be sent with the Notice, and ensures that the PHA includes proof of mailing. A proof or affidavit of mailing is a sworn statement that a person mailed something. Many examples can be found online using any search engine. It is important for the PHA to provide proof of mailing to the family, as well as maintaining proof within the PHA files. This policy requires both.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The Executive Director has the authority to determine that the PHA is not bound by the decision of the hearing officer because the PHA was not required to provide a hearing, the decision exceeded the authority of the hearing officer, the decision conflicted with or contradicted HUD regulations, requirements, or the decision was otherwise contrary to federal, state, or local laws.

In such a case, the PHA will mail a “Notice of Final Decision” to the PHA program director and the participant on the same day. The “Notice of Final Decision” will be sent by first-class mail. A copy of this notice will be maintained in the PHA’s file.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

**16-III.D. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]**

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

**Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]**

This section describes what must be included in the notice of denial or termination of assistance. **No policy decisions are required.**

**USCIS Appeal Process [24 CFR 5.514(e)]**

When the PHA receives notification that the United States Citizenship and Immigration Services (USCIS) secondary verification failed to confirm eligible immigration status of an applicant or participant, the PHA must notify the family of the results, and the family has 30 days from the date of the notification to make an appeal to the USCIS of the verification results.

🗹 **Decision Point: How long will the PHA have to notify an applicant or participant family of the results of the USCIS secondary verification process?**

Things to Consider

* For administrative ease and consistency, this policy uses the standard of 10 business days that is used throughout much of the plan.
* If the 10 business day time frame is changed here, it must also be changed in Section 3-II.B, Ineligible Families.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

🗹 **Decision Point: What are the requirements for the family to notify the PHA that an appeal to the USCIS has been requested?**

Things to Consider

* For administrative ease and consistency, this policy uses the standard of 10 business days that is used throughout much of the plan.
* This policy also states that the family is responsible for providing a proof of mailing along with the written request. A proof or affidavit of mailing is simply a sworn statement that a person mailed something, and many examples can be easily found online using any search engine.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The family must provide the PHA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

🗹 **Decision Point: How soon after the USCIS appeal results are issued, will the PHA send written notice to the family of their right to request an informal hearing on the PHA’s ineligibility decision?**

Things to Consider

* For administrative ease and consistency, this policy uses the standard of 10 business days that is used throughout much of the plan.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family’s immigration status.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

**Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]**

The informal hearing procedures for applicants are discussed in this section.

***Informal Hearing Officer***

The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. The listing of hearing officers in Section 16-III.C. also applies to this section. Therefore, **no policy decisions are required.**

***Evidence***

This section describes a family’s right to examine evidence, present evidence, and the right to confront and cross-examine all witnesses on whose testimony or information the PHA relies.

🗹 **Decision Point: How much will the PHA charge the family for copies of documents related to the hearing, and what is the deadline for the family to request discovery of the documents?**

Things to Consider

* The model plan states that families will be charged $.25 per page. Whatever cost the PHA uses, it should be reasonable for both the PHA and the family.
* The model plan requires the family to request discovery of the documents no later than noon, on the business day prior to the hearing. This policy clearly sets expectations, and prevents the family from making any last minute requests that could cause a delay in the hearing.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The family will be allowed to copy any documents related to the hearing at no charge. The family must request discovery of PHA documents no later than 12:00 p.m. on the business day prior to the hearing.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

***Representation and Interpretive Services***

This section describes the family’s right to be represented by an attorney or other designee, and to arrange for an interpreter to attend the hearing. **No policy decisions are required.**

***Recording of the Hearing***

🗹 **Decision Point: Will the PHA provide a transcript of an audio taped hearing?**

Things to Consider

* The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required to provide a transcript of the hearing.
* Providing a transcript to a hearing can be costly, therefore, the model plan states that the PHA will not provide it.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will not provide a transcript of an audio taped hearing.

🞎 *Option 2: Delete model plan language and substitute language as shown below.*

The PHA will provide a transcript of an audio taped hearing, upon request of the family.

🞎 *Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

***Hearing Decision***

The PHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision. **No policy decisions are required.**

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

The informal hearing procedures for participant families whose assistance is being terminated based on immigration status, is the same as for other participant families (see Section 16-III.C.).

**Retention of Documents [24 CFR 5.514(h)]**

The PHA must retain for a minimum of 5 years specific documents that were submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process. **No policy decisions are required.**

PART IV: OWNER OR FAMILY DEBTS TO THE PHA

**16-IV.A. OVERVIEW**

PHAs are required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the PHA [24 CFR 982.54].

