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15 **IN THE UNITED STATES DISTRICT COURT**
16 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

17 JEFFREY POWERS, *et al.*,

18 Plaintiffs,

19 v.

20 DENIS RICHARD
21 MCDONOUGH, in his official
22 capacity as Secretary of Veterans
23 Affairs; *et al.*,

24 Defendants.

25 BRIDGELAND RESOURCES, LLC,

26 Intervenor.
27
28

Case No. 2:22-cv-08357-DOC-JEM

**FEDERAL DEFENDANTS' NOTICE
REGARDING RECENT DEVELOPMENT**

Trial Date: August 6, 2024

Judge: Hon. David O. Carter

1 Defendants Denis Richard McDonough, in his official capacity as Secretary of
2 Veterans Affairs, Adrienne Todman, in her official capacity as Acting Secretary of
3 Housing and Urban Development, Robert Merchant, in his official capacity as
4 Director, VA Greater Los Angeles Healthcare System, and Keith Harris, in his official
5 capacity as Senior Executive Homelessness Agent, VA Greater Los Angeles
6 Healthcare System (collectively, “Federal Defendants”), hereby provide Notice to the
7 Court of a recent development.

8 On Thursday, August 8, 2024, the Department of Housing and Urban
9 Development (“HUD”) announced a set of policy changes that, among other things,
10 adopt an alternative definition of annual income for applicants and participants of the
11 HUD-VASH program that excludes Veterans’ service-connected disability benefits
12 when determining eligibility for housing in project-based developments. A copy of
13 HUD’s press release announcing that policy change and a copy of the revised HUD-
14 VASH operating requirements referenced in that press release are attached to this
15 Notice.

16
17 DATED: August 8, 2024

Respectfully submitted,

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HUD NEWS

U.S. Department of Housing and Urban Development – Adrienne Todman, Acting Secretary
Office of Public Affairs, Washington, DC 20410

HUD No. 24-XXX
HUD Public Affairs
202-708-0685
[HUD.gov/Press](https://www.hud.gov/Press)

FOR RELEASE
Thursday
August 8, 2024

Biden-Harris Administration Expands Access to Housing for Veterans

New HUD policy changes will enable veterans with service-connected disability benefits access more housing opportunities

WASHINGTON – Today, the U.S. Department of Housing and Urban Development (HUD) announced a new set of policy changes that will help more veterans receive assistance under the HUD-Department of Veteran Affairs (VA) Supportive Housing (HUD-VASH) program, and improve their access to supportive housing developments. Veterans experiencing homelessness often receive VA benefits as a result of an injury or illness that was acquired or worsened during military service. Before this change, these benefits were considered income when determining eligibility for certain supportive housing developments—causing some veterans to exceed the income threshold for these programs. HUD’s policy changes will help more homeless veterans with service-connected disability benefits gain access to these housing developments. Additionally, HUD today awarded \$20 million to public housing agencies to continue to improve the HUD-VASH program.

“No veteran should ever have to experience homelessness, but when they do, they should not face barriers to getting help they deserve,” said **Acting Secretary Adrienne Todman**. “This policy change will ensure that veterans who are receiving the disability benefits they earned through service and sacrifice can access the housing assistance and supportive services they need to resolve their homelessness.”

The HUD-VASH Program is a vital resource to house veterans experiencing homelessness. HUD-VASH pairs rental assistance through housing vouchers targeted to veterans experiencing homelessness from HUD with case management and other supportive services provided by VA. VA homeless program staff at local VA medical centers identify veterans experiencing

homelessness and refer them to public housing agencies who issue vouchers to eligible veteran and their families. VA staff provide case management and other “wrap-around” supportive services to assist the veteran household to find and enter rental housing, retain housing, and connect to health care, employment, and other supports.

“The days of a Veteran having to choose between getting the VA benefits they deserve and the housing support they need are finally over,” said **VA Secretary Denis McDonough**. “This is a critical step forward that will help Veterans nationwide – and bring us one step closer to our ultimate goal of putting an end to Veteran homelessness for good.”

HUD is expanding access to HUD-VASH for veterans by:

- Requiring public housing agencies (PHAs) that administer HUD-VASH to set the initial income eligibility for veterans at 80% of Area Median Income, rather than 50% of Area Median Income. The use of this higher initial income eligibility threshold is currently optional and many housing agencies have already adopted the higher threshold, but HUD is now making this increase mandatory.
- Adopting an alternative definition of annual income for applicants and participants of the HUD-VASH program that excludes veterans’ service-connected disability benefits when determining eligibility. This alternative annual income definition could be adopted by other housing subsidy programs to determine income eligibility.

HUD has been working with the U.S. Department of the Treasury to determine the effect of the alternative income definition for HUD-VASH participants seeking housing subsidized by Low Income Housing Credits. Treasury expects to issue guidance on this issue in the near term. HUD will also encourage state and local governments to make corresponding changes in their subsidy programs to ensure that all veterans experiencing homelessness have access to supportive housing.

“Every veteran deserves a roof over their head, and the Biden-Harris Administration is doing everything we possibly can to end veteran homelessness,” said **White House Domestic Policy Advisor Neera Tanden**. Today’s actions reflect President Biden and Vice President Harris’s commitment to breaking down barriers to housing so that every veteran gets the benefits they have earned.”

The revised HUD-VASH operating requirements also include additional policy changes that will improve the administration of the HUD-VASH program. This will allow PHAs the authority to:

- Make non-competitive awards of project-based HUD-VASH contracts to housing projects or units on VA facilities that serve HUD-VASH families;
- Approve Exception Payment Standards as a Reasonable Accommodations up to 140% of the Fair Market Rent;
- Set a separate minimum rent policy (including a zero minimum rent) for HUD-VASH participants.

In addition to these policy changes, HUD awarded \$20 million available for additional administrative fee funding to 245 public housing agencies in 43 states currently administering HUD-VASH. With this funding, PHAs are encouraged to expand their housing search assistance to support veterans, expand landlord recruitment for the program, offer incentives and retention payments, help veterans with security deposits, and provide landlord-tenant mediation activities.

Since the program's inception, HUD-VASH has assisted more than 200,000 veterans to exit homelessness and obtain permanent affordable housing. The HUD-VASH program has been the cornerstone of our nation's success in reducing the number of veterans experiencing homelessness by more than 50% since 2010.

The revised HUD-VASH operating requirements can be found [here](#).

###

HUD's mission is to create strong, sustainable, inclusive communities and quality affordable homes for all. More information about HUD and its programs is available on the Internet at www.hud.gov and <http://espanol.hud.gov>

You can also connect with HUD on [social media](#) or sign up for news alerts on [HUD's Email List](#).

THIS NOTICE IS PENDING PUBLICATION IN THE *FEDERAL REGISTER*. THE EFFECTIVE DATE WILL BE AS PROVIDED IN THE PUBLISHED DOCUMENT.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 982 and 983

[Docket No. FR-6476-N-01]

**Section 8 Housing Choice Vouchers:
Revised Implementation of the HUD-Veterans Affairs Supportive Housing Program**

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: This notice sets forth the policies and procedures for the administration of tenant--based and project-based Section 8 Housing Choice Voucher (HCV) rental assistance under the Department of Housing and Urban Development-Veterans Affairs Supportive Housing (HUD-VASH) program administered by local public housing agencies (PHAs) that have partnered with local Veterans Affairs (VA) medical facilities or other entities as designated by the Secretary of the VA. This notice includes new waivers and program flexibilities as well as additional general guidance. This notice also incorporates updated policy based on further implementation of the Housing Opportunity Through Modernization Act of 2016 (HOTMA, P.L. 114-201).

