

Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

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

Part I: Setting Utility Allowances. This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of HACPFPC-furnished utilities.

Part II: Establishing Flat Rents. This part describes the requirements and policies related to establishing and updating flat rent amounts.

Part III: Repayment of Family Debts. This part contains policies for recovery of monies that have been underpaid by families, and describes the circumstances under which HACPFPC will offer repayment agreements to families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part IV: Public Housing Assessment System (PHAS). This part describes HACPFCS indicators, how PHAs are scored under PHAS, and how those scores affect a HACPFPC.

Part V: 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 HACPFPC will follow.

Part VI: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes HACPFPC's reporting responsibilities related to children with environmental intervention blood lead levels that are living in public housing.

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

PART I: SETTING UTILITY ALLOWANCES [24 CFR 965 Subpart E]

16-I.A. OVERVIEW

PHAs must establish allowances for HACPFC-furnished utilities for all check metered utilities and for resident-purchased utilities for all utilities purchased directly by residents from a utility supplier [24 CFR 965.502(a)].

PHAs must also establish surcharges for excess consumption of HACPFC-furnished utilities [24 CFR 965.506].

PHAs must maintain a record that documents the basis on which utility allowances and scheduled surcharges are established and revised, and the record must be made available for inspection by residents [24 CFR 965.502(b)].

16-I.B UTILITY ALLOWANCES

HACPFC must establish separate allowances for each utility and for each category of dwelling units HACPFC determines to be reasonably comparable as to factors affecting utility usage [24 CFR 965.503].

The objective of a HACPFC in establishing utility allowances for each dwelling unit category and unit size is to approximate a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment [24 CFR 965.505].

Utilities include gas, electricity, fuel for heating, water, sewerage, and solid waste disposal for a dwelling unit. In addition, if HACPFC does not furnish a range and refrigerator, the family must be granted a utility allowance for the range and refrigerator they provide [24 CFR 965.505].

Costs for telephone, cable/satellite TV, and internet services are not considered utilities [PH Occ GB, p. 138].

Utility allowance amounts will vary by the rates in effect, size and type of unit, climatic location and sitting of the unit, type of construction, energy efficiency of the dwelling unit, and other factors related to the physical condition of the unit. Utility allowance amounts will also vary by residential demographic characteristics affecting home energy usage [PH Occ GB, p. 138].

Chapter 14 of the *PH Occupancy Guidebook* provides detailed guidance to HACPFC about establishing utility allowances.

Air-Conditioning

“If a HACPFC installs air conditioning, it shall provide, to the maximum extent economically feasible, systems that give residents the option of choosing to use air conditioning in their units. The design of systems that offer each resident the option to choose air conditioning shall include retail meters or check meters, and residents shall pay for the energy used in its operation. For systems that offer residents the option to choose air conditioning but cannot be check metered, residents are to be surcharged in accordance with 965.506. If an air conditioning system does not provide for resident option, residents are not to be charged, and these systems should be avoided whenever possible.” [24 CFR 965.505(e)]

HACPFC Policy

HACPFC has installed air-conditioning.

Utility Allowance Revisions [24 CFR 965.507]

HACPFC must review at least annually the basis on which utility allowances have been established and must revise the allowances if necessary in order to adhere to the standards for establishing utility allowances that are contained in 24 CFR 965.505.

HACPFC may revise its allowances for resident-purchased utilities between annual reviews if there is a rate change, and is required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which the allowance was based.

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account became effective.

HACPFC Policy

Between annual reviews of utility allowances, HACPFC will only revise its utility allowances due to a rate change, when required to by the regulation.

16-I.C. SURCHARGES FOR HACPFC-FURNISHED UTILITIES [24 CFR 965.506]

For dwelling units subject to allowances for HACPFC-furnished utilities where check meters have been installed, HACPFC must establish surcharges for utility consumption in excess of the allowances. Surcharges may be computed on a straight per unit of purchase basis or for stated blocks of excess consumption, and must be based on HACPFC's average utility rate. The basis for calculating the surcharges must be described in HACPFC's schedule of allowances. Changes in the amount of surcharges based directly on changes in HACPFC's average utility rate are not subject to the advance notice requirements discussed under 16-I.D.