🗹 **Decision Point: Will the PHA utilize repayment agreements?**

Things to Consider

* Notice PIH 2018-18 provides HUD’s guidance on repayment agreements.
* Families are required to reimburse the PHA if they were charged less rent than required by HUD’s rent formula due to the tenant’s underreporting or failure to report income. The family is required to reimburse the PHA for the difference between the tenant rent that should have been paid and the tenant rent that was charged.
* Repayment agreements require additional administrative functions.
* HUD does not require PHAs to utilize repayment agreements [24 CFR 982.552(c)(1)(vii)]. If the [family](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=c53cf78cbf206c9ab3ef77db1a2fe6f6&term_occur=999&term_src=Title:24:Subtitle:B:Chapter:IX:Part:982:Subpart:L:982.552) breaches an agreement with the [PHA](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3b4d5083a1b40906b99b82eff55c2461&term_occur=999&term_src=Title:24:Subtitle:B:Chapter:IX:Part:982:Subpart:L:982.552) to pay amounts owed to a [PHA](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3b4d5083a1b40906b99b82eff55c2461&term_occur=999&term_src=Title:24:Subtitle:B:Chapter:IX:Part:982:Subpart:L:982.552), or amounts paid to an [owner](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9d649778ebbf57e8c7796ad6c83632dd&term_occur=999&term_src=Title:24:Subtitle:B:Chapter:IX:Part:982:Subpart:L:982.552) by a [PHA](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3b4d5083a1b40906b99b82eff55c2461&term_occur=999&term_src=Title:24:Subtitle:B:Chapter:IX:Part:982:Subpart:L:982.552), the [PHA](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3b4d5083a1b40906b99b82eff55c2461&term_occur=999&term_src=Title:24:Subtitle:B:Chapter:IX:Part:982:Subpart:L:982.552), at its discretion, [may](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e3b0880323aa156a7c5817572c88fd3c&term_occur=999&term_src=Title:24:Subtitle:B:Chapter:IX:Part:982:Subpart:L:982.552) offer a [family](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=c53cf78cbf206c9ab3ef77db1a2fe6f6&term_occur=999&term_src=Title:24:Subtitle:B:Chapter:IX:Part:982:Subpart:L:982.552) the opportunity to enter an agreement to pay amounts owed to a [PHA](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3b4d5083a1b40906b99b82eff55c2461&term_occur=999&term_src=Title:24:Subtitle:B:Chapter:IX:Part:982:Subpart:L:982.552) or amounts paid to an [owner](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9d649778ebbf57e8c7796ad6c83632dd&term_occur=999&term_src=Title:24:Subtitle:B:Chapter:IX:Part:982:Subpart:L:982.552) by a [PHA](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3b4d5083a1b40906b99b82eff55c2461&term_occur=999&term_src=Title:24:Subtitle:B:Chapter:IX:Part:982:Subpart:L:982.552). The [PHA](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3b4d5083a1b40906b99b82eff55c2461&term_occur=999&term_src=Title:24:Subtitle:B:Chapter:IX:Part:982:Subpart:L:982.552) [may](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e3b0880323aa156a7c5817572c88fd3c&term_occur=999&term_src=Title:24:Subtitle:B:Chapter:IX:Part:982:Subpart:L:982.552) prescribe the terms of the agreement.
* By offering repayment agreements, the PHA may allow some families to avoid having their assistance terminated.
* PHAs may be more likely to recover amounts owed if payment can be made in monthly installments rather than all at once.
* When PHAs recover amounts that are due as a result of fraud and abuse, they are generally entitled to retain the greater of 50 percent of what they recover or the cost to recover it [24 CFR 792.202].
* If you do not wish to offer repayment agreements, select Option 2.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the PHA holds the owner or participant liable to return any overpayments to the PHA.

The PHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

🞎 *Option 2: If you choose not to offer repayment agreements, delete the model plan language and substitute language as shown below.*

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the PHA holds the owner or participant liable to return any overpayments to the PHA.

The PHA will **not** offer to enter into repayment agreements as a means to recover overpayments.

🞎 *Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

**16-IV.B. REPAYMENT POLICY**

**Owner Debts to the PHA**

🗹 **Decision Point: How long does an owner have to repay amounts due to the PHA?**

Things to Consider

* Owners are in the rental housing business and should therefore be able to repay a debt more quickly than participant families. Based on this reasoning, the model plan states that owners are required to repay the full amount of any debt within 30 days.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Any amount due to the PHA by an owner must be repaid by the owner within 30 days of the PHA determination of the debt.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

🗹 **Decision Point: If the owner fails to repay the debt within the required time frame, how will the PHA collect the debt?**

Things to Consider

* If the owner fails to repay the debt within 30 days, the simplest way to recover the money is to offset future HAP payments that the owner is entitled to. This recovery method is expressly permitted by the HAP contract.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the PHA will reduce the future HAP payments by the amount owed until the debt is paid in full.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

🗹 **Decision Point: If an owner is not entitled to future payments, will the PHA enter into a repayment agreement with the owner?**

Things to Consider

* If the owner fails to repay the debt within 30 days and is not entitled to any future HAP payments, collection will be more difficult.
* To increase the chances of recovering the amount owed, the model plan allows the PHA to offer to enter into a repayment agreement, but it does not require the PHA to do so.
* The model plan does not establish guidelines for repayment agreements with owners, instead giving the PHA the flexibility to decide the terms of such agreements on a case-by-case basis.
* If your PHA has chosen not to enter into repayment agreements, select Option 2.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

If the owner is not entitled to future HAP payments the PHA may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by the PHA.

🞎 *Option 2: If you choose not to offer repayment agreements, delete model plan language and substitute language as shown below.*

If the owner is not entitled to future HAP payments and refuses to repay the debt within the required time frame, the PHA will ban the owner from future participation in the program and pursue other modes of collection.

🞎 *Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

🗹 **Decision Point: If an owner refuses to repay a debt, does not enter into a repayment agreement, or breaches a repayment agreement, what action will the PHA take?**

Things to Consider

* If your PHA has chosen not to enter into repayment agreements, select Option 2 and delete the model plan language.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the PHA will ban the owner from future participation in the program and pursue other modes of collection.