DATES: *Effective date:* **[Insert date of publication in the Federal Register].**

FOR FURTHER INFORMATION CONTACT: Ryan Jones, Director, Housing Voucher Management and Operations Division, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4216, Washington, DC, 20410, telephone number 202 708-0477.

(This is not a toll-free number.). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication

disabilities. To learn more about how to make an accessible telephone call, please visit:
<https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

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I. Background

A. Reasons for Changes and Process of Development

Through the HUD-VASH program, HUD and VA increase access to affordable housing for homeless veterans and provide the support necessary to obtain and maintain permanent housing in the community. Since 2008, HCV program funding has provided rental assistance under a supportive housing program for homeless veterans authorized by section 8(o)(19) of the United States Housing Act of 1937, 42 U.S.C. 1437f(o)(19). The HUD-VASH program combines HUD HCV rental assistance for homeless veterans administered by PHAs with case management and supportive services provided through VA. VA may provide these services directly through VA medical facilities or through a DSP approved by the VA Secretary. PHAs may be approved to act as DSPs but only in a limited capacity to do initial intake and provide temporary case management of HUD-VASH veterans until they are referred to the VA medical facility or DSP that will provide ongoing services. For simplicity, this document will generally refer to the combination of VA and DSPs as “VA”.

Based on a review of existing permanent supportive housing (PSH) models, typical acuity levels of veterans in the program, and the availability of providers within VA medical facilities and in the community who can augment care provided by HUD-VASH case managers, the Secretaries of HUD and VA jointly determined that the appropriate caseload ratio in HUD-VASH is a weighted average of 25 veterans per case manager. It is important to note that actual caseload sizes can vary considerably, based primarily on the needs of the veterans being served. Veterans in HUD-VASH are weighted based on their stage in the program, with higher weightings applied to veterans in more intensive stages of the program, and lower weightings

applied to those who have stabilized. These weightings and target caseload ratio ensure that all veterans in receipt of a HUD-VASH voucher are seen as needed by their case manager.

The current HUD-VASH program was further authorized pursuant to Division K, Title II of The Consolidated Appropriations Act, 2008 (Pub. Law 110-161) (“2008 Appropriation Act”) enacted on December 26, 2007 (see proviso (7) under the heading “Tenant-Based Rental Assistance”). All Congressional Appropriations Acts since 2008 have continued to authorize this program. Therefore, the implementation requirements will remain in effect until the HUD-VASH program is no longer authorized by Congress or the authorization requirements change.

The Appropriations Acts have required HUD to “make such funding available, notwithstanding section 203 (competition provision) of this title, to PHAs that partner with eligible VA Medical Centers or other entities as designated by the Secretary of the VA, based on geographical need for such assistance as identified by the Secretary of the VA, PHA administrative performance, and other factors as specified by the Secretary of HUD in consultation with the Secretary of the Department of the VA.”

Based on this language, the allocation of HUD-VASH vouchers has been a collaborative, data-driven effort conducted by HUD and the VA. The HUD-VASH allocation formula relies on several pieces of data which include HUD’s point-in-time data submitted by Continuums of Care (CoC) and VA data on contacts with homeless veterans. PHA and VA performance is also taken into consideration.

Additional information on program requirements and procedures may be found on the HUD-VASH website at

https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/vash.

B. Summary of Changes

The new flexibilities and requirements include: (1) new flexibility around verifying social security number (SSN) based on HOTMA updates (section II.a.); (2) new requirement for PHAs to serve veterans up to the low income limit (i.e., 80% area median income (AMI)) in the HUD-VASH program (section II.b); (3) new requirement to exclude VA disability income to determine initial eligibility (section II.b); (4) new requirement for PHAs to accept self-certification of assets under \$50,000 as established in HOTMA and allow self-certification of zero-income (section II.b); (5) new authorization for PHAs to apply reasonable accommodation exception payment standards for HUD-VASH families without additional HUD approval (section II.o.); (6) new flexibility to allow noncompetitive selection of one or more PBV projects where all units in the project(s) are made exclusively available to HUD-VASH families on the site of a VA facility (section II.k.); new flexibility allowing admittance of zero-HAP families for HUD-VASH PBV (section II.k.); and (7) new flexibility to allow PHAs to set a lower minimum rent (including a minimum rent of \$0) specifically for their HUD-VASH program (section II.q.).

Updates made to existing requirements include: (1) updates to description and requirements for designated service providers (DSPs) and PHAs as DSPs (section II.a.); (2) clarification on applicability of initial search term (section II.c); (3) explanation that HUD-VASH families are not be subject to rescreening when porting (section II.f.); (4) additional explanation regarding the application of HUD-VASH waivers and flexibilities to HUD-VASH PBV (section II.k); (5) additional explanation of HUD-VASH PBV exceptions under HOTMA (section II.k.); (6) explanation that when a HUD-VASH family is eligible to move or required to move from its PBV unit, the family must be able to move with a HUD-VASH tenant-based

voucher (section II.k.); (7) updated explanation of the HUD-VASH reallocation process through voluntary moves between PHAs and voucher recapture for future reallocation (section II.m.); and (8) update to allow pre-inspection of units up to 90 days before the Request for Tenancy Approval (section II.n.).

II. Special Rules for the HUD-VASH Voucher Program

This section sets forth the design features of the HUD-VASH program, including family eligibility and selection, income eligibility, portability, case management, and the turnover of these vouchers. This notice replaces the special rules published in the *Federal Register* on September 27, 2021 (86 FR 53207). The FY 2008-2024 Appropriations Acts stated “that the Secretary of HUD (in consultation with the Secretary of the VA) may waive, or specify alternative requirements for any provision of any statute or regulation that the Secretary of HUD administers in connection with the use of funds made available under this paragraph (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment) upon a finding by the Secretary that any such waivers or alternative requirements are necessary for the effective delivery and administration of such voucher assistance: *Provided further*, that assistance made available under this paragraph shall continue to remain available for homeless veterans upon turnover.”

This notice outlines below the waivers or alternative requirements determined by the Secretary to be necessary for the effective delivery and administration of the HUD-VASH program. These waivers or alternative requirements are exceptions to the normal HCV requirements, which otherwise govern the provision of HUD-VASH assistance. In addition, a PHA may request additional good cause regulatory waivers. These requests may be submitted to

the Secretary for review and decision through the Assistant Secretary for Public and Indian Housing (PIH) through the regular PIH waiver process.

HUD-VASH vouchers under this part are administered in accordance with the tenant-based HCV and PBV program regulations set forth at 24 Code of Federal Regulations (CFR) parts 982 and 983, respectively. In both programs, the PHA pays monthly rental subsidies so that eligible families can afford decent, safe, and sanitary housing. HUD provides housing assistance funds to the PHA, as well as funds for PHA administration of the program.

Under the HCV program, families select and rent units that meet program housing quality standards (HQS). If the PHA approves a family's unit and tenancy, the PHA contracts with the property owner to make rent subsidy payments (housing assistance payments) directly to the owner on behalf of the family on a monthly basis. The family enters into a lease with the owner and pays its share of the rent to the owner in accordance with the lease. Under the HCV tenant-based voucher program, the housing assistance payments (HAP) contract between the PHA and the owner covers only a single unit and a specific assisted family. If the family moves out of the leased unit, the HAP contract with the owner terminates. The family may generally move to another unit with continued assistance so long as the family is complying with program requirements.

Under the PBV program, families occupy units under a PBV HAP contract. Generally, there are multiple units under the PBV HAP contract. In many cases supportive services are provided on-site. All of the PBV requirements in 24 CFR part 983 apply except where waived as described below.

