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Chapter 1

Overview of the Program and Plan

Introduction

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

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

There are three parts to this chapter:

Part I: The Public Housing Agency: Part I includes a description of the PHA, its jurisdiction, its programs, and its mission and intent.

Part II: The HCV Program: Part II contains information about the HCV program operation, roles and responsibilities, and partnerships.

Part III: The HVC Administrative Plan: Part III discusses the purpose and organization of the plan and its revision requirements.

Part I: The PHA

1-I.A. Overview

Part I explains the origin of the PHA's creation and authorization, the general structure of the organization, and the relationship between the PHA Board and staff for the jurisdiction of the State of Montana.

1-I.B. Organization and Structure of the PHA

The HCV assistance program is funded by the federal government and administered by Montana Housing within the **Montana Department of Commerce (Commerce)** for the jurisdiction of the **State of Montana**.

Commerce, Rental Assistance Bureau, is the Montana State Public Housing Authority, administering the HUD Housing Choice Voucher Program and the Moderate Rehabilitation Program to provide affordable, safe housing to low-income families residing in Montana.

To administer the HCV program, Commerce enters into a contractual relationship with HUD (Consolidated Annual Contributions Contract). Due to geographical limitations, Commerce also enters into a contractual relationship with non-profit partners throughout Montana to carry out HUD obligations for administering the HCV program. These partners are known as Field Agencies (FAs). Commerce also enters into contractual relationships with the assisted family and the owner or landlord of the housing unit.

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

Commerce requires FAs to operate the HCV program in accordance with their Commerce contract, HUD regulations (Code of Federal Regulations (CFRs) and Federal Registers), HUD Notices, HUD Memos, this Commerce Administrative Plan, Commerce Policy Memos, and guidance provided by Commerce program personnel. Commerce provides local field agents with copies of relevant CFRs and Federal Registers, HUD Notices, and HUD Memos per request and are also available at HUD.gov and Commerce's website at <https://housing.mt.gov>. As changes are made to this Administrative Plan, they are distributed to field agents to replace outdated sections. When Commerce adopts or changes minor policies not included in the Administrative Plan the policies will be distributed to field agents in memo format or by e-mail. Below are the ten FAs in Montana and their contact information:

- a) **Action for Eastern Montana** serves sub-state planning districts 1, 2, and 3, including Carter, Custer, Daniels, Dawson, Fallon, Garfield, McCone, Phillips, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Treasure, Valley, and Wibaux counties.
2030 North Merrill Avenue
PO Box 1309

Glendive, MT 59330
Phone 800-227-0703 or 406-377-3564
Fax 406-377-3570

- b) **Opportunities, Inc.** serves sub-state planning district 5, including Cascade, Chouteau, Glacier, Pondera, Teton, and Toole counties, and planning district 4, including Blaine, Hill, and Liberty counties.

905 1st Avenue North
PO Box 2289
Great Falls, MT 59403
Phone 800-927-2270 or 406-761-0310
Fax 406-761-0363

- c) **District 6 Human Resource Development Council** serves sub-state planning district 6, including Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum, and Wheatland counties.

300 First Avenue North, Suite 203
Centennial Plaza
Lewistown, MT 59457
Phone 800-766-3018 or 406-535-7488
Fax 406-535-2843

- d) **District 7 Human Resource Development Council** serves sub-state planning district 7, including Big Horn, Carbon, Stillwater, Sweet Grass, and Yellowstone (except for that portion of the district lying within 10 miles of the City of Billings) counties.

7 North 31st Street
PO Box 2016
Billings, MT 59103
Phone 800-443-1411 or 406-247-4710
Fax 406-248-2943

- e) **District 9 Human Resource Development Council** serves sub-state planning district 9, including Gallatin, Meagher, and Park counties.

32 South Tracy Avenue
Bozeman, MT 59715
Phone 800-332-2796 or 406-587-4486
Fax 406-585-3538

- f) **Community Action Partnership of Northwest Montana** serves sub-state planning district 10, including Flathead, Lake, Lincoln, and Sanders counties.

214 Main Street
PO Box 88
Kalispell, MT 59903
Phone 800-344-5979 or 406-752-6565
Fax 406-565-4834

- g) **District XI Human Resource Council** serves sub-state planning district 11, including Mineral, Missoula, and Ravalli counties.
1801 South Higgins
Missoula, MT 59801
Phone 406-728-3710
Fax 406-728-7680

- h) **Action, Inc.** serves sub-state planning district 12, including Beaverhead, Deer Lodge, Granite, Madison, Powell, and Silver Bow counties.
25 West Silver Street
PO Box 3486
Butte, MT 59701
Phone 406-533-6855
Fax 406-533-6885

- i) **Helena Housing Authority** serves sub-state planning district 8, including Broadwater, Jefferson, and Lewis & Clark counties.
812 Abbey
Helena, MT 59601
Phone 800-378-7981 or 406-442-7970 or 406-442-7981
Fax 406-442-0574

- j) **HomeFront Partners** serves the area within 10 miles of the city limits of Billings, Montana.
2415 First Avenue North
Billings, MT 59101
Phone 406-245-6391
Fax 406-245-0387

1-I.C. PHA Mission

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

Commerce Policy

Montana Housing works with community partners across the state, and together we ensure Montana families have access to safe and affordable homes.

1-I.D. The PHA's Programs

The following programs are included under this administrative plan.

Commerce Policy

Commerce's administrative plan is applicable to the operation of the Housing Choice Voucher program. In addition, the administrative plan addresses policies for the following special programs:

**Moderate Rehabilitation (MOD Rehab)
Veterans Affairs Supportive Housing (HUD-VASH)
Project-Based VASH
Project-Based Vouchers
Homeownership
Family Self-Sufficiency (FSS)
Mainstream Voucher
Emergency Housing Vouchers (EHV)**

Mainstream vouchers assist non-elderly persons with disabilities who are transitioning out of institutional or other segregated settings, at serious risk of institutionalization, currently experiencing homelessness, previously experienced homelessness, and currently a client in a permanent supportive housing or rapid rehousing project, or those at risk of experiencing homelessness.

VASH vouchers assist homeless veterans by providing rental assistance in combination with case management and clinical services provided by local Department of Veterans Affairs Medical Centers and Clinics.

EHVs assist individuals and families referred to Commerce by the Continuum of Care or Coordinated Entry systems who meet one of the following priorities: recently homeless and for whom providing rental assistance will prevent the family's homelessness or having a high risk of housing instability; are at-risk of homelessness; are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking; or are homeless.

1-I.E. The PHA's Commitment to Ethics and Service

As a public service agency, the PHA is committed to providing excellent service to HCV program participant, owners, and to the community. The PHA's standards include:

- Administer applicable federal and state laws and regulations to achieve high ratings in performance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe, and sanitary housing – in compliance with program housing quality standards – for very-low-income families while ensuring that family rents are fair, reasonable, and affordable.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational, and other human services needs.

- Promote fair housing and the equal opportunity for very-low-income families of all ethnic backgrounds to experience freedom of housing choice.
- Promote a housing program which maintains quality service and integrity while providing an incentive to private property owners to rent to very-low-income families.
- Promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.
- Create positive public awareness and expand the level of family, owner, and community support in accomplishing the PHA's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the PHA's support systems and a high level of commitment to our employees and their development.

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

Part II: The HCV Program

1-II.A. Overview and History of the Program

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

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

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

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

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

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

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

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

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

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

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

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs. The Final Rule implementing broad changes to income and asset in Sections 102 and 104 of HOTMA, and for PHAs that administer the public housing program over-income provisions in Section 103, was officially published in the *Federal Register* on February 14, 2023. On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to PHAs on the implementation of the program changes described in the Final Rule.

1-II.B. HCV Program Basics

The purpose of the HCV program is to provide rental assistance to eligible families. The rules and regulations of the HCV program are determined by HUD. The PHA is afforded choices in the operation of the program which are included in the PHA’s administrative plan, a document approved by the board of commissioners of the PHA.

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

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

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

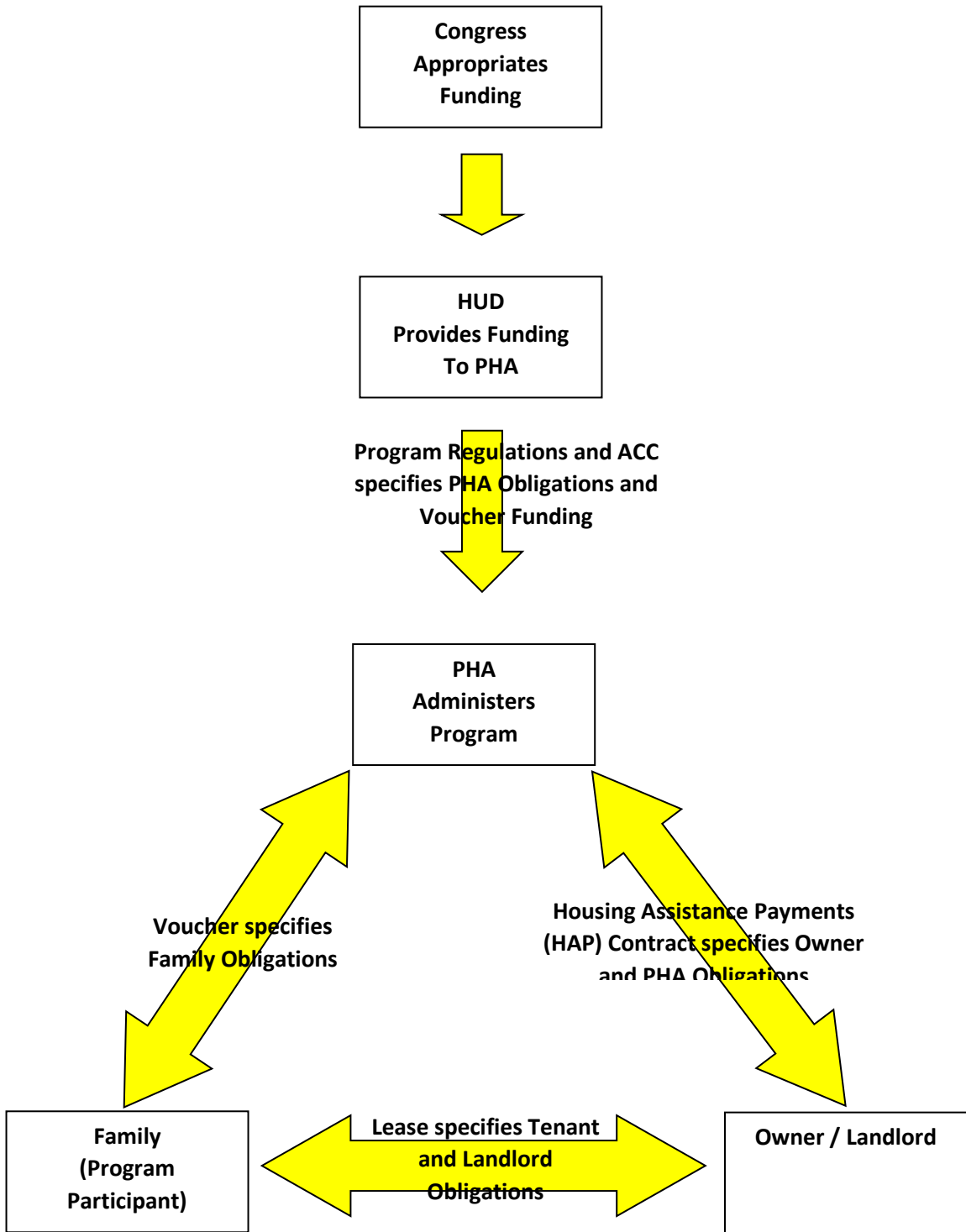
1-II.C. The HCV Partnerships

To administer the HCV program, the PHA enters into a contractual relationship with HUD (Consolidated Annual Contributions Contract). The PHA also enters into contractual relationships with the assisted family the owner or landlord of the housing unit.

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

The chart on the following page illustrates key aspects of these relationships.

The HCV Relationships:



What Does HUD Do?

HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices, and other guidance to implement HCV housing program legislation passed by Congress;
- Allocate HCV program funds to PHAs;
- Provide technical assistance to PHAs on interpreting and applying HCV program requirements; and
- Monitor PHA compliance with HCV program requirements and PHA performance in program administration.

What Does the PHA Do?

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

- Establish local policies to administer the program;
- Review applications from interested applicants to determine whether they are eligible for the program;
- Maintain a waiting list and select families for admission;
- Issue vouchers to eligible families and provide information on how to lease a unit;
- Conduct outreach to owners, with special attention to owners outside areas of poverty or minority concentration;
- Approve the rental unit (including assuring compliance with housing quality standards and rent reasonableness), the owner, and the tenancy;
- Make housing assistance payments to the owner in a timely manner;
- Recertify families for continued eligibility under the program;
- Ensure that owners and families comply with their contractual obligations;
- Provide families and owners with prompt, professional service; and
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, the PHA's administrative plan, and other applicable federal, state, and local laws.

What Does the Owner Do?

The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine suitability as renters.
 - The PHA can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.
 - The owner should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.

- Comply with the terms of the Housing Assistance Payments contract executed with the PHA;
- Comply with all applicable fair housing laws and do not discriminate against anyone;
- Maintain the housing unit in accordance with Housing Quality Standards (HQS) and make necessary repairs in a timely manner; and
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

What Does the Family Do?

The family has the following responsibilities:

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

1-II.D. Applicable Regulations

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 35: Lead-Based Paint
- 24 CFR Part 100: The Fair Housing Act
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
- 24 CFR Part 983: Project-Based Vouchers
- 24 CFR Part 985: The Section 8 Management Assessment Program (SEMAP)

NOTE: The HCV Guidebook is referenced throughout the administrative plan. Currently the Guidebook is not available from HUD's website. Commerce has saved a copy of the Guidebook and will post it on their website.

Part III: The HCV Administrative Plan

1-III.A. Overview and Purpose of the Plan

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

This administrative plan is set forth to define the PHA's local policies for operation of the housing programs in accordance with federal laws and regulations. All issues related to the HCV program not addressed in this document are governed by such federal regulations, HUD handbooks and guidebooks, notices, and other applicable law. The policies in this administrative plan have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding.

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

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

1-III.B. Contents of the Plan [24 CFR 982.54]

The HUD regulations at 24 CFR 982.54 define the policies that must be included in the administrative plan. They are as follow:

- Selection and admission of applicants from the PHA waiting list, including any PHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and opening the PHA waiting list (Chapter 4);
- Issuing or denying vouchers, including PHA policy governing the voucher term and any extensions of the voucher term. If the PHA decides to allow extensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions, and how the PHA determines the length of any extension (Chapter 5);
- Any special rules for use of available funds when HUD provides funding to the PHA for a special purpose (e.g., desegregation), including funding for specified families or a specified category of families (Chapter 4);
- Occupancy policies, including definition of what group of persons may qualify as a 'family', definition of when a family is considered to be 'continuously assisted', standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance to 982.553 (Chapters 3 and 12);
- Encouraging participation by owners of suitable units located outside areas of low-income or minority concentration (Chapter 13);

- Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit (Chapter 2);
- Providing information about a family to prospective owners (Chapter 3 and 9);
- Disapproval of owners (Chapter 13);
- Subsidy standards (Chapter 5)
- Family absence from the dwelling unit (Chapter 12);
- How to determine who remains in the program if a family breaks up (Chapter 3);
- Informal review procedures for applicants (Chapter 16);
- Informal hearing procedures for participants (Chapter 16);
- The process for establishing and revising voucher payment standards, including policies on administering decreases in the payment standard during the HAP contract term (Chapter 16);
- The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract) (Chapter 8);
- Special policies concerning special housing types in the program (e.g., use of shared housing) (Chapter 15);
- Policies concerning payment by a family to the PHA of amounts the family owes the PHA (Chapter 16);
- Interim redeterminations of family income and composition (Chapter 11);
- Restrictions, if any, on the number of moves by a participant family (Chapter 10);
- Approval by the board of commissioners or other authorized officials to charge the administrative fee reserve (Chapter 16);
- Procedural guidelines and performance standards for conducting required HQS inspections (Chapter 8);
- PHA screening of applicants for family behavior or suitability for tenancy (Chapter 3); and
- Policies governing the project-basing of vouchers in both the standard Project-Based Voucher (PBV) program (Chapter 17) and the RAD Project-Based Voucher program (Chapter 18); and
- Special policies governing any special purpose vouchers issued by the PHA (Chapter 19).

Mandatory vs. Discretionary Policy

HUD makes a distinction between:

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

HUD expects PHAs to adopt local policies and procedures that are consistent with mandatory policies in areas where HUD gives the PHA discretion. The PHA's administrative plan is the foundation of those policies and procedures. HUD's directions require PHAs to make policy choices that provide sufficient guidance to staff and ensure consistency to program applicants and participants.

Creating policies based upon HUD guidance is not mandatory but provides a PHA with a "safe harbor." HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. If a PHA adopts an alternative strategy, it must make its own determination that the

alternative approach is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than HUD's safe harbor, but PHAs should carefully think through those decisions.

1-III.C. Organization of the Plan

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

1-III.D. Updated and Revising the Plan

The PHA will revise this administrative plan as needed to comply with changes in HUD regulations. The original plan and any changes must be approved by the board of commissioners of the agency, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

Commerce Policy

Commerce will review and update the plan as needed, to reflect changes in regulations, Commerce operations, or when needed to ensure staff consistency in operation.