🞎 *Option 2: If you choose not to offer repayment agreements, delete the model plan language.*

🞎 *Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

🗹 **Decision Point: What other collection methods will the PHA utilize?**

Things to Consider

* Although it is good practice for the PHA to pursue collection methods other than repayment agreements, PHAs should be aware of the limitations of those other methods. For example, civil collections can be expensive and time consuming, not all states have income tax set-off programs, and collection agencies charge a fee (percentage of the amount collected).
* If your PHA uses other methods to collect debts, the model plan should be edited to include those methods.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

When an owner refuses to repay monies owed to the PHA, the PHA will utilize other available collection alternatives including, but not limited to, the following:

Collection agencies

Small claims court

Civil lawsuit

State income tax set-off program

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

**Family Debts to the PHA**

🗹 **Decision Point: How many days will a family be given to repay a debt, and what action will the PHA take if the family is unable to pay within this time frame?**

Things to Consider

* The period in which the retroactive rent balance will be repaid is based on the monthly payments and original retroactive balance.
* Families have the option pay repay a debt as a lump sum, in monthly installments, or a combination of the two.
* The model plan allows families the same amount of time to repay a debt as owners (30 days). The PHA could allow more time or could condition the time allowed on the amount of money owed.
* In most cases, families will be unable to repay a debt within 30 days. Therefore, the model plan states that families who are unable to do so will be offered a repayment agreement in accordance with the policies in this part.
* If your PHA has chosen not to enter into repayment agreements, select Option 2.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Any amount owed to the PHA by an HCV family must be repaid by the family. If the family is unable to repay the debt within 30 days, the PHA will offer to enter into a repayment agreement in accordance with the policies below.

🞎 *Option 2: If you choose not to offer repayment agreements, delete the model plan language and substitute language as shown below.*

Any amount due to the PHA by an HCV family must be repaid by the family within 30 days of the PHA determination of the debt. If the family refuses to repay the debt within the required time frame, the PHA will terminate the family’s assistance in accordance with the policies in Chapter 12 and pursue other modes of collection.

🞎 *Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

**Criminal Prosecution for Program Fraud/Abuse**

🗹 **Decision Point: Will the PHA consider pursuing criminal prosecution for program abuse?**

Things to Consider

* PHA activities related to preventing, detecting, and resolving cases of program abuse by families, owners, and PHA staff should occur on an on-going basis.
* PHAs can take a number of approaches to ensure that sufficient staff and dollar resources are dedicated to preventing errors and controlling fraud and abuse.
* All expenditures from handling complaints, program errors, and program abuse must be paid out of the PHA’s ongoing administrative fee.
* PHAs are permitted to retain an amount equal to the greater of either the expenses of the case or 50 percent of the amount actually collected [24 CFR 792.202]. This applies to administrative repayment agreements, civil litigation or criminal prosecutions. PHAs may pursue one or more of these actions at a time or sequentially, depending on the situation.
* See *HCV Guidebook,* Chapter 22.8 and HUD’s Office of Inspector General Integrity Bulletin: “Locking out Tenant Fraud and Error,” Summer 2015 for additional information.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will consult with the HUD Field Office and regional OIG Special Agent in Charge (SAC) to determine whether it will refer the matter to the state or local district attorney to pursue criminal fraud charges.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

**Refusal to Enter into An Agreement**

🗹 **Decision Point: What other collection methods will the PHA utilize?**

Things to Consider

* Although it is good practice for the PHA to pursue collection methods other than repayment agreements, PHAs should be aware of the limitations of those other methods. For example, civil collections can be expensive and time consuming, not all states have income tax set-off programs, and collection agencies charge a fee (percentage of the amount collected).
* If your PHA uses other methods to collect debts, the model plan should be edited to include those methods.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

When a family refuses to repay monies owed to the PHA, in addition to termination of program assistance, the PHA will utilize other available collection alternatives including, but not limited to, the following:

Collection agencies

Small claims court

Civil lawsuit

State income tax set-off program

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

**Repayment Agreement [24 CFR 792.103]**

This section defines the term *repayment agreement*. **No policy decisions are required.**

**General Repayment Agreement Guidelines for Families**

**IMPORTANT NOTE:**

If your PHA has chosen not to enter into repayment agreements, the remainder of this part is not applicable and should be deleted from the model plan.

If you have chosen to offer repayment agreements, continue with the remaining decision points in this part.

***Down Payment Requirement***

🗹 **Decision Point: Will the PHA require a family to make a down payment prior to entering into a repayment agreement?**

Things to Consider

* The model plan generally requires a family to make a down payment of 10 percent of the total amount owed as a condition of entering into a repayment agreement.
* A down payment demonstrates a commitment to repay a debt, which is important, but it also may deprive some families of the option of entering into a repayment agreement. Therefore, the model plan gives the PHA the discretion to reduce the down payment or waive it entirely when a family can demonstrate that it would represent an undue hardship.
* As alternatives, the PHA could require a minimum dollar amount to be paid, rather than a minimum percentage of the debt, or the PHA could choose not to require any down payment. If you prefer the second alternative, which reflects guidance on repayment agreements provided in Notice PIH 2018-18, select Option 2.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Before executing a repayment agreement with a family, the PHA will generally require a down payment of 10 percent of the total amount owed. If the family can provide evidence satisfactory to the PHA that a down payment of 10 percent would impose an undue hardship, the PHA may, in its sole discretion, require a lesser percentage or waive the requirement.

🞎 *Option 2: Delete model plan language and substitute language as shown below.*

A family may, but will not be required to, make a down payment on the amount owed prior to entering into a repayment agreement with the PHA.