Unless expressly noted below, all regulatory requirements and HUD directives regarding the HCV tenant-based voucher and PBV programs are applicable to HUD-VASH vouchers,

including the use of all HUD-required contracts and other forms. The PHA's local discretionary policies adopted in the PHA's written administrative plan apply to HUD-VASH vouchers unless such local policy conflicts with the requirements of the HUD-VASH vouchers outlined below, in which case the requirements in this document supersede the administrative plan.

PHAs are required to maintain records that allow for the easy identification of families receiving HUD-VASH vouchers. PHAs must identify these families in the Information Management System/PIH Information Center (IMS/PIC), or any successor system. This record-keeping will help ensure that, in accordance with appropriations renewal language, HUD-VASH vouchers that are in use will remain available for homeless veterans upon turnover.

The alternative requirements established in this Notice apply to all PHAs that administer HUD-VASH vouchers, including those that have not received an allocation of HUD-VASH vouchers, but administer these vouchers as a receiving PHA under the portability feature of the HCV program.

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410-0500. The FONSI is also available through the Federal eRulemaking Portal at <http://www.regulations.gov>.

A. Family Eligibility, Selection, and Documentation.

HUD-VASH eligible families are homeless veterans and their families. The Appropriations Acts have provided for statutory or regulatory waivers or alternative

requirements upon a finding by the Secretary that such waivers or alternatives are necessary for the effective administration and delivery of voucher assistance (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment). The December 17, 2007, Explanatory Statement for the 2008 Appropriation Act provides, “The Appropriations Committees expect that these vouchers will be made available to all homeless veterans, including recently returning veterans.” (153 Cong. Rec. H16514 (daily ed., Dec. 17, 2007)).¹ Section 8(o)(19) of the United States Housing Act of 1937 (USHA of 1937), which requires homeless veterans to have chronic mental illnesses or chronic substance use disorders with required treatment of these disorders as a condition of receipt of HUD-VASH assistance, is waived.

By agreeing to administer the HUD-VASH program, the PHA is relinquishing its authority to determine the eligibility of families in accordance with regular HCV program rules and PHA policies with the exceptions of income eligibility and lifetime sex offender status. Specifically, under the HUD-VASH program, PHAs will not have the authority to screen any potentially eligible family members or deny assistance for any grounds permitted under 24 CFR 982.552 (broad denial for violations of HCV program requirements) and 982.553 (specific denial for criminal activity and alcohol abusers), with one exception. PHAs will still be required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. However, unless the family member that is subject to lifetime registration under a state sex offender registration program is the homeless veteran (which would result in denial of admission for the family), the remaining family member(s) may be served if the family agrees to remove the sex offender from its family composition. Accordingly, HUD is exercising its authority to waive 42 U.S.C. 1437d(s), 42

¹ <https://www.congress.gov/crec/2007/12/17/CREC-2007-12-17-pt3-PgH16381.pdf>

U.S.C. 13661(a), (b), and (c), and 24 CFR 982.552 and 982.553 both in regard to denial of admission, with the exception of 982.553(a)(2)(i), which requires denial of admission to certain registered sex offenders, and with the exceptions of 982.552(c)(2)(v) and 982.553(e), which contain the fair housing and equal opportunity provisions and protections for victims of domestic violence, dating violence, sexual assault, and stalking. These provisions also apply to PBV assistance.

Eligibility determination and veteran selection is done by the VA, as described later in this section. HUD-VASH eligible families are referred to the partnering PHA for the issuance of a voucher or selection for a PBV unit. As stated above, the PHA must accept these referrals. Written documentation of these referrals must be maintained in the tenant file at the PHA.

PHAs are not authorized to maintain a waiting list or apply local preferences for the HUD-VASH program. Instead, VA refers HUD-VASH eligible families to the PHA for the issuance of a HUD-VASH voucher or identification of a PBV unit that is exclusively made available to HUD-VASH families. If a HUD-VASH-eligible family is referred and there is an available PBV unit that is not exclusively made available to HUD-VASH families, the PHA may also offer to refer the family to the owner for occupancy of that unit if allowable under the selection policy applicable to that project, and the owner and PHA may amend the PBV HAP contract to designate the PBV unit as a HUD-VASH PBV unit. Accordingly, sections 8(o)(6)(A) and (B) and 8(o)(13)(J) of the USHA of 1937, 42 U.S.C. 1437f(o)(6)(A) and (B) and (o)(13)(J), in regard to preferences, has been waived to provide for the effective administration of the program. In addition, provisions relating to applicant selection from the waiting list and local preferences of 24 CFR 982.202, 982.204, 982.207, and 983.251 are also waived. Note that 24 CFR 983.251(a)(4), which disallows renting to relatives except when it may be necessary as a

reasonable accommodation, is not waived. Note that 24 CFR 982.202(b)(3) (Family characteristics), 24 CFR 982.202(d) (Admission policy), and 24 CFR 983.251(a)(3) (protections for survivors of domestic violence, dating violence, sexual assault, or stalking covered by part 5, subpart L apply to admission to the PBV program) continue to apply. 24 CFR 982.203, 982.205, and 982.206 regarding special admissions, cross-listing of the waiting list, and opening and closing the waiting list do not apply to the HUD-VASH program.

The VA may approve a PHA with unleased HUD-VASH vouchers as a DSP for the purposes of veteran selection and intake. This PHA-specific DSP authority allows a PHA to issue a HUD-VASH voucher to a veteran without a referral from the VA. The PHA is responsible for determining, through processes agreed upon with the partnering VA medical facility, that the veteran meets the VA program participant requirements established by the VA national office. The determination of whether an individual qualifies as a veteran for the purposes of a HUD-VASH voucher is made by the VA medical facility. The PHA must refer the veteran to the VA for case management and must provide temporary case management (not to exceed 180 days) until the VA has completed intake of the veteran. At present, PHAs may not use HCV administrative fees for case management. Further guidance will be provided on the provision of case management by the PHA as the DSP.

PHAs approved as DSPs under this authority must also ensure that while using unleased HUD-VASH vouchers, they maintain sufficient HUD-VASH vouchers available to immediately issue a HUD-VASH voucher to veterans referred by the VA. Guidance on the requirements for a PHA to be approved and additional details on the application process are available on VA's HUD-VASH website at https://www.va.gov/HOMELESS/HUD-VASH_Designated-Service-Providers.asp and may be periodically updated.

In regard to verifying SSN for homeless veterans and their family members, PHAs must follow the SSN verification hierarchy. PHAs must use available flexibilities in accordance with 24 CFR 5.216(g)(1)(iii) to accept self-certification of SSN and at least one third-party document, such as a bank statement, utility or cell phone bill, or benefit letter that contains the name of the individual in the absence of other documentation. For the homeless veteran, the third-party document could be the VA-issued photo ID or document with the veteran's name. If verifying an individual's SSN using this method, the PHA must document why the other SSN documentation was not available. In the case of the homeless veteran, the PHA must accept the *Certificate of Release or Discharge from Active Duty* (DD 214) or the VA-verified *Application for Health Benefits* (10-10EZ) as verification of SSN if these forms are available; however, these forms are not required to verify SSN. These documents must also be accepted for proof of age purposes. Please note that veterans are also issued photo identification cards by the VA and these cards must be accepted by the PHA in lieu of another type of government-issued photo identification.

When adding a family member after the HUD-VASH family is admitted to the program, the rules of 24 CFR 982.551(h)(2) apply. Other than the birth, adoption or court-awarded custody of a child, the PHA must approve additional family members and may apply its regular screening criteria in doing so.