For dwelling units served by HACPFC-furnished utilities where check meters have not been installed, HACPFC must establish schedules of surcharges indicating additional dollar amounts residents will be required to pay by reason of estimated utility consumption attributable to resident-owned major appliances or to optional functions of HACPFC-furnished equipment. The surcharge schedule must state the resident-owned equipment (or functions of HACPFC-furnished equipment) for which surcharges will be made and the amounts of such charges. Surcharges must be based on the cost to HACPFC of the utility consumption estimated to be attributable to reasonable usage of such equipment.

HACPFC Policy

HACPFC does have HACPFC-furnished utilities.

16-I.D. NOTICE REQUIREMENTS [965.502]

HACPFC must give notice to all residents of proposed allowances and scheduled surcharges, and revisions thereof. The notice must be given in the manner provided in the lease and must:

- Be provided at least 60 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.
- Describe the basis for determination of the allowances, scheduled surcharges, or revisions, including a statement of the specific items of equipment and function whose utility consumption requirements were included in determining the amounts of the allowances and schedule of surcharges.
- Notify residents of the place where HACPFC's documentation on which allowances and surcharges are based is available for inspection.
- Provide all residents an opportunity to submit written comments during a period expiring not less than 30 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

16-I.E. REASONABLE ACCOMMODATION [24 CFR 965.508]

On request from a family that includes a disabled or elderly person, HACPFC must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family [PH Occ GB, p. 172].

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].

See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

PART II: ESTABLISHING FLAT RENTS

16-II.A. OVERVIEW

Flat rents are designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Flat rents are also used to prorate assistance for a mixed family. A mixed family is one whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigrations status [24 CFR 5.504].

This part discusses how HACPFC establishes and updates flat rents. Policies related to the use of flat rents, family choice of rent, flat rent hardships, and proration of rent for a mixed family are discussed in Chapter 6.

16-II.B. FLAT RENTS [24 CFR 960.253(b) and Notice PIH 2015-13]

Establishing Flat Rents

The 2015 Appropriations Act requires that flat rents must be set at no less than 80 percent of the applicable fair market rent (FMR). Alternatively, HACPFC may set flat rents at no less than 80 percent of the applicable small area FMR(SAFMR) for metropolitan areas, or 80 percent of the applicable unadjusted rents for nonmetropolitan areas.

For areas where HUD has not determined a SAFMR or an unadjusted rent, PHAs must set flat rents at no less than 80 percent of the FMR or apply for an exception flat rent.

The 2015 Appropriations Act permits PHAs to request an exception flat rent that is lower than either 80 percent of the FMR or SAFMR/unadjusted rent if HACPFC can demonstrate that these FMRs do not reflect the market value of a particular property or unit.

In order to demonstrate the need for an exception flat rent, PHAs are required to submit a market analysis methodology that demonstrates the value of the unit. HACPFC must use HUD's rent reasonableness methodology to determine flat rents. In determining flat rents, PHAs must consider the following:

- Location
- Quality
- Unit size
- Unit type
- Age of property
- Amenities at the property and in immediate neighborhood
- Housing services provided
- Maintenance provided by HACPFC
- Utilities provided by HACPFC

PHAs must receive written HUD approval before implementing exception flat rents. PHAs that use exception flat rents must conduct a new market analysis, and obtain HUD approval, annually.

PHAs are now required to apply a utility allowance to flat rents. Flat rents set at 80 percent of the FMR must be reduced by the amount of the unit's utility allowance, if any.

Review of Flat Rents

No later than 90 days after HUD publishes new annual FMRs/SAFMRs/unadjusted rent, PHAs must revise flat rents as necessary based changes to the FMR/SAFMR/unadjusted rent. HACPFC must offer changes to the flat rent to all new admissions and to existing families at the next annual rent option.

If the FMR falls from year to year, HACPFC may, but is not required to, lower the flat rent to 80 percent of the current FMR/SAFMR/unadjusted rent.

HACPFC Policy

If the FMR/SAFMR/unadjusted rent is lower than the previous year, HACPFC will reduce flat rents to 80 percent of the current FMR/SAFMR.

Posting of Flat Rents

HACPFC Policy

HACPFC will publicly post the schedule of flat rents in a conspicuous manner in the applicable HACPFC or project office.

Documentation of Flat Rents [24 CFR 960.253(b)(5)]

HACPFC must maintain records that document the method used to determine flat rents, and that show how flat rents were determined by HACPFC in accordance with this method.