🞎 *Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

***Payment Thresholds***

🗹 **Decision Point: How long will families have to repay their debts?**

Things to Consider

* The model plan establishes thresholds for repayment of debts while at the same time giving the PHA the flexibility to make exceptions for families for whom the monthly payment amounts required under the thresholds would be unaffordable. The purpose of the thresholds is to increase the likelihood that the PHA will collect debts in a reasonable period of time. The purpose of the flexibility is to ensure that families are able to make their monthly debt repayments and still meet their other financial obligations, including paying their monthly share of the rent to owner.
* Notice PIH 2018-18 recommends that PHAs calculate the monthly repayment amount for a family by subtracting the family’s monthly rent to owner from 40 percent of the family’s monthly adjusted income (MAI). This calculation method won’t work for zero-income families or for families that are already paying 40 percent or more of their MAI in rent. However, since the model plan is flexible, the PHA could use this calculation method whenever it results in a monthly payment amount that is reasonable for the family and acceptable to the PHA. Alternatively, the PHA could select Option 2, which implements the guidance in Notice PIH 2018-18 but modifies it by setting a minimum monthly payment amount of $25.
* The thresholds in the model plan represent a sliding scale, acknowledging the reality that it will take families with limited budgets a longer time to repay larger debts. The PHA may adjust the thresholds by changing the dollar ranges, the time frames for repayment, or both. Alternatively, the PHA may eliminate the thresholds and instead set a maximum amount for which it will enter into a repayment agreement and/or a maximum length of time for all repayment agreements.
* The first threshold in the model plan is consistent with the policy under the heading “No Offer of Repayment Agreement” later in this section of the model plan as well as with the policy in section 14-II.E. The decisions the PHA makes in these three places should be consistent.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA has established the following thresholds for repayment of debts:

Amounts over $3,000 must be repaid within 36 months.

Amounts between $2,000 and $2,999 must be repaid within 30 months.

Amounts between $1,000 and $1,999 must be repaid within 24 months.

Amounts under $1,000 must be repaid within 12 months.

If a family can provide evidence satisfactory to the PHA that the threshold applicable to the family’s debt would impose an undue hardship, the PHA may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, the PHA will consider all relevant information, including the following:

The amount owed by the family to the PHA

The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family’s control

The family’s current and potential income and expenses

The family’s current family share, as calculated under 24 CFR 982.515

The family’s history of meeting its financial responsibilities

🞎 *Option 2: Delete model plan language and substitute language as shown below.*

If a family is paying less than 40 percent of its monthly adjusted income (MAI) in rent, the minimum monthly payment amount will be the greater of the following two amounts:

The difference between 40 percent of the family’s MAI and the total family share at the time the agreement is executed

$25

If a family is paying 40 percent or more of its MAI in rent, the PHA will establish a reasonable monthly payment amount commensurate with the family’s MAI at the time the agreement is executed. In no event will the amount be less than $25.

If a family can provide evidence satisfactory to the PHA that a monthly payment amount of $25 would impose an undue hardship, the PHA may, in its sole discretion, require a lower monthly payment amount.

If the family’s income increases or decreases during the term of a repayment agreement, either the PHA or the family may request that the monthly payment amount be adjusted accordingly.

🞎 *Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

***Execution of the Agreement***

🗹 **Decision Point: Who will be required to sign the repayment agreement?**

Things to Consider

* If only the head of household signs the agreement and later leaves the family, the PHA has no acknowledgement of the debt by the spouse/cohead.
* Notice PIH 2018-18 requires all repayment agreements to be dated and signed “by both the tenant and the PHA.”

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Any repayment agreement between the PHA and a family must be signed and dated by the PHA and by the head of household and spouse/cohead (if applicable).

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

***Due Dates***

🗹 **Decision Point: What is the due date for payments to the PHA?**

Things to Consider

* The model plan calls for all payments under repayment agreements to be due on the 15th of each month. If the PHA permits a family to select the due date, and the PHA has multiple agreements, monitoring will be difficult.
* Because many bills (including rent) are due on or about the 1st, the family may be better able to pay the amount under a repayment agreement in the middle of the month.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

***Late or Missed Payments***

🗹 **Decision Point: What will the PHA consider as “breach” or default of a repayment agreement?**

Things to Consider

* It is important for the PHA to enforce the terms of repayment agreements. If the PHA fails to do so, the PHA will collect less money and will imply to participants that they do not have to fulfill the terms of their repayment agreement in order to continue receiving assistance.
* If the PHA fails to monitor repayment agreements, it will also be a disincentive for staff to be diligent in fraud prevention and detection.
* The model plan allows the family a “grace” period of 10 business days to make a late payment. PHAs are not required to offer this type of grace period.
* The model plan also allows a PHA to find a family in default of their repayment agreement and terminate assistance if there is a pattern of making late payments. The model plan sets the standard at three delinquency notices in a 12-month period; however, a PHA could choose to increase or decrease that number.
* If the family fails to make payments on an existing or new repayment agreement, the PHA must terminate the family’s assistance.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the PHA, the PHA will send the family a delinquency notice giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the PHA will terminate assistance in accordance with the policies in Chapter 12.

If a family receives three delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and the PHA will terminate assistance in accordance with the policies in Chapter 12.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

***No Offer of Repayment Agreement***

🗹 **Decision Point: Under what circumstances will the PHA not enter into a repayment agreement with a family or owner?**

Things to Consider

* There may be conditions under which a PHA will not want to enter into a repayment agreement. These conditions should be clearly identified in the PHA’s policies.

The model plan specifies two conditions under which the PHA will generally not enter into a repayment agreement. The second condition is consistent with the policy under “Payment Thresholds” in this section and with the policy in section 14.II.F of the model plan.

* Note that the federal monetary threshold for HUD OIG investigations varies based on judicial district. In addition to limits set by local judicial districts, investigations may still be presented and accepted for prosecution despite not meeting the suggested loss established by the judicial district, depending on the facts of the case and impact to victims and the public.
* A third condition that the PHA might wish to add is if the PHA determines that the family’s debt is a result of program abuse or fraud. Option 2 includes this third condition.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family or if the PHA, in consultation with HUD and local law enforcement, determine to pursue criminal charges in connection with the conduct and the amounts owed.