***Civil rights requirements cannot be waived. The HUD-VASH program is administered in accordance with applicable civil rights and fair housing requirements. These include applicable authorities under 24 CFR 5.105(a) and 24 CFR 982.53 including, but not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, Title VI of the

Civil Rights Act of 1964, the Age Discrimination Act, the Americans with Disabilities Act, and HUD's Equal Access Rule.²

When HUD-VASH applicants or recipients include veterans with disabilities or family members with disabilities, HUD's reasonable accommodation requirements apply. These standards require PHAs to make a reasonable adjustment to rules, policies, practices, and procedures when it may be necessary in order to enable an applicant or resident with a disability to have an equal opportunity to use and enjoy a dwelling, the common areas of a dwelling, or participate in or access a recipient's programs and activities. These standards extend to various aspects of program implementation, including, for example, denial or termination of assistance, initial search term of the HCV, initial lease term, and informal reviews and hearings. Under the PBV program, this also includes providing structural changes to a unit or public or common use area when they may be needed as a reasonable accommodation for an applicant or participant or their household members with a disability. Other obligations include, for example, effective communication with persons with disabilities, physical accessibility requirements, and overall nondiscrimination in the administration of the program.

B. Income and Asset Eligibility

The PHA must determine income and asset eligibility for HUD-VASH families in accordance with 24 CFR 982.201 and 24 CFR 5.618. Income targeting requirements of section 16(b) of the USHA of 1937, as well as 24 CFR 982.201(b)(2), do not apply for HUD-VASH families so that participating PHAs can effectively serve the eligible population specified in the Appropriations Acts; that is, homeless veterans, who may be at a variety of income levels, including low-income. In addition, PHAs must serve all income eligible veterans, including low-

² See 24 C.F.R. 5.105(a); See also https://www.hud.gov/program_offices/fair_housing_equal_opp/fair_housing_rights_and_obligations.

income veterans (up to 80% AMI) in HUD-VASH. HUD is exercising its authority to waive 24 CFR 982.201(b)(iii) to provide that, for HUD-VASH, low-income families are eligible for assistance and PHAs may not condition this eligibility based on “additional eligibility criteria” specified in its administrative plan.

Under Section 3(b) of the USHA of 1937, the definition of income specifically excludes “deferred disability benefits from the Department of Veterans Affairs that are received in a lump sum amount or in prospective monthly amounts” and “any expenses related to aid and attendance under section 1521 of title 38, United States Code, to veterans who are in need of regular aid and attendance.” All other VA service-connected benefits are included in determining income eligibility for the HCV program. For a very small percentage of homeless veterans, the amount of VA service-connected benefits received due to the severity of their disabilities results in the veteran being over the low-income limit.

In order to ensure that homeless veterans are not excluded from participation in the HUD-VASH program because of their VA service-connected disability benefits, particularly with respect to the opportunity to reside in HUD-VASH PBV projects located on the site of a VA facility or where HUD-VASH supportive services are provided on-site at the project, HUD is exercising its waiver authority and establishing alternative requirements for purposes of determining income eligibility for HUD-VASH. For HUD-VASH applicants receiving VA service-connected disability benefits, HUD is waiving section 3(b) of the USHA of 1937, which applies for purposes of determinations of lower income family eligibility based on median income under the USHA of 1937, including Section 8 programs, as well as 24 CFR 5.609(a)(1), which provides that annual income includes all amounts not specifically excluded in paragraph (b) of 5.609.

As an alternative requirement, the PHA must determine the applicant's annual income for purposes of income eligibility by excluding all VA service-connected benefits received by the HUD-VASH applicant in addition to the income exclusions listed under 24 CFR 5.609(b). This special income exclusion only applies to the definition of annual income for purposes of determining income eligibility. If the HUD-VASH applicant now qualifies as a low-income family under this alternative requirement, the VA service-connected benefits (with the exception of the normally excluded deferred VA disability payments under 24 CFR 5.609(b)(16) and the payments related to aid and attendance under 24 CFR 5.609(b)(17)) must still be included as annual income when calculating the family's adjusted income under 24 CFR 5.611. In other words, the VA service-connected disability benefits are excluded for purposes of determining income eligibility but included for purposes of calculating the total tenant payment (TTP), housing assistance payment, and family share.

Because there needs to be a monthly housing assistance payment (HAP) in order to enter into a HAP contract on behalf of a tenant-based voucher family, the utilization of tenant-based HUD-VASH assistance by families determined income eligible under this waiver and alternative requirement will be limited to those areas where the family's (TTP) (see 24 CFR 5.628) is less than the applicable payment standard or exception payment standard (including any HUD-VASH specific exception payment standard established by the PHA in accordance with section II.o below). The family would also need to select a unit with a gross rent that is above the family TTP in order to lease a unit with the tenant-based HUD-VASH voucher.

Under the PBV program, the PHA may select an occupied unit to be included under a PBV HAP Contract only if the unit's occupants are eligible for assistance under 24 CFR 982.201 and the TTP for the family must be less than the gross rent for the unit, such that the unit will be

eligible for a monthly HAP (24 CFR 983.52(c)). In addition, in selecting a family for an available PBV unit, the PHA must determine the TTP for the family is less than the gross rent, meaning that the unit will be eligible for a monthly HAP (24 CFR 983.251(a)(2)). However, under section II.k below, HUD is providing a waiver and alternative requirement where the PHA may opt to select an occupied unit or admit a family to a unit if such unit is made exclusively available to HUD-VASH families if the PBV project is either on the grounds of a VA facility or there are HUD-VASH supportive services provided on-site at the project. Please see section II.k regarding this PBV zero-HAP option for PHAs.

The PHA may choose to include the admission of extremely low-income HUD-VASH families in its income targeting numbers for the fiscal year in which these families are admitted. In conformance with normal program rules, PHAs may not deny admission to a family with zero income. When the veteran family reports that they have zero income, the PHA must accept a self-certification of zero income from the family at admission and at reexamination without taking any additional steps to require that the family verify zero reported income. The self-certification does not need to be notarized. The PHA must verify families' income in the Enterprise Income Verification (EIV) System within 120 days after admission.

In determining compliance with the asset limitation at 24 CFR 5.618 at admission, for the HUD-VASH program, PHAs must accept a self-certification by the family that the family's total assets are equal to or less than \$50,000, adjusted annually for inflation, and that the family does not have any present ownership interest in real property, without taking additional steps to verify the accuracy of the declaration. The PHA may accept a self-certification of net family assets at reexamination but must fully verify the family's assets every three years. For net family assets

exceeding \$50,000, adjusted annually for inflation, the PHA must fully verify the family's assets as required for all HCV families.

PHAs must not enforce the asset limitation for HUD-VASH families at reexamination.

C. Initial Search Term of the Voucher.

Recognizing the challenges that HUD-VASH participants may face with their housing search, HUD-VASH vouchers must have an initial search term of at least 120 days. This applies to the search term at both initial issuance and moves with assistance. Therefore, 24 CFR 982.303(a), which states that the initial search term must be at least 60 days, shall not apply, since the initial term must be at least 120 days. Any extensions, suspensions, and progress reports will remain under the policies in the PHA's administrative plan but will apply after the minimum 120-day initial search term. PHAs are encouraged to use flexibility allowing for needed extensions of search terms. Extensions may also be needed as a reasonable accommodation for a household with a member with a disability, such as for example, due to the difficulty in finding a unit that meets one's disability-related needs, *e.g.*, physically accessible unit, unit near accessible transportation, unit near medical or other facilities.

D. Initial Lease Term.

Under the HCV tenant-based voucher program, voucher participants must enter into an initial lease with the owner for at least one year, unless a shorter term would improve housing opportunities for the tenant and the shorter term is a prevailing market practice. To provide a greater range of housing opportunities for HUD-VASH voucher holders, initial leases may be less than 12 months; therefore, both section 8(o)(7)(A) of the USHA of 1937, 42 U.S.C. 1437f(o)(7)(A), and 24 CFR 982.309(a)(2)(ii) are waived to allow a term less than one year, without regard to the PHA independently determining that a shorter term would improve

housing opportunities and that a shorter term is the prevailing market practice. Note that this waiver does not apply to PBVs.