PART III: FAMILY DEBTS TO HACPFC

16-III.A. OVERVIEW

This part describes HACPFC's policies for recovery of monies owed to HACPFC by families.

HACPFC Policy

When an action or inaction of a resident family results in the underpayment of rent or other amounts, HACPFC holds the family liable to return any underpayments to HACPFC.

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

When a family refuses to repay monies owed to HACPFC, HACPFC will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil law suit
- State income tax set-off program

16-III.B. REPAYMENT POLICY

Family Debts to HACPFC

HACPFC Policy

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

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, HACPFC will terminate the family's tenancy in accordance with the policies in Chapter 13. HACPFC will also pursue other modes of collection.

General Repayment Agreement Guidelines

Down Payment Requirement

HACPFC Policy

Before executing a repayment agreement with a family, HACPFC will generally require a down payment of 30 percent of the total amount owed. If the family can provide evidence satisfactory to HACPFC that a down payment of 30 percent would impose an undue hardship, HACPFC may, in its sole discretion, require a lesser percentage or waive the requirement.

Payment Thresholds

Notice PIH 2010-19 recommends that the total amount that a family must pay each month—the family's monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family's monthly adjusted income, which is considered "affordable." Moreover, Notice PIH 2010-19 acknowledges that PHAs have the discretion to establish "thresholds and policies" for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

HACPFC Policy

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 TTP at the time the agreement is executed; or,

\$25

If a family can provide evidence satisfactory to HACPFC that a monthly payment amount of \$25 would impose an undue hardship, HACPFC 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 HACPFC or the family may request that the monthly payment amount be adjusted accordingly.

Execution of the Agreement

HACPFC Policy

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

Due Dates

HACPFC Policy

All payments are due by the close of business on the 5th day of the month. If the 5th does not fall on a business day, the due date is the close of business on the first business day after the 5th unless other arrangements are made with HACPFC.

Late or Missed Payments

HACPFC Policy

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by HACPFC, HACPFC 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 HACPFC will terminate tenancy in accordance with the policies in Chapter 13.

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 HACPFC will terminate tenancy in accordance with the policies in Chapter 13.

No Offer of Repayment Agreement

HACPFC Policy

HACPFC 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 HACPFC.

HACPFC determines that the family's debt is a result of program abuse or fraud (as defined in Chapter 15 of the ACOP).

The amount owed by the family exceeds the federal or state threshold for criminal prosecution.

Repayment Agreements Involving Improper Payments

Notice PIH 2010-19 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the public housing lease that state the family's obligation to provide true and complete information at every reexamination and the grounds on which HACPFC may terminate assistance because of a family's action or failure to act
- A statement clarifying that each month the family not only must pay to HACPFC the monthly payment amount specified in the agreement but must also pay to HACPFC the monthly tenant rent

- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of tenancy

PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)

16-IV.A. OVERVIEW

The purpose of the Public Housing Assessment System (PHAS) is to improve the delivery of services in public housing and enhance trust in the public housing system among PHAs, public housing residents, HUD and the general public by providing a management tool for effectively and fairly measuring the performance of a public housing agency in essential housing operations.

16-IV.B. PHAS INDICATORS [24 CFR 902 Subparts A, B, C, D, and E]

The table below lists each of PHAS indicators, the points possible under each indicator, and a brief description of each indicator. A Housing Authority's performance is based on a combination of all four indicators.

Indicator 1: Physical condition of HACPFC's projects

Maximum Score: 40

- The objective of this indicator is to determine the level to which PHA is maintaining its public housing in accordance with the standard of decent, safe, sanitary, and in good repair.
- To determine the physical condition of a PHA's projects, inspections are performed of the following five major areas of each public housing project: site, building exterior, building systems, dwelling units, and common areas. The inspections are performed by an independent inspector arranged by HUD, and include a statistically valid sample of the units in each project in HACPFC's public housing portfolio.

Indicator 2: Financial condition of HACPFC's projects

Maximum Score: 25

- The objective of this indicator is to measure the financial condition of a PHA's public housing projects for the purpose of evaluating whether a PHA has sufficient financial resources and is capable of managing those financial resources effectively to support the provision of housing that is decent, safe, sanitary, and in good repair.
- A PHA's financial condition is determined by measuring each public housing project's performance in each of the following subindicators: quick ratio, months expendable net assets ratio, and debt service coverage ratio.