🞎 *Option 2: Delete model plan language and substitute language as shown below.*

The PHA generally will not enter into a repayment agreement with a family under any of the following conditions:

The family is already under an existing repayment agreement with the PHA.

The PHA determines that the family’s debt is a result of program abuse or fraud (as defined in Chapter 14 of this plan).

The PHA, in consultation with HUD and local law enforcement, determines to pursue criminal charges in connection with the conduct and the amounts owed.

🞎 *Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

***Repayment Agreement Terms***

This section describes certain provisions that Notice PIH 2018-18 mandates for inclusion in all repayment agreements with families that have underreported or failed to report income. **No policy decisions are required.**

PART V: SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)

**16-V.A. OVERVIEW**

This section provides a brief overview of the Section 8 Management Assessment Program (SEMAP) and describes the impact that SEMAP ratings can have on a PHA. **No policy decisions are required.**

**16-V.B. SEMAP CERTIFICATION [24 CFR 985.101]**

This section describes SEMAP Certification submission requirements. **No policy decisions are required.**

**HUD Verification Method**

This section describes the methods used to verify a PHA’s SEMAP certification. **No policy decisions are required.**

**16-V.C. SEMAP INDICATORS [24 CFR 985.3 and Form HUD-52648]**

This section includes a table that lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator. **No policy decisions are required.**

PART VI: RECORD KEEPING

**16-VI.A. OVERVIEW**

The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements. **No policy decisions are required.**

**16-VI.B. RECORD RETENTION [24 CFR 982.158; 24 CFR 908.101]**

🗹 **Decision Point: How long will the PHA keep records related to violations of the Fair Housing Act, the equal access final rule, and VAWA?**

Things to Consider

* Notice PIH 2014-20 requires the PHA to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule. While not required by HUD, Option 1 of this policy states the PHA will also keep a record of all complaints under VAWA as well the required records of Fair Housing Act and equal access complaints. This policy mirrors the model policy in Chapter 2 about the VAWA complaint process which states the PHA will keep a record of all VAWA complaints. If the PHA amended the policy in Chapter 2 to remove this language, the PHA should also amend the language below.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will keep for at least three years records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act, the equal access final rule, or VAWA.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

**16-VI.C. RECORDS MANAGEMENT**

🗹 **Decision Point: How will applicant and participant files be stored and what action will the PHA take for inappropriate disclosure or discussion of family information by PHA staff?**

Things to Consider

* This type of policy reassures applicants and families that their private information will be protected at all times, as well as informs employees what is expected of them.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

All applicant and participant information will be kept in a secure location and access will be limited to authorized PHA staff.

PHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

**Privacy Act Requirements [24 CFR 5.212 and Form-9886-A]**

This section describes the PHA’s obligation to maintain applicant and participant information in accordance with Privacy Act requirements and all other provisions of applicable Federal, State, and local law. **No policy decisions are required.**

**Upfront Income Verification (UIV) Records**

🗹 **Decision Point: Will the PHA adopt and implement EIV security procedures prior to accessing HUD’s EIV system?**

Things to Consider

* PHAs that access UIV data through HUD’s EIV system are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g., electronic, paper). These requirements, such as the requirement to complete the annual EIV security awareness training, are contained in the HUD-issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification Data* and other security-related documents listed on HUD’s EIV website. HUD updates these requirements on a regular basis, so PHAs should check the HUD website regularly for updated links to required trainings and any other changes.
* Including this information in a policy makes it clear to PHA staff, HCV participants, and the general public that there are additional procedural requirements related to the security and protection of data received from the EIV system.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Prior to utilizing HUD’s EIV system, the PHA will adopt and implement EIV security procedures required by HUD.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

**Criminal Records**

This section describes specific requirements relative to the PHA’s handling of criminal information, including sex offender registration information. **No policy decisions are required.**

**Medical/Disability Records**

This section explains specific requirements regarding the PHA’s handling of medical or disability related records. **No policy decisions are required.**

**Documentation of Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking**

This topic is addressed in section 16-IX.E of the model plan. **No policy decisions are required here.**

PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL

**16-VII.A. OVERVIEW**

The PHA and the owner have certain responsibilities relative to children with elevated blood lead levels that are receiving HCV assistance. This part deals with the reporting requirements, and data collection and record keeping responsibilities to which the PHA and owner are subject.

**16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e); Notice PIH 2017-13]**

🗹 **Decision Point: Who will be responsible for notifying HUD and the public health department when the owner is notified of the case?**

Things to Consider

* The owner must report the name and address of a child identified as having an elevated blood lead level to the public health department within five business days of being so notified by any other medical health care professional. Notice PIH 2017-13 states that the PHA may wish to collaborate with the owner on this notification process, such as by agreeing with the owner to inform the public health department. The default policy provides that the PHA will notify the public health department on the owner’s behalf in order to ensure that the regulatory requirement is fulfilled.
* The owner must also notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the case within five business days. Here again, the PHA may wish to collaborate with the owner on this notification process and the default policy states that the PHA will do so.
* The default policy also clarifies that the notices will be written. Providing the notice in writing protects the owner and PHA from any claim that they did not properly report the information.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Upon notification by the owner, the PHA will provide the public health department written notice of the name and address of any child identified as having an elevated blood lead level within five business days.

Upon notification by the owner, the PHA will notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child’s address within five business days.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

**16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]**

The PHA is subject to specific data collection and record keeping requirements relative to children that are less than 6 years old and have an identified elevated blood lead level.