E. Eligible Housing.

24 CFR 982.352(a)(5) and 983.52(a)(2) prohibit assistance for units on the physical grounds of a medical, mental, or similar public or private institution. HUD is waiving these prohibitions for the limited purpose of allowing assistance on the grounds of a VA facility for both HCV tenant-based vouchers for HUD-VASH families and all PBV units made exclusively available for HUD-VASH families.

F. Mobility and Portability of HUD-VASH Vouchers.

An eligible family issued a HUD-VASH voucher must receive required case management services provided by the partnering VA medical facility. Therefore, special mobility and portability procedures must be established. HUD-VASH participant families may reside only in those jurisdictional areas that are accessible to case management services as determined by the VA medical facility.

Since the VA will be identifying homeless veterans eligible to participate in the HUD-VASH program, section 8(r)(1)(B)(i) of the USHA of 1937, 42 U.S.C. 1437f(r)(1)(B)(i), which restricts portability in cases where the family did not reside in the jurisdiction of the PHA at the time of application for HCV assistance, and 24 CFR 982.353(a), (b), and (c), which affects where a family can lease a unit with HCV assistance, do not apply. A family that moves under the portability procedures must not be subject to rescreening by the receiving PHA. HUD may publish PIH notices from time to time to further explain portability requirements under the HUD-VASH program. In all porting scenarios, with the exception of victims of domestic violence,

dating violence, sexual assault, and stalking, the PHA must consult with the VA prior to approving the port.

1. Portability Moves Within Same Catchment Area (or Area of Operation) Where Case Management is Provided by the Initial PHA's Partnering VA Medical Facility.

If the family initially leases up, or moves, under portability provisions, but the initial PHA's partnering VA medical facility will still be able to provide the necessary case management services due to the family's proximity to the partnering VA medical facility, the receiving PHA must process the move in accordance with the portability procedures of 24 CFR 982.355. However, since the initial PHA must maintain records on all HUD-VASH families receiving case management services from its partnering VA medical facility, receiving PHAs without a HUD-VASH program must bill the initial PHA. Therefore, 24 CFR 982.355(d), which gives the receiving PHA the option to absorb the family into its own HCV program or bill the initial PHA, is not applicable.

2. Portability Moves Within Same Catchment Area Where Both PHAs Have Received HUD-VASH Vouchers.

The receiving PHA may bill the initial PHA or absorb the family into its own HUD-VASH program if the VA medical facility providing the initial case management agrees to the absorption by the receiving PHA and the transfer of case management. The absorption will also entail the availability of a HUD-VASH voucher and case management provision by the receiving PHA's partnering VA medical facility.

3. Portability Moves Where Receiving PHA is Beyond VA Medical Facility Catchment Area.

If a family wants to move to another jurisdiction where it will not be possible for the initial PHA's partnering VA medical facility to provide case management services, the VA must first determine that the HUD-VASH family could be served by another VA medical facility that is participating in this program, and the receiving PHA must have a HUD-VASH voucher available for this family. In these cases, the family must be absorbed by the receiving PHA either as a new admission (upon initial participation in the HUD-VASH program) or as a portability move-in (after an initial leasing in the initial PHA's jurisdiction). Upon absorption, the initial PHA's HUD-VASH voucher will be available to lease to a new HUD-VASH eligible family, as determined by the partnering VA medical facility, and the absorbed family will count toward the number of HUD-VASH slots awarded to the receiving PHA.

When the receiving PHA completes the Family Report (HUD-50058 or HUD-50058 MTW) under the scenario described above, the action type that must be recorded on line 2a is "1" for a new admission (a family that is new to the HCV program) or "4" for a portability move-in (a family that was previously leased up in the jurisdiction of the initial PHA). Whether the family is a new admission or portability move-in, in section 12 of the HUD-50058, line 12d is always marked "Y." In cases of portability where families move out of the catchment area of the initial PHA, 12e must be 0 since the family must be absorbed, and 12f must be left blank.

4. Portability Moves Where Receiving PHA is Beyond Catchment Area for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking.

Veterans who request to port beyond the catchment area of the VA medical facility where they are receiving case management in order to protect the health or safety of a person who is or

has been the victim of domestic violence, dating violence, sexual assault, or stalking, and who reasonably believes themselves to be threatened with imminent harm from further violence by remaining in the dwelling unit (or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's move or request to move), may port prior to receiving approval from the receiving VA medical facility but must notify the VA medical facility at the earliest time possible to ensure appropriate supports are provided to the veteran family. The initial PHA must follow its emergency transfer plan as described in 24 CFR 5.2005(e). Consistent with documentation requirements at 24 CFR 5.2005(e)(10) and 5.200, PHAs may require verbal self-certification or a written request from a participant seeking a move beyond the catchment area of the VA medical facility. A participant may provide a completed form HUD-5383 to satisfy a requirement to provide a written request.

The verbal self-certification or written request must include either (a) a statement expressing that the participant reasonably believes that there is a threat of imminent harm from further violence if the participant were to remain in the same dwelling unit assisted under the PHA; or (b) in the case of a participant who is a victim of sexual assault and is seeking a transfer on the basis that the sexual assault occurred on the premises during the 90-day period preceding the participant's request for the move, a statement that says this. The veteran escaping violence must be admitted to the VA medical facility caseload. For participants seeking a move beyond the catchment area of the VA medical facility while maintaining a HUD-VASH voucher, the participant must still port to a PHA that has a HUD-VASH program; if the receiving PHA does not have a HUD-VASH voucher available to lease, they may bill the initial PHA until a HUD-VASH voucher is available, at which point the porting veteran must be absorbed into the receiving PHA's program.

5. Portability Moves when Case Management is no Longer Required.

If the family no longer requires case management, as determined by the VA medical facility, there are no portability restrictions. PHAs must follow the regulatory requirements for portability found at 24 CFR 982.355. When completing the HUD-50058, the family will continue to be coded as “VASH” on line 2n unless the family has been moved to a regular voucher, in which case the code in 2n would be left blank.

G. Case Management and Supportive Services.

In general, the VA medical facility responsibilities include: 1) the screening of homeless veterans to determine whether they meet the HUD-VASH program participation criteria established by the VA national office; 2) assisting veterans with the PHA application and assisting the veteran family with obtaining needed PHA documentation to ensure rapid voucher issuance; 3) referrals of homeless veterans to the PHA; 4) providing case management and supportive services to potential HUD-VASH program participants, as needed, prior to PHA issuance of rental vouchers; 5) providing housing search assistance to HUD-VASH participants with rental vouchers; 6) identifying the social service and medical needs of HUD-VASH participants and providing, or ensuring the provision of, regular ongoing case management, outpatient health services, hospitalization, and other supportive services, as needed, throughout this initiative; and 7) maintaining records and providing information for evaluation purposes, as required by HUD and the VA. In cases where a DSP (including a PHA approved as a DSP) is approved, the applicable responsibilities may be completed by the DSP.

As a condition of HCV rental assistance, both tenant-based voucher and PBV, a HUD-VASH eligible veteran must receive the case management services noted above, as needed,

directly from or arranged by the VA. The VA, in consultation with the veteran, is responsible for determining if case management is required and if the case management requirement is satisfied.

If a veteran no longer requires case management, but maintains their HUD-VASH voucher assistance, the VA will maintain contact with the veteran family to provide support and planning assistance with the recertification and reinspection process. The VA will remain available to provide support to the veteran family, as needed.