Indicator 3: Management operations of HACPFC's projects**Maximum Score: 25**

- The objective of this indicator is to measure certain key management operations and responsibilities of a PHA's projects for the purpose of assessing the PHA's management operations capabilities.
- Each project's management operations are assessed based on the following sub-indicators: occupancy, tenant accounts receivable, and accounts payable.
- An on-site management review may be conducted as a diagnostic and feedback tool for problem performance areas, and for compliance. Management reviews are not scored.

Indicator 4: Capital Fund**Maximum Score: 10**

- The objective of this indicator is to measure how long it takes the PHA to obligate capital funds and to occupy units.
- A PHA's score for this indicator is measured at a PHA level and is based on the following subindicators: timeliness of fund obligation and occupancy rate.

16-IV.C. PHAS SCORING [24 CFR 902 Subpart F]

HUD's Real Estate Assessment Center (REAC) issues overall PHAS scores, which are based on the scores of the four PHAS indicators, and the subindicators under each indicator. HACPFC's indicator scores are based on a weighted average of HACPFC's public housing projects' scores. PHAS scores translate into a designation for each PHA as high performing, standard, substandard, or troubled.

A high performer is a PHA that achieves an overall PHAS score of 90 or greater, and achieves a score of at least 60 percent of the points available under the physical, financial, and management indicators and at least 50 percent of the points available under the capital fund indicator.

A standard performer is a PHA that has an overall PHAS score between 60 and 89, and achieves a score of at least 60 percent of the points available under the physical, financial, and management indicators and at least 50 percent of the points available under the capital fund indicator.

A substandard performer is a PHA that has an overall PHAS score of at least 60 percent and achieves a score of less than 60 percent under one or more of the physical, financial, or management indicators.

A troubled performer is a PHA that achieves an overall PHAS score of less than 60, or achieves less than 50 percent of the total points available under the capital fund indicator.

These designations can affect a PHA in several ways:

- High-performing PHAs are eligible for incentives including relief from specific HUD requirements and bonus points in funding competitions [24 CFR 902.71].
- PHAs that are standard performers may be required to submit and operate under a corrective action plan to eliminate deficiencies in PHA's performance [24 CFR 902.73(a)(1)].
- PHAs that are substandard performers will be required to submit and operate under a corrective action plan to eliminate deficiencies in a PHA's performance [24 CFR 902.73(a)(2)].
- PHAs with an overall rating of "troubled" are subject to additional HUD oversight, and are required to enter into a memorandum of agreement (MOA) with HUD to improve PHAs performance [24 CFR 902.75].
- PHAs that fail to execute or meet MOA requirements may be referred to the Assistant Secretary to determine remedial actions, including, but not limited to, remedies available for substantial default [24 CFR 902.75(g) and 24 CFR Part 907].

PHAs must post a notice of its final PHAS score and status in appropriate conspicuous and accessible locations in its offices within two weeks of receipt of its final score and designation [24 CFR 902.64(b)(2)].

PART V: RECORD KEEPING

16-V.A. OVERVIEW

HACPFC must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, HACPFC must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights, and that comply with VAWA 2013 confidentiality requirements.

16-V.B. RECORD RETENTION

HACPFC must keep the last three years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date [24 CFR 908.101].

Notice PIH 2014-20 requires HACPFC 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.

HACPFC Policy

During the term of each public housing tenancy, and for at least four years thereafter, HACPFC will keep all documents related to a family's eligibility, tenancy, and termination.

In addition, HACPFC will keep the following records for at least four years:

- An application from each ineligible family and notice that the applicant is not eligible

- Lead-based paint records as required by 24 CFR 35, Subpart B

- Documentation supporting the establishment of flat rents and the public housing maximum rent

- Documentation supporting the establishment of utility allowances and surcharges

- Documentation related to PHAS

- Accounts and other records supporting HACPFC budget and financial statements for the program

- Complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule

- Other records as determined by HACPFC or as required by HUD

If a hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 14-II.A.

16-V.C. RECORDS MANAGEMENT

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

HACPFC Policy

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

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

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

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or HACPFC may release the information collected.

Upfront Income Verification (UIV) Records

PHAs that access UIV data through HUD's Enterprise Income Verification (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 are contained in the HUD-issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification (UIV) Data*.

HACPFC Policy

Prior to utilizing HUD's EIV system, HACPFC will adopt and implement EIV security procedures required by HUD.

Criminal Records

HACPFC may only disclose the criminal conviction records which HACPFC receives from a law enforcement agency to officers or employees of HACPFC, or to authorized representatives of HACPFC who have a job-related need to have access to the information [24 CFR 5.903(e)].

HACPFC must establish and implement a system of records management that ensures that any criminal record received by HACPFC from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to HACPFC action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

HACPFC must establish and implement a system of records management that ensures that any sex offender registration information received by HACPFC from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to HACPFC action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information, or is obtained by a HACPFC other than under 24 CFR 5.905.

Medical/Disability Records

PHAs are not permitted to inquire about the nature or extent of a person's disability. HACPFC may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If HACPFC receives a verification document that provides such information, HACPFC should not place this information in the tenant file. HACPFC should destroy the document.

Domestic Violence, Dating Violence, Sexual Assault, or Stalking Records

For requirements and HACPFC policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, or stalking, see section 16-VII.E.

**PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH
ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL**

16-VI.A. REPORTING REQUIREMENTS [24 CFR 35.1130(e)]

HACPFC has certain responsibilities relative to children with environmental intervention blood lead levels that are living in public housing.

HACPFC must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional. HACPFC must also report each known case of a child with an environmental intervention blood lead level to the HUD field office.

HACPFC Policy

HACPFC will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

HACPFC will provide written notice of each known case of a child with an environmental intervention blood level to the HUD field office within 5 business days of receiving the information.

PART VII: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, AND CONFIDENTIALITY

16-VII.A. OVERVIEW

The Violence against Women Reauthorization Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, and stalking who are applying for or receiving assistance under the public housing program. If your state or local laws provide greater protection for such victims, those apply in conjunction with VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and HACPFC policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and HACPFC policies are located in Chapter 3, “Eligibility” (sections 3-I.C and 3-III.F); Chapter 5, “Occupancy Standards and Unit Offers” (section 5-II.D); Chapter 8, “Leasing and Inspections” (section 8-I.B); Chapter 12, “Transfer Policy” (sections 12-III.C, 12-III.F, and 12-IV.D); and Chapter 13, “Lease Terminations” (sections 13-III.F and 13-IV.D).

16-VII.B. DEFINITIONS [24 CFR 5.2003, FR Notice 8/6/13]

As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
 - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that person stands in the position or place of a parent; or
 - Any individual, tenant or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members’ lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship
 - The type of relationship
 - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

- The term *sexual assault* means:
 - Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent
- The term *stalking* means:
 - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

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

Notification to Public

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

HACPFC Policy

HACPFC 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 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 (Form HUD-5380, see Exhibit 16-1)

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 16-2)

A copy of HACPFC's emergency transfer plan (Exhibit 16-3)

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

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

Contact information for local victim advocacy groups or service providers

Notification to Applicants and Tenants [24 CFR 5.2005(a)(1)]

PHAs are required to inform public housing applicants and tenants 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.

HACPFC must distribute a notice of VAWA rights, along with the VAWA self-certification form (HUD-5382) at each of these three junctures.

HACPFC Policy

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

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

HACPFC will provide all tenants with information about VAWA at the time of admission (see section 8-I.B) and at annual reexamination. HACPFC will also include such information in all lease termination notices (see section 13-IV.D).

HACPFC is not limited to providing VAWA information at the times specified in the above policy. If HACPFC decides to provide VAWA information to a tenant following an incident of domestic violence, Notice PIH 2006-42 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases HACPFC make alternative delivery arrangements that will not put the victim at risk.

HACPFC Policy

Whenever HACPFC has reason to suspect that providing information about VAWA to a public housing tenant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim.

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

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

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

- (1) A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim
- (2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record
- (3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person’s belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

HACPFPC may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under “Conflicting Documentation,” nor may it require certification in addition to third-party documentation [VAWA 2005 final rule].

HACPFPC Policy

Any request for documentation of domestic violence, dating violence, sexual assault, or stalking 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.

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

Conflicting Documentation [24 CFR 5.2007(e)]

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

HACPFC Policy

If presented with conflicting certification documents (two or more forms HUD-5382) from members of the same household, HACPFC 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.

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

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

HACPFC Policy

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

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

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

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

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

HACPFC Policy

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