🗹 **Decision Point: Has the local public health department stated it does not wish to receive** **from the PHA, a report of an updated list of the addresses of units receiving assistance under the HCV program,** **on a quarterly basis?**

Things to Consider

* At least quarterly, the PHA must report an updated list of the addresses of units receiving assistance under the HCV program to the local public health department(s), unless the public health department(s) states that it does not wish to receive such a report.
* The model plan language assumes that the local health department has stated that they **do not wish** to receive the report. If this is not the case, choose Option 2.
* If you leave the model plan language as is, please ensure that you have on file a statement from your public health department stating that they do not wish to receive the report.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The public health department(s) has stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, the PHA is not providing such a report.

🞎 *Option 2: Delete model plan language and substitute language as shown below.*

The PHA provides an updated list of the addresses of units receiving assistance under the HCV program to the local public health department(s) on a quarterly basis. The reports are provided for the periods ending March 30th, June 30th, September 30th, and December 31st.

🞎 *Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

**PART VIII: DETERMINATION OF INSUFFICIENT FUNDING**

**16-VIII.A. OVERVIEW**

This part discusses the methodology the PHA will use to determine whether or not the PHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract. **No policy decisions are required**.

**16-VIII.B. METHODOLOGY**

🗹 **Decision Point: How will the PHA determine if it has sufficient funding to issue vouchers, approve moves, and continue assisting all current participants?**

Things to Consider

* The methodology for determining “insufficient funding” contained in the model policy is based on information from HUD presentations to industry groups, therefore, it is considered safe harbor.
* The model plan language clarifies that the PHA will make the comparison on a monthly basis, using actual data for the months it is available, and estimates for months the data is not yet available.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the PHA’s annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, the PHA will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month’s average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority and funding reserves, or if the PHA cannot support the cost of the proposed subsidy commitment (voucher issuance or move), based on the funding analysis, the PHA will be considered to have insufficient funding.

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

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

16-IX.A. OVERVIEW

The Violence Against Women Act (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.

* Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD’s recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. **No policy decisions are required.**

16-IX.B. DEFINITIONS [24 CFR 5.2003, 42 USC 13925]

This section provides the statutory definitions of five key terms used in VAWA. No policy decisions are required.

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

This section explains what the PHA will do to implement the notification provisions in VAWA. These provisions require PHAs to notify HCV participants of their rights under VAWA, including their right to confidentiality. Notification to Public

**☑** **Decision Point: Will the PHA post information about VAWA on its website and in its offices? If so, what information will it post?**

Things to Consider

* Victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking cannot exercise their rights under VAWA if they don’t know about them. Likewise, owners cannot fulfill their obligations under VAWA if they are not aware of what those obligations are. To ensure that information about VAWA is as widely and as readily available as possible, the model policy states that the PHA will post such information both on its website and in its offices. If the PHA does not have a website or cannot post the information there, it should edit the model policy accordingly.
* The model policy states that the PHA will have information about VAWA available in its offices to give to anyone who requests it. While this is not an explicit requirement of VAWA, it helps to ensure that anyone seeking information about the protections afforded by VAWA will be able to obtain it easily.
* The model policy includes two sample notices and three HUD-required forms used in connection with VAWA. These are found as Exhibits 16-1 through 16-5 at the end of the chapter.
  + Exhibit 16-1 is HUD’s sample Notice of Occupancy Rights Under the Violence Against Women Act, Form HUD-5380. The PHA must edit this sample form to include PHA-specific information and contact information for local domestic violence service providers.
  + Exhibit 16-2 is the HUD-required Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD‑5382
  + Exhibit 16-3 is an NMA-revised version of HUD’s sample Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5381. The PHA must revise this sample form to reflect PHA-specific information based upon housing types administered by the agency.
  + Exhibit 16-4 is the HUD-required Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383.
  + Exhibit 16-5 is an NMA sample Notice to HCV Owners and Managers. Since this is not a HUD-required form, the PHA may revise it to reflect local policies.
* The other policies in this section fulfill the PHA’s notification responsibilities under VAWA. Therefore, the PHA may delete the model policy here if it so chooses.

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

A copy of Form HUD-5380, Notice of Occupancy Rights under VAWA, to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Exhibit 16-1)

A copy of Form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Exhibit 16-2)

A copy of the PHA’s emergency transfer plan (Exhibit 16-3)

A copy of Form HUD-5383, HUD’s Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Exhibit 16-4)

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

Contact information for local victim advocacy groups or service providers

🞎 *Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

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

VAWA requires PHAs to notify program applicants and participants assisted under the HCV program of their rights under this law, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits. A sample notice to both participants and applicants is provided in Exhibit 16-1 of the model administrative plan.

🗹 **Decision Point: How and when will the PHA provide notification to program applicants and participants? What will the notification contain?**

Things to Consider

* HCV program applicants and participants who are victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking are protected under VAWA. Since many victims of abuse may not be aware of these protections, the law requires that program applicants and participants be notified about them.
* PHAs are required to inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits. The model policy also calls for the PHA to provide applicants with information about VAWA at the time they request an application for housing assistance and at each annual reexamination.
* To ensure that applicants and participants understand their rights under VAWA at the times they may need to exercise them, the model policy also calls for denial and termination notices to include information regarding the protections afforded under VAWA. If changes are made in the model policy here, they may also need to be made in the model policies in sections 3-III.H and 12-II.F.
* The model administrative plan includes as Exhibit 16-1 a HUD sample notice of occupancy rights under VAWA. Since the PHA will be fulfilling its notification obligation if it provides this notice to public housing applicants and tenants, the model policy assumes that the PHA will use this notice (with whatever modifications the PHA wishes to make). The model policy further assumes that the PHA will include with the VAWA notice a copy of Form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, and Stalking and Alternate Documentation. This is consistent with VAWA regulations.