H. Termination of Assistance.

There are two alternative requirements for termination of assistance for HUD-VASH participants. As detailed above, HUD-VASH voucher assistance is contingent upon participation in case management, when required by the VA. If the VA has determined that a veteran is not participating in required case management, without good cause, the PHA must terminate the family from the HUD-VASH program. However, the PHA may offer the family continued assistance through one of its regular vouchers or a PBV unit not exclusively made available for HUD-VASH.

A VA determination that the veteran does not require or no longer requires case management is never grounds for termination of HCV assistance. In such case, and in consultation with the VA, the PHA may offer the family continued assistance through one of its regular vouchers, to free up the HUD-VASH voucher for another eligible family referred by the VA. The decision to transfer assistance to a regular voucher must consider veteran preference and must be communicated to the VA prior to occurring. If the PHA has no voucher to offer, the family will retain its HUD-VASH voucher, or PBV unit, until such time as the PHA has an available voucher (or PBV unit not exclusively made available for HUD-VASH) for the family.

If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply.

Second, 24 CFR 982.552(b)(2) states that “The PHA must terminate program assistance for a family evicted from housing assisted under the program for serious violation of the lease.” HUD is waiving this provision, and establishing the alternative requirement that the PHA may terminate program assistance in these cases. Prior to terminating HUD-VASH participants, HUD strongly encourages PHAs to exercise their discretion under 24 CFR 982.552(c)(2) and consider all relevant circumstances of the specific case, as well as including the role of the case manager and the impact that ongoing case management services can have on mitigating the conditions that led to the potential termination, prior to determining whether to terminate assistance. PHAs also must grant reasonable accommodations for persons with disabilities in accordance with 24 CFR part 8. The PHA may not terminate assistance on the basis or as a direct result that a member of the participant family is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. 24 CFR 5.2005(b). In addition, a HUD-VASH participant family must not be terminated after admission, for a circumstance or activity that occurred before admission and was known to the PHA but could not be considered at the time of admission due to the HUD-VASH Operating Requirements. The PHA can only terminate the family’s assistance for program violations that occur after the family’s admission to the voucher program.

Generally, in the case of a family break-up, the HUD-VASH assistance must stay with the HUD-VASH veteran. However, in the case of domestic violence, dating violence, sexual assault, or stalking, in which the HUD-VASH veteran is the perpetrator, the victim must continue to be assisted. Upon termination of the perpetrator’s HUD-VASH voucher due to the

perpetrator's acts of domestic violence, dating violence, sexual assault, or stalking, the victim must be given a regular HCV if one is available, and the perpetrator's HUD-VASH voucher must be used to serve another eligible veteran family. If a regular HCV is not available for the victim, the perpetrator must be terminated from assistance, and the victim will continue to utilize the HUD-VASH voucher.

I. Turnover of HUD-VASH Vouchers.

In accordance with the Appropriations Acts, upon turnover, HUD-VASH vouchers must be issued to eligible veteran families as identified by the VA, as noted above.

J. MTW Agencies.

HUD-VASH vouchers may be administered in accordance with flexibilities approved under a PHA's Standard MTW Agreement or MTW Operations Notice with approval from HUD's HCV office. Until such time that additional guidance is issued, MTW PHAs must submit a request through their local field office to operate HUD-VASH in accordance with approved MTW flexibilities. Requests will be approved provided the flexibilities do not conflict with the HUD-VASH program requirements or objectives. HUD-VASH vouchers are never eligible for MTW fungibility. However, MTW agencies may use their MTW funding for HUD-VASH vouchers. HUD-VASH vouchers must be reported in the IMS/PIC system, or any successor system, on either the regular HUD-50058 or HUD- 50058 MTW (or HUD-50058-MTW Expansion where appropriate) for vouchers under the agency's MTW Agreement.

K. HUD-VASH PBV.

Section 8(o)(13)(D) of the USHA of 1937 (42 U.S.C. 1437(o)(13)(D)) is waived for HUD-VASH vouchers so that all units exclusively made available to HUD-VASH families in a PBV project are exempted from the PBV income-mixing requirements (project cap). The project

cap refers to the number of units in a project that may receive PBV assistance and is generally the higher of 25 units or 25 percent of units in the project. Units exclusively made available to HUD-VASH families are excluded from (do not count against) this PBV project cap.

Additionally, HUD-VASH supportive services only need to be provided to all HUD-VASH families in the project, not all families receiving PBV assistance in the project. If a HUD-VASH family does not require or no longer requires case management, the unit continues to count as an excepted PBV unit for as long as the family resides in that unit.

Likewise, HUD waives Section 8(o)(13)(B) of the USHA of 1937, 42 U.S.C. 1437f(o)(13)(B) so that HUD-VASH units made available under a competitive PIH notice for HUD-VASH PBV units (“HUD-VASH PBV set-aside”) are excluded from the PBV percentage limitation (program cap). This exclusion only applies to HUD-VASH PBV vouchers awarded through the HUD-VASH PBV set-aside notice. All other HUD-VASH vouchers that the PHA opts to project-base, are still subject to the PBV program cap. (Generally, a PHA may project-base up to 20% of its authorized HCV units. The PHA may also project-base an additional 10% of its authorized HCVs for units that meet the conditions of 24 CFR 983.6(d)(1) or (d)(2) and any number of units that are excluded from the program cap pursuant to 24 CFR 983.58 and 983.59.)

Pursuant to the HUD-VASH case management and termination requirements, a HUD-VASH family’s PBV assistance must be terminated for failure to participate in case management when required by the VA. If the PHA has a policy in place to allow the veteran to receive a regular (non-VASH) HCV or PBV unit instead of the family's assistance being terminated, the PHA may: substitute the family's unit on the PBV HAP contract for another unit if it is possible to do so in accordance with § 983.207(a) and this notice (the PHA may, in conjunction with such

substitution, add the original unit to the PBV HAP contract with a non-VASH voucher if it is possible to do so in accordance with § 983.207(b)); remove the unit from the PBV HAP contract so the family may remain with tenant-based assistance, if the family and the owner agree to use the tenant-based voucher in the unit; or change the unit's status in the PBV HAP contract from a unit exclusively made available for HUD-VASH to a regular PBV unit, if doing so is allowable under program rules and this notice. If the PHA does not have a policy in place to allow the veteran to receive a regular (non-VASH) HCV or PBV unit instead of the family's assistance being terminated, then upon notification by the VA of the family's failure to participate in VA-required case management, the PHA must provide the family a reasonable period of time (as established by the PHA) to vacate the unit. The PHA must terminate assistance to the family at the earlier of (1) the time the family vacates or (2) the expiration of the reasonable period of time given to vacate (the lease terminates at the same time as termination of assistance per 24 CFR § 983.256(f)(3)(v)). If the family fails to vacate the unit within the established time, the owner may evict the family. If the owner does not evict the family, the PHA must remove the unit from the HAP contract or amend the HAP contract to substitute a different unit in the project if the project is partially assisted. If the PHA has a policy in place to allow the veteran to be moved onto a regular HCV or PBV unit, the owner may substitute a PBV unit not exclusively made available for HUD-VASH. A PHA may add the removed unit to the HAP contract after the ineligible family vacates the property. The PBV program requirements governing additions and substitutions at 24 CFR 983.207 apply, except that paragraph (c) governing additions and substitutions of occupied units does not apply to units exclusively made available to HUD-VASH families in most cases. Because only homeless veterans may be referred for occupancy of a HUD-VASH PBV unit, only occupied units whose occupants are families already receiving

tenant-based HUD-VASH assistance may be added to a PBV HAP contract as units exclusively made available to HUD-VASH families. Families who are not homeless cannot receive HUD-VASH assistance as a result of the family's unit being added to a PBV HAP contract. Therefore, the provisions of 24 CFR 983.207(a), (b)(3), and (c) are waived with respect to the option to add or substitute an occupied unit unless the unit is already occupied by a family receiving tenant-based HUD-VASH assistance.

If a HUD-VASH family is eligible to move from its PBV unit pursuant to 24 CFR 983.261 and there is no HUD-VASH tenant-based voucher available at the time the family requests to move, the PHA may require a family that still requires case management to wait for a HUD-VASH tenant-based voucher for a period not to exceed 180 days. To effectuate this requirement, section 8(o)(13)(E)(ii) of the USHA of 1937, 42 U.S.C. 1437f(o)(13)(E)(ii), and 24 CFR 983.261(c) are waived solely for the purpose of allowing the PHA to delay issuance of a voucher. If a HUD-VASH tenant-based voucher is still not available after that period of time, the family must be allowed to move using its HUD-VASH voucher as tenant-based assistance. Alternatively, the PHA may allow the family to move using its HUD-VASH voucher as tenant-based assistance without having to meet this 180-day waiting period. In either case, the PHA may either amend the PBV HAP contract to replace the assistance in the PBV unit with one of its regular vouchers if the unit is eligible for a regular PBV (for instance, so long as the unit is eligible under the PHA's program and project caps) or the PHA and owner may agree to temporarily remove the unit from the HAP contract. If a HUD-VASH veteran has been determined to no longer require case management, the PHA must allow the family to move with the first available tenant-based voucher if no HUD-VASH voucher is immediately available and cannot require the family to wait for a HUD-VASH voucher to become available.

If the PHA determines that a HUD-VASH family is occupying a wrong-size PBV unit or a PBV unit with accessibility features that the family does not require and the PBV unit is needed by a family that requires the accessibility features, the PHA must notify the family and the owner within 30 days of the PHA's determination in accordance with 24 CFR 983.260(a)(2)(i). HUD applies an alternative requirement for HUD-VASH PBV units with respect to 24 CFR 983.260(b), however. Specifically, the PHA's offer of continued housing assistance (that must be made within 60 days of the PHA's determination) must be in the form of either a HUD-VASH tenant-based voucher or another HUD-VASH PBV unit. If no HUD-VASH assistance is available for the PHA to offer within 60 days of the PHA's determination, the PHA must remove the wrong-sized or accessible unit from the HAP contract to make HUD-VASH voucher assistance available to issue the family a tenant-based HUD-VASH voucher. 24 CFR 983.206(b), which covers the required provision of tenant-based assistance requires that the family may elect to use its tenant-based assistance to remain in the same project when a PBV HAP contract terminates or expires, does not apply to families issued a HUD-VASH tenant-based voucher under this circumstance. The PHA may use another voucher to add the unit removed under this alternative requirement to the HAP contract after the family vacates the property, in accordance with 24 CFR 983.207(b).

PHAs do not need authorization from HUD to use HUD-VASH vouchers as PBVs (though PHAs must comply with all standard PBV program requirements that are not waived in this notice in order to do so), per Section 8(o)(13)(O) of the USHA of 1937, 42 U.S.C. 1437f(o)(13)(O). However, PHAs must consult with the partnering VA medical facility to ensure approval of the project. PHAs and the partnering VA medical facility are expected to communicate regarding the PBV planning and development. PHAs may project-base HUD-

VASH vouchers in projects alongside other PBV units (in accordance with all applicable PBV requirements) and may execute a single HAP contract covering both the HUD-VASH PBVs and the other PBVs. However, the contract rents may not be different based on whether the unit is a HUD-VASH PBV unit or a non-HUD-VASH PBV unit. In determining the rent to owner for the PBV project, if the cap on the amount of rent to owner under 24 CFR 983.301(b)(1) is lower for non-HUD-VASH units than it is for the HUD-VASH units (e.g., the PHA has established a HUD-VASH exception payment standard under section II.o below and there is either no exception payment standard or a lower exception payment standard for the regular HCV program for the area in question), that lower cap is applicable when setting the rent to owner for the PBV units in the project, including the HUD-VASH units. In the description of units in Exhibit A of the HAP contract, PHAs must indicate the number of units that will be exclusively made available to HUD-VASH families. The PHA must refer only HUD-VASH families to PBV units exclusively made available to HUD-VASH families and to PBV units funded through a HUD-VASH PBV set-aside award. The PHA and owner may agree to amend a PBV HAP contract to re-designate a regular PBV unit as a unit specifically designated for HUD-VASH families, so long as the PHA first consults with and obtains concurrence from the VA medical facility. Additionally, the PHA and owner may agree to amend a PBV HAP contract to re-designate a unit specifically designated for HUD-VASH families as a regular PBV unit, so long as the unit is not funded through a HUD-VASH PBV set-aside award and is eligible for a regular PBV (for instance the unit is eligible under the PHA's program and project caps). The PHA and owner may also agree to temporarily remove a unit from the HAP contract in cases where a HUD-VASH eligible veteran has been identified by the VA as appropriate for a HUD-VASH PBV unit, but the veteran is not income eligible to receive voucher assistance (even after applying the

VA service-connected disability benefit exclusion waiver and alternative requirement under section II.b) or may not be selected for the PBV unit because the family's TTP exceeds the gross rent of the unit (i.e., there is no HAP). Although the family would not be a program participant in the housing portion of the HUD-VASH program in such a case, the family would still benefit from the project's location on the grounds of a VA facility or from the HUD-VASH supportive services on-site at the project, while the HUD-VASH voucher would be available to assist another HUD-VASH family. The PHA and owner could agree to add a HUD-VASH voucher back onto the PBV HAP contract if the family's income subsequently decreased to the point that there would be a HAP or when the family vacates the unit.

As discussed earlier in section II.b, a PHA may select an occupied unit to be included under a PBV HAP Contract only if the unit's occupants are eligible for assistance under 24 CFR 982.201 and the TTP for the family must be less than the gross rent for the unit, such that the unit will be eligible for a monthly HAP (24 CFR 983.52(c)). Furthermore, in selecting a family for an available PBV unit, the PHA must determine the TTP for the family is less than the gross rent, meaning that the unit will be eligible for a monthly HAP (24 CFR 983.251((a)(2))). However, if the PBV project is either on the grounds of a VA facility or there are HUD-VASH supportive services provided on-site at the project, the PHA may opt to select a unit occupied by a "zero-HAP" HUD-VASH eligible family or admit a "zero-HAP" HUD-VASH family to a unit if such unit is made exclusively available to HUD-VASH families. Until such time that the HUD-VASH family's TTP falls below the gross rent, the family is responsible for paying the entire rent to owner (the total monthly rent payable by the family and the PHA to the owner under the lease for a contract unit), in addition to being responsible for paying all tenant-supplied utilities. During any period that the family's TTP falls below the gross rent, normal PBV requirements

apply. To effectuate this zero-HAP family option and the alternative requirement, Section 8(o)(2)(C) of the USHA of 1937, 24 CFR. 983.52(c), 24 CFR 983.251(a)(2), and 24 CFR 983.353(b)(1) are waived.

Under normally applicable rules, units occupied by families whose incomes have increased during their tenancy resulting in the total tenant payment equaling the gross rent shall be removed from the HAP contract 180 days following the last housing assistance payment on behalf of the family (24 CFR 983.211, 24 CFR 983.258). These regulations do not apply to zero HAP families admitted to the PBV project under this waiver and alternative requirement because there is no last housing assistance payment that would trigger the unit removal date of 180 days. As an alternative requirement, PHAs have the option of removing the unit in which the zero HAP family resides from the HAP contract, but no earlier than 180 days from the start of the family PBV tenancy. If the PHA exercises this option, the family may not be required to move from the unit as a consequence and continues to receive the HUD-VASH supportive services. If the project is fully assisted the PHA may reinstate the unit removed to the HAP contract after the family either vacates the unit or their income decreases to the point that there would be a HAP. If the project is partially assisted, the PHA may substitute a different unit for the unit removed from the HAP contract when the first eligible substitute unit becomes available (in accordance with 24 CFR 983.207). Alternatively, the PHA may choose to simply leave the unit on the HAP contract while the zero HAP family continues to reside there.

PBV proposal and/or project selection for HUD-VASH must follow all regular proposal and/or project selection regulations, with the following exception. HUD is establishing an alternative requirement under 24 CFR 983.51(c) to permit noncompetitive selection of one or more PBV projects with units made exclusively available to HUD-VASH families on the site of

a VA facility. Note that the method of project selection must comply with all other requirements under 24 CFR 983.51, including that the PHA must notify the public of its intent to noncompetitively select one or more projects for PBV assistance through its 5-Year Plan and to ensure any project selection is consistent with the PHA Administrative Plan.

PHAs may consult with their partnering VA medical facility about the option for using PBVs in conjunction with the VA's Enhanced-Use Lease (EUL) Program. The EUL Program authorizes the VA to lease underutilized real estate under its jurisdiction or control to the private sector. Through this program, lessees can develop supportive housing for homeless veterans who will be provided an expanded range of services that would not otherwise be available on medical center campuses.

L. Section Eight Management Assessment Program (SEMAP).

HUD-VASH vouchers remain excluded from the SEMAP leasing indicator. Therefore, 24 CFR 985.3(n)(1)(i) and (ii) are still waived. During a HUD-VASH PHA's calendar year, the prorated budget authority available for HUD-VASH vouchers and the units associated with that budget authority will be excluded from the denominators for both units leased and dollars expended.

M. Reallocation of HUD-VASH Vouchers.

HUD-VASH vouchers have been allocated based on geographic need at the time of each allocation. In recognition that there may be changes and shifts in the population of homeless veterans over time, it may become necessary for the VA and HUD to jointly reallocate HUD-VASH vouchers to better address the current needs of the homeless veteran population. This reallocation may be done in one of two ways. If there is continued need at the VA medical facility, HUD-VASH vouchers may be voluntarily moved between PHAs administering HUD-

VASH programs within the same VA medical facility catchment area. Alternatively, if it has been determined that a VA medical facility no longer has sufficient need and will not be able to utilize their available HUD-VASH vouchers, HUD and VA may choose to jointly recapture HUD-VASH vouchers from the VA medical facility and any partnering PHA(s). Recaptured vouchers, and any associated funding, will be reallocated through a national allocation process, to areas with current need. PHAs must follow the process detailed in Notice PIH 2022-25: Voluntary Reallocation or Recapture of HUD-VASH or any superseding notice.

N. Inspections.

To expedite the leasing process for tenant-based HUD-VASH, PHAs may pre-inspect available units that veterans may be interested in leasing with a HUD-VASH tenant-based voucher in order to maintain a pool of eligible units. If a HUD-VASH family selects a unit that passed a HQS inspection (without intervening occupancy) within 90 days of the date of the Request for Tenancy Approval (form HUD-52517), the unit may be approved as long as it meets all other conditions under 24 CFR 982.305. As required by 24 CFR 982.353(e), a PHA is prohibited from directly or indirectly reducing the family's opportunity to select among all available units. All regulatory requirements pertaining to HQS found at 24 CFR 5.703 apply to HUD-VASH.

O. Exception Payment Standards.

Many housing markets with a high need for HUD-VASH are very competitive with a shortage of affordable rental units. In addition, landlords may be reluctant to rent to individuals experiencing homelessness due to poor credit history or lack of recent rental history. To assist HUD-VASH participants in finding affordable housing, especially in competitive markets, HUD is waiving 24 CFR 982.503(a)(2) and (b) to allow a PHA to establish a separate HUD-VASH

exception payment standard. Without this waiver, a PHA is required to establish a single payment standard amount for each unit size. Additionally, 24 CFR 982.503(c) is waived so that PHAs may go up to, but no higher than 120 percent of the published metropolitan area-wide Fair Market Rents (FMRs) or Small Area FMRs (based on the PHA's applicable FMR) specifically for their HUD-VASH program. A PHA that wants to establish a HUD-VASH exception payment standard over 120 percent, as allowed by 24 CFR 982.503(d)(4), must still request approval from HUD through the process outlined in notice PIH 2018-16, or any successor notices. Exception payment standards implemented by the PHA under this Section also apply in determining rents under 24 CFR 983.301(b) for PBV projects only when the project is comprised solely of units exclusively made available to HUD-VASH families. This is because the contract rents established for the project may not be different based on whether the unit is a HUD-VASH PBV unit or a non-HUD-VASH PBV unit. HUD-VASH PHAs may also establish an exception payment standard up to 140 percent of the published FMR or Small Area FMR (based on which FMR the PHA is applying) only to be applied if required as a reasonable accommodation in accordance with 24 CFR part 8 for a family that includes a person with a disability. Any unit approved under an exception payment standard must still meet the reasonable rent requirements found at § 982.507. To allow this, HUD is waiving Section 8(o)(1)(D) of the United States Housing Act of 1937 (42 U.S.C 1437f(o)(1)(D)) and 24 CFR 982.503(d)(5). A PHA may use a payment standard that is greater than 140 percent of FMR as a reasonable accommodation for a person with a disability, but only with HUD approval.

P. Special Housing Types.

Special housing types can be particularly useful to HUD-VASH clients, as it can increase the availability of housing and, for some veterans, can be a better housing environment than a

single-family unit. As such, PHAs must permit HUD-VASH clients to use the following special housing types for tenant-based HUD-VASH assistance, regardless of whether these types are permitted in their administrative plan for other families: single room occupancy (SRO); congregate housing; group home; shared housing; and cooperative housing. Regulations for these housing types can be found at 24 CFR 982 subpart M. Consistent with the regulations, HUD-VASH PBV can never be applied to shared housing.

Q. Minimum Rents.

PHAs must consider hardship circumstances before charging a minimum rent in accordance with 24 CFR 5.630(b). HUD-VASH veteran families may often require hardship exemptions of a PHA established minimum rent. For this reason, PHAs may choose to charge a lower minimum rent (including a minimum rent of \$0) specifically for their HUD-VASH program regardless of the minimum rent policies established in their administrative plan for other HCV families.

III. Reporting Requirements

The VASH code was established for use on line 2n of the Family Report (form HUD-50058) or 2p of the MTW 50058, to indicate if the family participates in a special program. The information collection requested on both Family Reports has been approved by the Office of Management and Budget (OMB) and given OMB control number 2577-0083. No person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection displays a currently valid OMB control number. This code must remain on the HUD-50058 and MTW 50058 for the duration of the HUD-VASH family's participation in the program. The PHA that administers the HUD-VASH voucher on behalf of the family

(regardless of whether the PHA has received an allocation of HUD-VASH vouchers) must enter and maintain this code on the HUD-50058 or MTW 50058.

Data will also be captured in the Voucher Management System (VMS), or any successor system, on monthly leasing and expenditures for HUD-VASH vouchers.

For any additional systems reporting requirements that may be established, HUD will provide further guidance.

Date: _____

_____/s/_____

Dominique Blom
General Deputy Assistant Secretary
Office of Public and Indian Housing

[BILLING CODE: 4210-67]