🞎 *Option 1: Use the model administrative plan language shown below. No changes to the model administrative plan are needed.*

The PHA will provide all applicants with information about VAWA at the time they request an application for housing assistance, and in the written briefing packet as part of the admission process. The PHA will also include information about VAWA in all notices of denial of assistance (see section 3-III.H).

The PHA will provide all participants with information about VAWA at annual reexamination. The PHA will also include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.

The VAWA information provided to applicants and participants will consist of the notice in Exhibit 16-1 and 16-2.

🞎 *Option 2: Use PHA-established policy. Edit the model administrative plan language or delete it and insert the PHA’s policy.*

☑ **Decision Point: Will the PHA take any precautions when delivering VAWA information to a participant following an incident of domestic violence?**

Things to Consider

* The model policy follows cautionary guidance provided by HUD in Notice PIH 2017‑08, which points out that sending VAWA information to a participant by mail following an incident of domestic violence may put the victim at risk.
* Unless given permission from the victim to do so, the PHA must not leave messages that contain confidential information or refer to VAWA.

🞎 *Option 1: Use the model admin plan language shown below. No changes to the model admin plan are needed.*

Whenever the PHA has reason to suspect that providing information about VAWA to a participant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary and as indicated by the victim on form HUD-5382 or the emergency transfer request form. For example, the PHA may, based on victim information, determine not to send mail regarding VAWA protections to the victim’s unit if the PHA believes the perpetrator may have access to the victim’s mail, unless requested by the victim.

When discussing VAWA with the victim, the PHA will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

🞎 *Option 2: Use PHA-established policy. Edit the model admin plan language or delete it and insert the PHA’s policy.*

**Notification to Owners and Managers**

VAWA imposes obligations not only on PHAs but also on owners and managers participating in the HCV program. To ensure that HCV owners and managers are aware of their obligations, the PHA may choose to provide written notification.

🗹 **Decision Point: Will the PHA provide notification to owners and managers of their rights and obligations under VAWA?**

Things to Consider

* VAWA no longer requires PHAs to notify owners and managers of their rights and obligations under the law, but PHAs may choose to do so. The model policy calls for the PHA to provide owners and managers with information about VAWA when they begin their participation in the HCV program and at least annually thereafter. Annual reminders will help to ensure that owners and managers remain aware of the special protections afforded to victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking under federal law.
* Exhibit 16-5 in the model administrative plan contains a sample notice, which was provided by HUD in Notice PIH 2017-08, that explains to owners and managers in plain language their rights and obligations under VAWA. For administrative ease, the model policy assumes that the PHA will use this notice (with or without modification) and that it will also provide owners with a copy of Form HUD-5382, Certification of Domestic Violence, Dating Violence, and Stalking.
* If the PHA chooses not to provide written information about VAWA to owners and managers, this section may be deleted.

🞎 *Option 1: Use the model administrative plan language shown below. No changes to the model administrative plan are needed.*

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

The VAWA information provided to owners will consist of the notice in Exhibit 16-5 and a copy of Form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation.

🞎 *Option 2: Use PHA-established policy. Edit the model administrative plan language or delete it and insert the PHA’s policy.*

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

This section explains the authority provided by VAWA to request documentation from an individual who asserts a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, human trafficking, or criminal activity related to any of these forms of abuse.

🗹 **Decision Point: What will the PHA’s request for documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking contain?**

Things to Consider

* Policies elsewhere in the model plan state that the PHA will generally request documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking (see sections 3-III.H, 10-I.A, and 12-II.E). The policy here addresses the contents of the request, including the deadline for submitting documentation.
* The model policy reflects the statutory requirement that any request for documentation be in writing, and adopts the statutory minimum of 14 business days as the deadline for submitting documentation. The PHA has the discretion to allow more than 14 business days from the date the request is received.
* The model policy calls for the PHA’s request to describe the three forms of documentation acceptable under VAWA, to provide explicit submission instructions, and to explain the consequences for failure to meet the submission deadline. While such information is not required under VAWA, it will help to ensure the timely submission of appropriate documentation to the appropriate person.
* VAWA gives PHAs the discretion to extend the time allowed for submitting documentation. The model policy does not commit the PHA to exercising this discretion, but allows it the flexibility to do so. The PHA could choose not to offer an extension under any circumstances or could specify the circumstances under which it would approve an extension.
* For the protection of the PHA as well as the individual claiming protection under VAWA, the model policy specifies that any extension of the deadline for submitting documentation must be requested and granted in writing.
* The model policy specifies that an extension, if granted, will be for 10 business days. This is the standard time frame used throughout much of the model administrative plan.

🞎 *Option 1: Use the model administrative plan language shown below. No changes to the model administrative plan are needed.*

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

The PHA may, in its discretion, extend the deadline for 10 business days. In determining whether to extend the deadline, the PHA will consider factors that may contribute to the victim’s inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim’s need to address health or safety issues. Any extension granted by the PHA will be in writing.

Once the victim provides documentation, the PHA will acknowledge receipt of the documentation within 10 business days.

🞎 *Option 2: Use PHA-established policy. Edit the model administrative plan language or delete it and insert the PHA’s policy.*

Conflicting Documentation [24 CFR 5.2007(e)]

🗹 **Decision Point: When two or more individuals from the same household submit conflicting certifications of domestic violence, how will the PHA determine which is the true victim?**

Things to Consider

* Although VAWA itself does not anticipate the possibility that two or more individuals from the same household might submit conflicting certifications accusing one another of domestic violence, the VAWA regulations do. In such cases— or when submitted documentation contains information that conflicts with existing information already available to the PHA—the regulations give PHAs the authority to request third-party documentation in addition to the certifications provided by the individuals. These are the only two situations under which the PHA may require third-party documentation.
* Given the possible consequences of individuals submitting conflicting documentation, if allegations prove to be false, the PHA may use this information as the basis for a denial of admission or termination of assistance.
* VAWA regulations also state that individuals have 30 calendar days to return third-party verification to the PHA once the PHA makes the request.
* Notice PIH 2017-08 further states that if the PHA does not receive third-party documentation, and the PHA will terminate assistance as a result, the PHA must hold separate hearings for the participants. While the notice does not mention applicants in this context, the model policy extends the same protections to applicants.
* Notice PIH 2017-08 encourages PHAs to provide contact information for local domestic violence agencies to help victims plan for safety and/or provide contact information for local legal aid offices, which may be able to assist in providing appropriate referrals, obtaining restraining orders, and preparing for grievance hearings. The model policy adopts this guidance.
* The PHA may request third-party verification when submitted documentation conflicts with existing information. Examples of reliable information that may conflict with submitted documentation include surveillance footage, police reports, or other verifiable information. However, the PHA is prohibited from conducting further fact finding for the purpose of trying to verify the validity of an applicant or tenant’s victim status, such as conducting interviews with neighbors or employers to determine who the “real” victim is.
* The model policy simply states that the PHA will attempt to determine which is the true victim by exercising this authority and following any guidance that HUD issues on how such determinations should be made (see Notice PIH 2017-08).
* In cases of conflicting information, when the PHA requires an applicant or tenant to submit third-party documentation, the applicant or participant must submit it within 30 calendar days of the date of the request [24 CFR 5.2007(b)(2)].

🞎 *Option 1: Use the model administrative plan language shown below. No changes to the model administrative plan are needed.*

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

When requesting third-party documents, the PHA will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

If the PHA does not receive third-party documentation within the required timeframe (and any extensions) the PHA will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, the PHA will hold separate hearings for the applicants or tenants.

🞎 *Option 2: Use PHA-established policy. Edit the model administrative plan language or delete it and insert the PHA’s policy.*

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

🗹 **Decision Point: What will the PHA do if and when it exercises its discretion not to require formal documentation from a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking?**

Things to Consider

* While the model administrative plan assumes that the PHA will generally want to request formal documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking before providing benefits to an individual who claims to be a victim of such abuse, there may be occasions when the PHA determines that a statement by the victim or other corroborating evidence is sufficient.
* The model policy does not try to anticipate the conditions under which the PHA will exercise its discretion to provide benefits to a victim without formal documentation. However, it requires the PHA to document its acceptance of a victim’s statement or other corroborating evidence in the victim’s file, as recommended in FR Notice 11/16/16.
* HUD encourages the PHA to state whether a statement or other evidence will be accepted and to provide a definition of *other evidence* if it is used. In order to provide the broadest possible options, the model policy states that the PHA will accept a statement or other evidence and allows the victim to determine what other evidence may be appropriate.
* In Notice PIH 2017-08, HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

🞎 *Option 1: Use the model administrative plan language shown below. No changes to the model administrative plan are needed.*

If the PHA accepts an individual’s statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the PHA will document acceptance of the statement or evidence in the individual’s file.

🞎 *Option 2: Use PHA-established policy. Edit the model administrative plan language or delete it and insert the PHA’s policy.*

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

This section states the consequences for a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking who fails to provide documentation of abuse in response to a written request by a PHA. **No policy decisions are required.**

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

**☑ Decision Point:** **If the PHA is required to disclose confidential information about a victim, will it inform the victim in advance?**

Things to Consider

* VAWA imposes strict confidentiality requirements on PHAs. However, it permits PHAs to disclose information about a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking if required either for an eviction proceeding or by applicable law.
* Domestic violence advocates encourage PHAs to provide advance notice to a victim whenever the PHAs are required to disclose confidential information about the victim. While this is not a VAWA requirement, it is a sound policy because it helps to protect victims from retaliation by perpetrators of domestic violence.
* The prohibition against entering VAWA information into shared databases does not preclude the PHA from entering this information into a database system used by the PHA that meets all requirements for securing sensitive personally identifiable information, as long as the requirements listed in the model policy and provided in 24 CFR 5.2007(c) are met (i.e., the victim consents to it in writing in a time-limited release).

🞎 *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

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

🞎 *Option 2: Use PHA-established policy. Edit the model administrative plan language or delete it and insert the PHA’s policy.*

**FINALIZING THE DOCUMENT**

Take a final look at the changes you have made in this chapter of the administrative plan.  
Have you:

(1) Added or subtracted any exhibits at the end of the chapter?  Yes  No.

(2) Added, subtracted or reordered any major sections (at the A, B, or C level?)  Yes  No

If you answered yes to either of these questions, you must adjust the chapter to match your changes.

**☑ Decision Point: Are any changes required to this chapter?**

No. No changes to the model plan are needed.

Yes. Edits only. Edit and insert PHA language as appropriate.

Yes. PHA changed the organization of the chapter. Adjust the chapter to reflect your changes **and** review the rest of the document to make sure that any references to section numbers are correct.

**☑ Decision Point: Are changes required in other chapters as a result of changes to this chapter?**

Check the “Things to Consider” under each decision point to identify if changes to the model plan policy will require changes to policies in other chapters of the plan.

No. Changes to other chapters are not necessary.

Yes. Changes to the following chapters are also required: