



# REQUEST FOR HOUSING AUTHORITY ACTION

MEETING DATE:

DECEMBER 1, 2020

TITLE:

**APPROVE AN UPDATE TO THE  
HOUSING CHOICE VOUCHER  
PROGRAM ADMINISTRATIVE PLAN**

A handwritten signature in black ink, appearing to be "S. M.", written over a horizontal line.

EXECUTIVE DIRECTOR

RECORDING SECRETARY USE ONLY:

APPROVED

☐ As Recommended  
☐ As Amended

CONTINUED TO \_\_\_\_\_

## **RECOMMENDED ACTION**

Approve an update to two chapters in the Housing Choice Voucher Administrative Plan and authorize submission to the United States Department of Housing and Urban Development.

## **DISCUSSION**

The U. S. Department of Housing and Urban Development (HUD) requires housing authorities that administer a Housing Choice Voucher (HCV) program to have an Administrative Plan. The purpose of the HCV Administrative Plan is to establish policies for implementing the HCV program in a manner consistent with HUD requirements and local goals and objectives contained in Santa Ana Housing Authority's (SAHA's) 5-Year and Annual Plans. The HCV Administrative Plan defines SAHA's local policies for the operation of the HCV program in the context of federal laws and regulations. The Administrative Plan also informs the public and staff about the housing authority policies and explains how the Santa Ana Housing Authority will implement those policies. All issues related to the HCV program not addressed in the Administrative Plan are governed by federal regulations, HUD handbooks and guidebooks, notices and other applicable law. The HCV Administrative Plan was last updated and approved by City Council on March 15, 2016.

Due to the COVID-19 pandemic and the increase in the number of families assisted by the Housing Authority over the last few years, staff are recommending an update to the following Chapters:

- Chapter 7-I.D. Third-Party Written and Oral Verification
- Chapter 16-III Informal Reviews and Hearings

For the update to Chapter 7-1.D., staff seeks to streamline the process to recertify a family's eligibility each year by reducing the administrative burden on the Housing Authority and the family to provide verifications for their assets valued at less than \$5,000. With this update, families will be able to efficiently self-certify the value of their assets and anticipated asset income if the net value of their assets is less than \$5,000. The income that families earn from assets is generally very small relative to their income from employment and other sources, so this update will have a minimal impact on the calculation of each family's housing assistance payment.

For the update to Chapter 16-III, staff seeks to update the policies and procedures for informal reviews and hearings to allow for remote reviews/hearings in response to physical distancing orders due to the COVID-19 pandemic, now and in the future. In addition, staff are going to begin working with a representative from the City's Parks and Recreation Department to serve as an Informal Hearing Officer instead of a contracted Informal Hearing Officer. The City's representative has been trained on how to serve as an impartial Informal Hearing Officer to oversee due process hearings for the Housing Authority. This update will save the Housing Authority money by not paying for a contracted Informal Hearing Officer.

The updates to Chapter 7 and 16 are attached to this Staff Report in final format (Exhibit 1) and with redlines (Exhibit 2) showing the revisions that are being recommended by staff. Following approval by City Council, staff will incorporate these updated Chapters into the HCV Administrative Plan and submit the updated HCV Administrative Plan to HUD.

**FISCAL IMPACT**

There is no fiscal impact associated with this action.

Submitted By: Judson Brown, Housing Division Manager

Exhibits: 1. Final Administrative Plan Chapters 7 and 16  
2. Redline Administrative Plan Chapters 7 and 16



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# **ADMINISTRATIVE PLAN**

**FOR THE  
HOUSING AUTHORITY OF THE  
CITY OF SANTA ANA**

Steven A. Mendoza  
Executive Director

Judson Brown  
Housing Division Manager

**Approved by the Housing Authority of the City of Santa Ana: December 1, 2020**

## **Chapter 7**

### **VERIFICATION**

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH 2010-19]

#### **INTRODUCTION**

SAHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. SAHA must not pass on the cost of verification to the family.

SAHA will follow the verification guidance provided by HUD in Notice PIH 2010-19 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary SAHA policies.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of SAHA.

## **PART I: GENERAL VERIFICATION REQUIREMENTS**

### **7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230]**

The family must supply any information that SAHA or HUD determines is necessary to the administration of the program and must consent to SAHA verification of that information [24 CFR 982.551].

#### **Consent Forms**

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and SAHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

#### **Penalties for Failing to Consent [24 CFR 5.232]**

If any family member who is required to sign a consent form fails to do so, SAHA will deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with SAHA procedures.

### **7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS**

#### **HUD's Verification Hierarchy [Notice PIH 2010-19]**

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires SAHA to use the most reliable form of verification that is available and to document the reasons when SAHA uses a lesser form of verification.

#### **SAHA Policy**

In order of priority, the forms of verification that SAHA will use are:

- **Upfront Income Verification (UIV)** using HUD's Enterprise Income Verification (EIV) system
- **Upfront Income Verification (UIV)** using non-HUD system
- **Written third Party Verification** (may be provided by applicant or participant)
- **Written Third Party Verification Form**
- **Oral Third Party Verification**
- **Self-Certification** (Use as a last resort when unable to obtain any type of third party verification)

Each of the verification methods is discussed in subsequent sections below.

## **Requirements for Acceptable Documents**

### SAHA Policy

Any documents used for verification must be dated within 60 days of the interview date with SAHA. The documents must not be damaged, altered or in any way illegible.

Print-outs from Web pages are considered original documents.

Any family self-certifications must be made in a format acceptable to SAHA.

## **File Documentation**

SAHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that SAHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

### SAHA Policy

SAHA will document in the family file the following:

- Reported family annual income
- Value of assets
- Expenses related to deductions from annual income
- Other factors influencing adjusted income

When SAHA is unable to obtain third-party verification, SAHA will document in the family file the reason that third-party verification was not available [24 CFR 982.516(a) (2); Notice PIH 2010-19].

## **7-I.C. UP-FRONT INCOME VERIFICATION (UIV)**

Up-front income verification (UIV) refers to SAHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to SAHA.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until SAHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of SAHA.

See Chapter 6 for SAHA's policy on the use of UIV/EIV to project annual income.

### **Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)**

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income in accordance with 24 CFR 5.236 and administrative guidance issued by HUD. The EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. The following policies apply to the use of HUD's EIV system.

#### ***EIV Income Reports***

The data shown on income reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

#### **SAHA Policy**

SAHA will obtain income reports for annual re-examinations on a monthly basis. Reports will be generated as part of the regular re-examination process.

Income reports will be compared to family provided information as part of the annual re-examination process. Income reports may be used in the calculation of annual income as described in Chapter 6-I.C. Income reports will also be used to meet the regulatory requirements for third party verifications, as described above. Policies for resolving discrepancies between income reports and family provided information will be resolved as described in Chapter 6-I.C. and in this chapter.

Income reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify and calculate earned income, unemployment benefits, Social Security and or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

EIV income reports will be retained in participant files with the applicable annual or interim re-examination documents.

When SAHA determines through income reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

***EIV Identity Verification***

The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2012-10].

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

**SAHA Policy**

SAHA will identify participants whose identity verification has failed by reviewing EIV's Identity Verification Report on a monthly basis.

SAHA will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When SAHA determines that the discrepancies exist due to staff error such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

**Upfront Income Verification Using Non-HUD Systems (Optional)**

In addition to mandatory use of the EIV system, HUD encourages PHAs to utilize other upfront verification sources.

**SAHA Policy**

SAHA will inform all applicants and participants of its use of the following EIV resources during the admission and reexamination process.

In addition to mandatory use of the EIV system, SAHA will also utilize other up-front verification sources, such as The Work Number (an automated verification system) and state government databases, to validate tenant-reported income.

**7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION**

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to SAHA by the family. If written third-party verification is not available, SAHA must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

**Written Third-Party Verification [Notice PIH 2010-19]**

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or



printouts, and unemployment monetary benefit notices.

SAHA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

SAHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

#### SAHA Policy

Third party documents provided by the family must be dated within 60 days of the interview date with SAHA.

If SAHA determines that third-party documents provided by the family are not acceptable, SAHA will explain the reason to the family and request additional documentation.

As verification of earned income, SAHA will generally request pay stubs covering the last 3 months.

### **Written Third-Party Verification Form**

When upfront verification is not available and the family is unable to provide written third-party documents, SAHA must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks which may be reduced through the use of family-provided third-party documents.

PHAs may mail, fax, or e-mail third-party written verification form requests to third-party sources.

#### SAHA Policy

SAHA may mail, fax, e-mail third-party written verification requests and will accept third-party responses using any of these methods. SAHA will send a written request for verification as needed to each required source within 7 days of securing a family's authorization for the release of the information. If a response has not been received by the 15<sup>th</sup> day, SAHA will send a second request, or will request third-party oral verification.

### **Oral Third-Party Verification [Notice PIH 2010-19]**

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Oral third-party verification is mandatory if neither form of written third-party verification is available.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs should document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

SAHA Policy

SAHA staff will document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information/facts provided.

When any source responds verbally to the initial written request for verification, SAHA staff will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

**When Third-Party Verification is Not Required [Notice PIH 2010-19]**

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

SAHA Policy

If the family cannot provide original documents, SAHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. SAHA will also consider that third-party verification is not available when there is a service charge for verifying an asset or expense. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets and expenses is not an unreasonable cost [VG. P. 18].

***Primary Documents***

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

***Imputed Assets***

HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

SAHA Policy

SAHA will not accept a self-certification from a family as verification of assets disposed of for less than fair market value.

***Value of Assets and Asset Income [24 CFR 982.516(a)]***

For families with net assets totaling \$5,000 or less, SAHA may accept the family's declaration of asset value and anticipated asset income. However, SAHA is required to obtain third-party verification of all assets regardless of the amount during the intake process and at least every three years thereafter.

SAHA Policy

For families with net assets totaling \$5,000 or less, SAHA will accept the family's self-certification of the value of family assets and anticipated asset income when applicable. The family's declaration must show each asset and the amount of income expected from

that asset. All family members 18 years of age and older must sign the family's declaration.

SAHA will use third-party documentation for assets as part of the intake process, whenever a family member is added to verify the individual's assets, and every three years thereafter.

#### **7-I.E. SELF-CERTIFICATION**

Self-certification, or "tenant declaration," is used as a last resort when SAHA is unable to obtain third-party verification.

When SAHA relies on a tenant declaration for verification of income, assets, or expenses, the family's file must be documented to explain why third-party verification was not available.

##### SAHA Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to SAHA. SAHA staff must document the family's file to explain why third-party verification was not available when SAHA relies on tenant declaration for verification of income, assets, or expenses.

SAHA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to SAHA and must be signed by the family member whose information or status is being verified.

## PART II: VERIFYING FAMILY INFORMATION

### 7-II.A. VERIFICATION OF LEGAL IDENTITY

#### SAHA Policy

SAHA will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicles identification card U.S. military discharge (DD 214) Current U.S. passport Current Employer identification card	Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified school records

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at SAHA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to SAHA and be signed in the presence of a SAHA representative or SAHA notary public.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where SAHA has reason to doubt the identity of a person representing him or herself to be a participant.

### 7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216, Notice PIH 2012-10]

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

Note that an individual who previously declared to have eligible immigration status may not change his or her declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

SAHA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

SAHA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

#### SAHA Policy

SAHA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN within 90 days.

SAHA will grant one additional 90-days extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, SAHA will terminate the individual's assistance.

In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within 90 calendar days from the date of admission into the program. SAHA must grant one additional 90-day extension if it determines that the applicant's failure to comply was due to circumstances that were beyond the applicant's control and could not have been reasonably foreseen.

When a participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. SAHA may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if SAHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period SAHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

#### SAHA Policy

SAHA will grant one additional 90-day extension if needed for reasons beyond the participants control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

Social security numbers must be verified only once during continuously-assisted occupancy.

SAHA Policy

SAHA will verify each disclosed SSN by:

- Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers
- Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file

Once the individual's verification status is classified as "verified," SAHA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

SAHA Policy

Once an individual's status is classified as "verified" in HUD's EIV system, SAHA will remove and destroy copies of documentation accepted as evidence of social security numbers.

**7-II.C. DOCUMENTATION OF AGE**

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

SAHA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, SAHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously-assisted occupancy.

**7-II.D. FAMILY RELATIONSHIPS**

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

SAHA Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

**Marriage**SAHA Policy

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Certification by the head of household is normally sufficient verification. If SAHA has reasonable doubts about a marital relationship, SAHA will require the family to document the marriage.

**Separation or Divorce**SAHA Policy

A certified copy of a divorce decree, signed by a court officer, may be required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record may be required to document a separation.

**Absence of Adult Member**SAHA Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

**Foster Children and Foster Adults**SAHA Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

**7-II.E. VERIFICATION OF STUDENT STATUS****General Requirements**SAHA Policy

SAHA requires families to provide verification of student status at the time of eligibility appointment for all family members of school age. Verification of status is also required for all students who are 18 years of age or older. This information will be verified only if:

- The family claims full-time student status for an adult other than the head, spouse, or co-head, or
- The family claims a childcare deduction to enable a family member to further his or her education.
- The family includes a student enrolled in an *institution of higher education*.

Verification of full-time student status includes all of the following:

- Written verification from the registrar's office or other school official.
- School records indicating enrollment in sufficient credits to qualify as full-time by the educational institution.
- Final report of units completed will be required to provide at the family's annual re-examination or as needed.

Full-time students that are over eighteen (18) years of age and are employed are required to provide an official transcript from each institution of higher education at the family's annual re-examination or as needed.

### **Restrictions on Assistance to Students Enrolled in Institutions of Higher Education**

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

#### SAHA Policy

In accordance with the verification hierarchy described in section 7-1.B, SAHA will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see Section Exhibit 3-2).
- The student is at least 24 years old.
- The student is a veteran, as defined in Section 3-II.E.
- The student is married.
- The student has at least one dependent child, as defined in Section 3-II.E.
- The student is a person with disabilities, as defined in Section 3-II.E, and was receiving assistance prior to November 30, 2005.

If SAHA cannot verify at least one of these exemption criteria, SAHA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, SAHA will then proceed to verify either the student's parents' income eligibility (see section 7-III.J) or the student's independence from his/her parents (see below).

### ***Independent Student***

#### SAHA Policy

SAHA will verify a student's independence from his/her parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

- Either reviewing or verifying previous address information to determine whether the student has established a household separate from his/her parents for at least one year or reviewing and verifying documentation relevant to



determining whether the student meets the U.S. Department of Education's definition of *independent student* (see Section 3-II.E).

- Reviewing prior year income tax returns to verify whether a parent has claimed the student as a dependent.
- Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is \$0.

## **7-II.F. DOCUMENTATION OF DISABILITY**

SAHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. SAHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. SAHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If SAHA receives a verification document that provides such information, SAHA will not place this information in the tenant file. Under no circumstances will SAHA request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at <http://www.hhs.gov/ocr/privacy/>.

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

### **Family Members Receiving SSA Disability Benefits**

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

#### SAHA Policy

For family members claiming disability who receive disability benefits from the SSA, SAHA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system when it is available. If documentation from HUD's EIV System is not available, SAHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), SAHA will ask the family to

request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the applicant or participant receives the benefit verification letter they will be required to provide it to SAHA.

### **Family Members Not Receiving SSA Disability Benefits**

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403.

#### SAHA Policy

For family members claiming disability who do not receive disability benefits from the SSA, a licensed professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The licensed professional will verify whether the family member does or does not meet the HUD definition.

## **7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]**

### **Overview**

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and SAHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy. [24 CFR 5.508(g)(5)]

### **U.S. Citizens and Nationals**

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

SAHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

#### SAHA Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless SAHA receives information indicating that an individual's declaration may not be accurate.

## **Eligible Immigrants**

### ***Documents Required***

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

### ***SAHA Verification*** [HCV GB, pp. 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, SAHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

SAHA will follow all USCIS protocols for verification of eligible immigration status.

SAHA will accept the following documents as evidence of eligible immigration status, subject to verification:

- (1) Form 1-151, Alien Registration Receipt Card (issued to lawful permanent residents prior to 1979). Form 1-151 will no longer be valid after March 20, 1996.
- (2) Form 1-5,1, Alien Registration Receipt Card (for permanent resident aliens)
- (3) Form 1-94, Arrival-Departure Record, with one of the following annotations:
  - (a) "Admitted as Refugee Pursuant to Section 207"
  - (b) "Section 208" or "Asylum"
  - (c) "Section 243(h)" or "Deportation stayed by Attorney General"
  - (d) "Paroled pursuant to Section 212 (d) (5) of the INA"
- (4) If Form 1-94, Arrival-Departure Record, is not annotated, then accompanied by one of the following documents:
  - (a) A final court decision granting asylum (but only if no appeal is taken)
  - (b) A letter from an INS asylum officer granting asylum (if application is filed on or after October 1, 1990) or from an INS district director granting asylum (if application filed before October 1, 1990)
  - (c) A court decision granting withholding of deportation
  - (d) A letter from an asylum officer granting withholding of deportation (if application filed on or after October 1, 1990)
- (5) Form 1-668, Temporary Resident Card, which must be annotated "Section 245A" or "Section 210"

- (6) Form 1-688B, Employment Authorization Card, which must be annotated “Provision of Law 274a.12(11)” or “Provision of Law 274a.12”

## 7-II.H. VERIFICATION OF PREFERENCE STATUS

SAHA must verify any preferences claimed by an applicant that determined placement on the Waiting List.

### SAHA Policy

1. **United States Military Veteran Preference:** The veteran must have been discharged under conditions other than dishonorable and were/is eligible to receive veteran’s benefits. Form DD-214 with a discharge status of other than dishonorable, or equivalent verification, must be provided at their eligibility interview appointment. The individual must have served a minimum of 90 days to qualify for the preference. “Surviving spouse” means not divorced from, or not remarried prior to or after the death of the veteran. A marriage and death certificate will be required for a surviving spouse.
2. **Residency Preference:** At least two pieces of evidence must be provided for families who live or work in the City of Santa Ana including but not limited to a lease, utility bills, bank statements, or paycheck stubs.

SAHA will offer priority to any family that has been terminated from its HCV program due to insufficient program funding. SAHA will verify this preference using termination records.

### *Homeless Individuals and Families Set-Aside Preference*

In accordance with PIH Notice 2013-15, SAHA will accept direct referrals to the HCV Program for the following target population:

- **Homeless Individuals and Families:** To qualify for this preference, homeless individuals and families must be referred by agencies with a contract or Memorandum of Understanding (MOU) in place with the Housing Authority, or by Community Based Organizations (CBO’s) contracted with the Housing Authority. The referring agency must provide a certification of the family’s homeless status. Additionally, families already registered on the Waiting List who declare themselves as homeless, but are not referred by a CBO must provide a certification of their homeless status from an agency that has an MOU in place with the Housing Authority.

All preferences must be applicable and verifiable at the time of selection from the Waiting List.

### **PART III: VERIFYING INCOME AND ASSETS**

Chapter 6, Part I of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides SAHA policies that supplement the general verification procedures specified in Part I of this chapter.

#### **7-III.A. EARNED INCOME**

##### **Tips**

###### SAHA Policy

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

##### **Wages**

###### SAHA Policy

For wages other than tips, the family must provide originals for past six months of consecutive pay stubs or whatever is applicable for initial eligibility and three months consecutive pay stubs or whatever is applicable for reexaminations.

#### **7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME**

###### SAHA Policy

Business owners and self-employed persons will be required to provide:

- A statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.
- All schedules completed for filing federal and local taxes in the preceding year.
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.
- SAHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.
- At any reexamination, SAHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

- If the family member has been self-employed for three (3) to twelve (12) months SAHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

### 7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

#### Social Security/SSI Benefits

##### SAHA Policy

To verify the SS/SSI benefits of applicants, SAHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), SAHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the applicant has received the benefit verification letter they will be required to provide it to SAHA.

To verify the SS/SSI benefits of participants, SAHA will obtain information about social security/SSI benefits through the HUD EIV System and confirm with the participant(s) that the current listed benefit amount is correct. If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, SAHA will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) SAHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the participant has received the benefit verification letter they will be required to provide it to SAHA.

### 7-III.D. ALIMONY OR CHILD SUPPORT

##### SAHA Policy

The way SAHA will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that it ***receives regular payments***, verification will be sought in the following order:

- Receipts and/or payment stubs for the 90 days prior to SAHA's appointment or as needed.
- Third-party verification form/printout from the state or local child support enforcement agency for record of payments for the past 12 months and request that the entity disclose any known information about the likelihood of future payments.
- Third-party verification form from the person paying the support.

- Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.
- A separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules

### **7-III.E. ASSETS AND INCOME FROM ASSETS**

#### **Assets Disposed of for Less than Fair Market Value**

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. SAHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

##### SAHA Policy

SAHA will verify the value of assets disposed of only if the amount reported by the family in the reexamination appears obviously in error on its market value.

**Example 1:** An elderly participant reported a \$10,000 certificate of deposit at the last annual reexamination and SAHA verified this amount. Now the person reports that she has given this \$10,000 to her son. SAHA has a reasonable estimate of the value of the asset; therefore, re-verification of the value of the asset is not necessary.

**Example 2:** A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, SAHA will verify the value of this asset.

### **7-III.F. NET INCOME FROM RENTAL PROPERTY**

##### SAHA Policy

The family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current tenant.
- A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If Schedule E was not prepared, SAHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

### 7-III.G. RETIREMENT ACCOUNTS

#### SAHA Policy

SAHA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of document that will be accepted depends upon the family member's retirement status:

- *Before* retirement, SAHA will accept a copy of document provided from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 120 days from the effective date of the re-examination.
- SAHA will send third party verification to determine if family has access to the account to determine penalties, early withdrawal fees, and any related fees.
- SAHA will consider limited access as having no access.
- *Upon* retirement, SAHA will accept a copy of document provided from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.
- *After* retirement, SAHA will accept a copy of document provided from the entity holding the account dated no earlier than 90 days before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

### 7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, SAHA is **not** required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example, food stamps, earned income of a minor, or foster care funds) [Notice PIH 2013-04].

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, SAHA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be



excluded and the remainder is included in annual income (for example, the income of an adult full-time student, or income excluded under the earned income disallowance).

#### SAHA Policy

SAHA will accept the family's self-certification as verification of fully excluded income. SAHA may request additional documentation if necessary to document the income source.

SAHA will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

### **7-III.I. ZERO ANNUAL INCOME STATUS**

#### SAHA Policy

SAHA will require a self-certification statement of zero income from all adult family members that are not attending school or any type of training.

For zero income families SAHA requires these families to undergo a file review every 90 days.

### **7-III.J. STUDENT FINANCIAL ASSISTANCE**

Any financial assistance, in excess of amounts received for tuition, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving HCV assistance [24 CFR 5.609(b)(9) and FR 4/10/06].

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income [24 CFR 5.609(c)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 3-2). Excluded amounts are verified only if, without verification, SAHA would not be able to determine whether or to what extent the income is to be excluded (see section 7-III.H).

#### SAHA Policy

For a student subject to having a portion of his/her student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), SAHA will request written third-party verification of both the source and the amount. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, SAHA will request written verification of the student's tuition amount.

If SAHA is unable to obtain third-party written verification of the requested information, SAHA will pursue other forms of verification following the verification hierarchy in Section 7-I.B.

### **7-III.K. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS**

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from his or her parents in accordance with SAHA policy [24 CFR 5.612 and FR 4/10/06, p. 18146].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

#### **SAHA Policy**

If SAHA is required to determine the income eligibility of a student's parents, SAHA will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E). SAHA will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to SAHA. The required information must be submitted (postmarked) within 14 days of the date of SAHA's request or within any extended timeframe approved by SAHA.

SAHA reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

## **PART IV: VERIFYING MANDATORY DEDUCTIONS**

### **7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS**

The dependent and elderly/disabled family deductions require only that SAHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

#### **Dependent Deduction**

See Chapter 6 (6-II.B.) for a full discussion of this deduction. SAHA must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

#### **Elderly/Disabled Family Deduction**

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. SAHA must verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

### **7-IV.B. MEDICAL EXPENSE DEDUCTION**

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

#### **Amount of Expense**

##### SAHA Policy

Medical expenses will be verified through:

- Written third-party documents provided by the family, such as pharmacy printouts or receipts.
- SAHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. SAHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months. SAHA will use monthly payments or total balance whichever is less.

In addition, SAHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

**Eligible Household**

The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62, or a person with disabilities. SAHA must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

**Qualified Expenses**

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for SAHA's policy on what counts as a medical expense.

**Unreimbursed Expenses**

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

SAHA Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

**Expenses Incurred in Past Years**SAHA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, SAHA will verify:

- The anticipated repayment schedule
- The amounts paid in the past, and
- The amounts to be repaid have been deducted from the family's annual income in past years.

**7-IV.C. DISABILITY ASSISTANCE EXPENSES**

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

**Amount of Expense***Attendant Care*SAHA Policy

SAHA will accept written third-party documents provided by the family.

If family-provided documents are not available, SAHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelled checks.
- Third-party verification form signed by the provider, if family-provided documents are not available

### ***Auxiliary Apparatus***

#### **SAHA Policy**

Expenses for auxiliary apparatus will be verified through:

- Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.
- Third-party verification form signed by the provider, if family-provided documents are not available.

In addition, SAHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

### **Family Member is a Person with Disabilities**

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. SAHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

### **Family Member(s) Permitted to Work**

SAHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

#### **SAHA Policy**

SAHA will request third-party verification from a licensed medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

### **Unreimbursed Expenses**

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

SAHA Policy

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

**7-IV.D. CHILD CARE EXPENSES**

Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, SAHA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of child care.
- The costs are reasonable.

**Eligible Child**

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. SAHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

**Unreimbursed Expense**

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

SAHA Policy

The family and the child care provider will be required to certify that, the child care expenses are not paid by or reimbursed to the family from any source.

**Pursuing an Eligible Activity**

SAHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

SAHA Policy*Information to be gathered*

SAHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

*Seeking Work*

Whenever possible SAHA will use documentation from a state or local agency that monitors work-related requirements (e.g., TANF or unemployment). In such cases SAHA will request family-provided verification from the agency of the member's job seeking

efforts to date and require the family to submit to SAHA any reports provided to the other agency.

In the event third-party verification is not available, SAHA will provide the family with a form on which the family member must record job search efforts. SAHA will review this information at each subsequent reexamination for which this deduction is claimed.

#### *Furthering Education*

SAHA will request third-party documentation to verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

#### *Gainful Employment*

SAHA will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

### **Allowable Type of Child Care**

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

#### SAHA Policy

SAHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

SAHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

SAHA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

### **Reasonableness of Expenses**

Only reasonable child care costs can be deducted.

#### SAHA Policy

The actual costs the family incurs will be compared with SAHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, SAHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

<b>EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10]</b>	
<ul style="list-style-type: none"> <li>All noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to SAHA.</li> <li>Except for persons 62 or older, all noncitizens must sign a verification consent form</li> <li>Additional documents are required based upon the person's status.</li> </ul>	
<b>Elderly Noncitizens</b> <ul style="list-style-type: none"> <li>A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.</li> </ul>	
<b>All other Noncitizens</b> <ul style="list-style-type: none"> <li>Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.</li> </ul>	
<ul style="list-style-type: none"> <li>Form I-551 Alien Registration Receipt Card (for permanent resident aliens)</li> <li>Form I-94 Arrival-Departure Record annotated with one of the following:               <ul style="list-style-type: none"> <li>“Admitted as a Refugee Pursuant to Section 207”</li> <li>“Section 208” or “Asylum”</li> <li>“Section 243(h)” or “Deportation stayed by Attorney General”</li> <li>“Paroled Pursuant to Section 221 (d)(5) of the USCIS”</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Form I-94 Arrival-Departure Record with no annotation accompanied by:               <ul style="list-style-type: none"> <li>A final court decision granting asylum (but only if no appeal is taken);</li> <li>A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);</li> <li>A court decision granting withholding of deportation; or</li> <li>A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.</li> </ul>	Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.
<ul style="list-style-type: none"> <li>A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or</li> <li>Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the <i>Federal Register</i></li> </ul>	



## Chapter 16

### PROGRAM ADMINISTRATION

#### INTRODUCTION

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

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

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

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

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

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

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

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes SAHA's responsibilities for reporting, data collection, and record keeping relative to children with environmental intervention blood lead levels that are less than six years of age, and are receiving HCV assistance.

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

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

**PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]**

SAHA will maintain administrative fee reserves, or unrestricted net assets (UNA) for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a SAHA fiscal year. HUD appropriations acts beginning with FFY 2004 have specified that administrative fee funding may be used only for activities related to the provision of HCV assistance, including related development activities. Notice PIH 2012-9 cites two examples of related development activities: unit modification for accessibility purposes and development of project-based voucher units. The notice makes clear that other activities may also qualify as related development activities. Administrative fees that remain in the UNA account from funding provided prior to 2004 may be used for “other housing purposes permitted by state and local law,” in accordance with 24 CFR 982.155(b)(1).

If a PHA has not adequately administered its HCV program, HUD may prohibit use of funds in the UNA Account and may direct the PHA to use funds in that account to improve administration of the program, for HCV HAP expenses, or to reimburse ineligible expenses in accordance with the regulation at 24 CFR 982.155(b)(3).

HUD requires SAHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the UNA account without specific approval.

**SAHA Policy**

Expenditures from the administrative fee reserve will be made in accordance with all applicable Federal requirements. Expenditures will not exceed \$25,000 per occurrence without the prior approval of the Housing Authority of the City of Santa Ana (Santa Ana City Council).

## PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

### 16-II.A. OVERVIEW

Although many of the program's requirements are established centrally by HUD, the HCV program's regulations recognize that some flexibility is required to allow SAHA to adapt the program to local conditions. This part discusses how SAHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- *Payment Standards*, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
- *Utility Allowances*, which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

#### SAHA Policy

Copies of the payment standard and utility allowance schedules are available in SAHA's offices during normal business hours and on the City of Santa Ana website.

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

SAHA will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

Establishing and updating SAHA passbook rate, which is used to calculate imputed income from assets, is covered in Chapter 6 (see Section 6-I.G.).

### 16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7]

The payment standard sets the maximum subsidy payment a family can receive from SAHA each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

SAHA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within SAHA's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, SAHA may establish a single payment standard amount for the whole FMR area, or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, SAHA is required to establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

#### **Updating Payment Standards**

When HUD updates its FMRs, SAHA must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require SAHA to make further

adjustments if it determines that rent burdens for assisted families in SAHA's jurisdiction are unacceptably high 24 CFR 982.503(g)].

### SAHA Policy

SAHA will review the appropriateness of the payment standards on an annual basis when the new FMR is published. In addition to ensuring the payment standards are always within the "basic range" SAHA will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

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

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

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

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

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

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

Changes to payment standard amounts will be effective on December 1<sup>st</sup> of every year unless, based on proposed FMRs, it appears that one or more of SAHA's current payment standard amounts will be outside the basic range when the final FMRs are published. In that case, SAHA's payment standards will be effective on October 1<sup>st</sup> instead of December 1<sup>st</sup>.

### **Exception Payment Standards [982.503(c)]**

SAHA must request HUD approval to establish payment standards that are higher than the basic range. At HUD's sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area. Any SAHA with jurisdiction in

the exception area may use the HUD-approved exception payment standard amount. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

**Unit-by-Unit Exceptions [24 CFR 982.503(c)(2)(ii), 24 CFR 982.505(d), Notice PIH 2010-26]**

Unit-by-unit exceptions to SAHA's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect SAHA's payment standard schedule.

When needed as a reasonable accommodation, SAHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 110 percent of the applicable FMR for the unit size [HCV GB 7-9]. SAHA may request HUD approval for an exception to the payment standard for a particular family if the required amount falls between 110 and 120 percent of the FMR.

**SAHA Policy**

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, SAHA must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and
- The rent for the unit is reasonable.

**"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]**

If a substantial percentage of families have difficulty finding a suitable unit, SAHA may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows SAHA to set its payment standards at 90-110 percent of a higher FMR (the 50<sup>th</sup>, rather than the 40<sup>th</sup> percentile FMR). To support the request, SAHA must demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants;
- SAHA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- SAHA had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, SAHA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of SAHA's jurisdiction within the FMR area.

**Decreases in the Payment Standard below the Basic Range [24 CFR 982.503(d)]**

SAHA must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share

for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

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

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

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, SAHA must use normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, SAHA must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type. Chapter 18 of the *HCV Guidebook* provides detailed guidance to SAHA about establishing utility allowance schedules.

#### **Air Conditioning**

An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

#### SAHA Policy

SAHA will not include an allowance for air-conditioning in its schedule.

#### **Reasonable Accommodation**

HCV program regulations require a SAHA to approve a utility allowance amount higher than shown on SAHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, SAHA will approve an allowance for air-conditioning, even if SAHA has determined that an allowance for air-conditioning generally is not needed (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

#### **Utility Allowance Revisions**

SAHA must review its schedule of utility allowances each year, and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised.

SAHA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

## **PART III: INFORMAL REVIEWS AND HEARINGS**

### **16-III.A. OVERVIEW**

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

The process for applicant appeals of SAHA decisions is called the “informal review.” For participants (or applicants denied admission because of citizenship issues), the appeal process is called an “informal hearing.” PHAs are required to include informal review procedures for applicants and informal hearing procedures for participants in their administrative plans [24 CFR 982.54(d)(12) and (13)].

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

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a “minimum hearing requirement” [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements [*Federal Register* 60, no. 127 (3 July 1995): 34690].

#### **Decisions Subject to Informal Review**

SAHA must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on SAHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by SAHA
- General policy issues or class grievances
- A determination of the family unit size under SAHA subsidy standards
- SAHA determination not to approve an extension or suspension of a voucher term
- SAHA determination not to grant approval of the tenancy
- SAHA determination that the unit is not in compliance with the HQS
- SAHA determination that the unit is not in accordance with the HQS due to family size or composition

#### SAHA Policy

SAHA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on SAHA’s waiting list; denying or

withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

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

SAHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for SAHA decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

#### **Scheduling an Informal Review**

##### SAHA Policy

A request for an informal review must be made in writing and delivered to SAHA either in person or by first class mail, by the close of the business day, no later than 14 days from the date of SAHA's notice of denial of assistance.

Except as provided in Section 3-III.G, SAHA will schedule and send written notice of the informal review within 14 days of the family's request.

#### **Remote Informal Reviews**

All PHA policies and processes for remote informal reviews must be conducted in accordance with due process requirements and be in compliance with HUD regulations.

##### SAHA Policy

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

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

#### **Conducting Remote Informal Reviews**

The PHA must ensure that the applicant has the right to hear and be heard.

##### SAHA Policy

SAHA will conduct remote informal reviews via telephone conferencing call-in or via videoconferencing. If the informal review will be conducted via videoconferencing, SAHA will ensure that all applicants, applicant representatives, SAHA representatives and the person conducting the informal review can adequately access the platform (i.e., hear, be heard, see, and be seen). If any applicant, applicant representative, SAHA representative, or person conducting the informal review is unable to effectively utilize the videoconferencing platform, the informal review will be conducted by telephone conferencing call-in.



Whether the informal review is to be conducted via videoconferencing or telephone call-in, SAHA will provide all parties login information and/or conferencing call-in information before the review.

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

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of SAHA.

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

SAHA must notify the applicant of SAHA's final decision, including a brief statement of the reasons for the final decision.

#### SAHA Policy

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

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

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

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

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

SAHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision, within 14 days of the informal review decision. The notice will be mailed to the applicant and his or her representative, if any, along with proof of mailing.

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

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

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

PHAs must offer an informal hearing for certain SAHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to SAHA's HCV program and is currently assisted in the program. The purpose of the informal

hearing is to consider whether SAHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and SAHA policies.

SAHA is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed.

Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

### **Decisions Subject to Informal Hearing**

Circumstances for which SAHA must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from SAHA utility allowance schedule
- A determination of the family unit size under SAHA's subsidy standards
- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under SAHA policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by SAHA
- General policy issues or class grievances
- Establishment of SAHA schedule of utility allowances for families in the program
- SAHA determination not to approve an extension or suspension of a voucher term
- SAHA determination not to approve a unit or tenancy
- SAHA determination that a unit selected by the applicant is not in compliance with the HQS
- SAHA determination that the unit is not in accordance with HQS because of family size
- A determination by SAHA to exercise or not to exercise any right or remedy against an owner under a HAP contract

SAHA Policy

SAHA will only offer participants the opportunity for an informal hearing when required by the regulations.

**Remote Informal Hearings**

The PHA's essential responsibility is to ensure informal hearings meet the requirements of due process and comply with HUD regulations. Therefore, all PHA policies and processes for remote informal hearings will be conducted in accordance with due process requirements and will be in compliance with HUD regulations.

SAHA Policy

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

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

**Conducting Informal Hearings Remotely**

In conducting any informal hearing remotely, the PHA shall ensure due process and that all parties are able to have full access to the hearing.

SAHA Policy

SAHA will conduct remote informal hearings via telephone conferencing call-in or via videoconferencing. If the informal hearing will be conducted via videoconferencing, the PHA will ensure that all participants, participant representatives, advocates, witnesses, PHA representatives, and the hearing officer can adequately access the platform (i.e., hear, be heard, see, and be seen).

If any participant, representative, advocate, witness, SAHA representative, or hearing officer is unable to effectively utilize the videoconferencing platform, the informal hearing will be conducted by telephone conferencing call-in.

Whether the informal hearing is to be conducted via videoconferencing or telephone call-in, the PHA will provide all parties login information and/or telephone call-in information before the hearing.

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

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

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, SAHA must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to SAHA's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

#### SAHA Policy

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

- The proposed action or decision of SAHA.
- A brief statement of the reasons for the decision including the regulatory reference.
- The date the proposed action will take place.
- A statement of the family's right to an explanation of the basis for SAHA's decision.
- A statement that if the family does not agree with the decision the family may request an informal hearing regarding the decision.
- A deadline for the family to request the informal hearing.
- To whom the hearing request should be addressed.
- A copy of SAHA's hearing procedures.

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

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

#### SAHA Policy

A request for an informal hearing must be made in writing and delivered to SAHA either in person or by first class mail, by the close of the business day, no later than 14 days from the date of SAHA's notice to terminate assistance.

SAHA will schedule and send written notice of the informal hearing to the family within 30 days of the family's request.

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

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

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

Participants and SAHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any SAHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If SAHA does not make the document available for examination on request of the family, SAHA may not rely on the document at the hearing.

SAHA hearing procedures may provide that SAHA must be given the opportunity to examine at SAHA offices before the hearing, any family documents that are directly relevant to the hearing. SAHA must be allowed to copy any such document at SAHA's expense. If the family does not make the document available for examination on request of SAHA, the family may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

**SAHA Policy**

The family will be allowed to copy any documents related to the hearing at a cost of \$.10 per page. The family must request discovery of SAHA documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

SAHA must be given an opportunity to examine at SAHA offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, SAHA may mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date.

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

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

**SAHA Policy**

The family must notify SAHA of their intent to have legal counsel present a minimum of three business days prior to the hearing date.

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

Informal hearings will be conducted by a person or persons approved by SAHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

**SAHA Policy**

SAHA has designated the following to serve as hearing officers:

- Contracted Informal Hearing Officer; or
- Representative from City of Santa Ana.

### ***Attendance at the Informal Hearing***

#### **SAHA Policy**

Hearings may be attended by the following applicable persons:

- SAHA representative(s) and any witnesses for SAHA
- The participant and any witnesses for the participant
- The participant's counsel or other representative
- Any other person approved by SAHA as a reasonable accommodation for a person with a disability

### ***Conduct at Hearings***

The person who conducts the hearing may regulate the conduct of the hearing in accordance with SAHA's hearing procedures [24 CFR 982.555(4)(ii)].

#### **SAHA Policy**

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

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

SAHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

#### **SAHA Policy**

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

**Oral evidence:** the testimony of witnesses.

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

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

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

*Hearsay Evidence* is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either SAHA or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

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

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

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family.

#### **SAHA Policy**

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

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

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

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

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

The hearing officer will issue a written decision to the family and SAHA no later than 14 days after the hearing. The report will contain the following information:

#### **Hearing information:**

- Name of the participant;
- Date, time and place of the hearing;
- Name of the hearing officer;
- Name of SAHA representative; and
- Name of family representative (if any).

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

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

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

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

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

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

#### **SAHA Policy**

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

### ***PHA Notice of Final Decision [24 CFR 982.555(f)]***

SAHA is not bound by the decision of the hearing officer for matters in which SAHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to federal, state, or local laws.

If SAHA determines it is not bound by the hearing officer's decision in accordance with HUD regulations, SAHA must promptly notify the family of the determination and the reason for the determination.

#### **SAHA Policy**

SAHA will mail a "Notice of Final Decision" including the hearing officer's report, to the participant and their representative. This Notice will be sent by first-class mail and certified mail. A copy of the "Notice of Final Decision" along with the original proof mailing will be maintained in SAHA's file.



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

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

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while SAHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or SAHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

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

The notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with SAHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

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

When SAHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, SAHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide SAHA with a copy of the written request for appeal and the proof of mailing.

**SAHA Policy**

SAHA will notify the family in writing of the results of the USCIS secondary verification within 14 days of receiving the results.

The family must provide SAHA with a copy of the written request for appeal and proof of mailing within 14 days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to SAHA, of its decision. When the USCIS notifies SAHA of the decision, SAHA must notify the family of its right to request an informal hearing.

#### SAHA Policy

SAHA will send written notice to the family of its right to request an informal hearing within 14 days of receiving notice of the USCIS decision regarding the family's immigration status.

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

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that SAHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of SAHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

#### ***Informal Hearing Officer***

SAHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. See Section 16-III.C. for a listing of positions that serve as informal hearing officers.

#### ***Evidence***

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of SAHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

#### SAHA Policy

The family will be allowed to copy any additional documents that were not included in SAHA's hearing packet mailed to the family. The City of Santa Ana's current copy rate will be used which is currently \$.20 per page. The family must request discovery of SAHA documents no later than three the business days prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by SAHA, and to confront and cross-examine all witnesses on whose testimony or information SAHA relies.

***Representation and Interpretive Services***

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or SAHA, as may be agreed upon by the two parties.

***Recording of the Hearing***

The family is entitled to have the hearing recorded by audiotape. SAHA may, but is not required to provide a transcript of the hearing.

**SAHA Policy**

SAHA will not provide a transcript or copy of an audio taped hearing.

***Hearing Decision***

SAHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

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

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that SAHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of SAHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

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

SAHA must retain for a minimum of 5 years the following documents that may have been submitted to SAHA by the family, or provided to SAHA as part of the USCIS appeal or SAHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

## **PART IV: OWNER OR FAMILY DEBTS TO THE PHA**

### **16-IV.A. OVERVIEW**

PHAs are required to include in the administrative plan, policies concerning repayment by a family of amounts owed to SAHA [24 CFR 982.54]. This part describes SAHA's policies for recovery of monies owed to SAHA by families or owners.

#### SAHA Policy

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

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

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

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

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

#### **Owner Debts to SAHA**

##### SAHA Policy

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

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

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

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

#### **Family Debts to SAHA**

##### SAHA Policy

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

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, SAHA will terminate assistance in accordance with the policies in Chapter 12 and pursue other modes of collection.

### **Repayment Agreement [24 CFR 792.103]**

The term *repayment agreement* refers to a formal written document signed by a tenant or owner and provided to SAHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

### **General Repayment Agreement Guidelines for Families**

#### ***Down Payment Requirement***

##### SAHA Policy

Before executing a repayment agreement with a family, SAHA will generally require a down payment of 10 percent of the total amount owed unless the amount exceeds \$3,500. If the amount exceeds \$3,500, the family must pay the full amount that exceeds \$3,500 prior to making any monthly payments on their Repayment Agreement.

If the family can provide evidence satisfactory to SAHA that a down payment of 10 percent would impose an undue hardship, SAHA may, in its sole discretion, require a lesser percentage or waive the requirement.

#### ***Payment Thresholds***

Notice PIH 2010-19 recommends that the total amount that a family must pay each month—the family’s monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family’s monthly adjusted income. However, a family may already be paying 40 per cent or more of its monthly adjusted income in rent. Moreover, Notice PIH 2010-19 acknowledges that PHAs have the discretion to establish “thresholds and policies” for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

##### SAHA Policy

SAHA has established the following thresholds for repayment of debts:

- The maximum amount for which SAHA will enter into a repayment agreement with a family is \$3,500.00. Debts larger must be paid down prior to making payments on the repayment agreement.
- The maximum length of time SAHA will enter into a repayment agreement with a family is 36 months.
- The minimum monthly payment amount for any repayment agreement is \$10.00.

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

- The amount owed by the family

- The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family's control
- The family's current and potential income and expenses
- The family's current family share, as calculated under 24 CFR 982.515
- The family's history of meeting its financial responsibilities

### ***Execution of the Agreement***

#### **SAHA Policy**

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

### ***Due Dates***

#### **SAHA Policy**

All payments are due by the close of business on the 1<sup>st</sup> day of the month.

### ***Late or Missed Payments***

#### **SAHA Policy**

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by SAHA, SAHA will send the family a delinquency notice giving the family until the next scheduled payment to make the note current. If the payment is not received by the second and final due date, it will be considered a breach of the agreement and SAHA will proceed with termination of assistance in accordance with the policies in Chapter 12.

For families requesting to exercise portability, all debts owed to SAHA must be paid in full prior to SAHA approval of portability.

### ***No Offer of Repayment Agreement***

#### **SAHA Policy**

SAHA will not enter into a repayment agreement with a family if the family has a current or past repayment agreement. Any amount that is owed by the family will need to be paid in full within 60 days of meeting with SAHA to sign acknowledgement of debt owed.

### **Repayment Agreements Involving Improper Payments**

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

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

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

## **PART V: SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)**

### **16-V.A. OVERVIEW**

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure SAHA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each SAHA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect SAHA in several ways.

- High-performing PHAs can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- PHAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].
- PHAs with an overall rating of “troubled” are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, PHAs that are designated “troubled” may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
- HUD may determine that a PHA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

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

PHAs must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by SAHA board resolution and signed by SAHA executive director. If SAHA is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Section 8 program director.

PHAs with less than 250 voucher units are only required to be assessed every other PHA fiscal year. HUD will assess such PHAs annually if the PHA elects to have its performance assessed on an annual basis; or is designated as “troubled” [24 CFR 985.105].

Failure of a PHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of “troubled.”

A PHA's SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the PHA's SEMAP certification, HUD will rate the PHA's performance under each SEMAP indicator in accordance with program requirements.

### **HUD Verification Method**

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. SAHA or the Independent Auditor must select an unbiased sample that



provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify SAHA's certification on the indicator due to SAHA's failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].

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

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

A SAHA that expends less than \$300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor, is not be rated under SEMAP indicators 1-7.

<b>SEMAP Indicators</b>
<p><b>Indicator 1: Selection from the waiting list</b>  <b>Maximum Score: 15</b></p> <ul style="list-style-type: none"> <li>• This indicator shows whether SAHA has written policies in its administrative plan for selecting applicants from the waiting list and whether SAHA follows these policies when selecting applicants for admission from the waiting list.</li> <li>• Points are based on the percent of families that are selected from the waiting list in accordance with SAHA's written policies, according to SAHA's quality control sample.</li> </ul>
<p><b>Indicator 2: Rent reasonableness</b>  <b>Maximum Score: 20</b></p> <ul style="list-style-type: none"> <li>• This indicator shows whether SAHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units</li> <li>• Points are based on the percent of units for which SAHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to SAHA's quality control sample.</li> </ul>
<p><b>Indicator 3: Determination of adjusted income</b>  <b>Maximum Score: 20</b></p> <ul style="list-style-type: none"> <li>• This indicator measures whether SAHA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent.</li> <li>• Points are based on the percent of files that are calculated and verified correctly, according to SAHA's quality control sample.</li> </ul>

**Indicator 4: Utility allowance schedule****Maximum Score: 5**

- This indicator shows whether SAHA maintains an up-to-date utility allowance schedule.
- Points are based on whether SAHA has reviewed the utility allowance schedule and adjusted it when required, according to SAHA's certification.

**Indicator 5: HQS quality control inspections****Maximum Score: 5**

- This indicator shows whether a PHA supervisor reinspects a sample of units under contract during SAHA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.
- Points are based on whether the required quality control reinspections were completed, according to SAHA's certification.

**Indicator 6: HQS enforcement****Maximum Score: 10**

- This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any PHA-approved extension.
- Points are based on whether SAHA corrects all HQS deficiencies in accordance with required time frames, according to SAHA's certification.

**Indicator 7: Expanding housing opportunities****Maximum Points: 5**

- Only applies to PHAs with jurisdiction in metropolitan FMR areas.
- This indicator shows whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside SAHA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration.
- Points are based on whether SAHA has adopted and implemented written policies in accordance with SEMAP requirements, according to SAHA's certification.

**Indicator 8: FMR limit and payment standards****Maximum Points: 5 points**

- This indicator shows whether the PHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in SAHA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.
- Points are based on whether SAHA has appropriately adopted a payment standard schedule(s), according to SAHA's certification.

**Indicator 9: Annual reexaminations****Maximum Points: 10**

- This indicator shows whether the PHA completes a reexamination for each participating family at least every 12 months.
- Points are based on the percent of reexaminations that are more than 2 months overdue, according to data from PIC.

**Indicator 10: Correct tenant rent calculations****Maximum Points: 5**

- This indicator shows whether the PHA correctly calculates the family's share of the rent to owner.
- Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.

**Indicator 11: Pre-contract HQS inspections****Maximum Points: 5**

- This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.
- Points are based on the percent of newly leased units that passed HQS inspection prior to the effective date of the lease and HAP contract, according to data from PIC.

**Indicator 12: Annual HQS inspections****Maximum Points: 10**

- This indicator shows whether SAHA inspects each unit under contract at least annually.
- Points are based on the percent of annual HQS inspections of units under contract that are more than 2 months overdue, according to data from PIC.

**Indicator 13: Lease-up****Maximum Points: 20 points**

- This indicator shows whether the PHA enters HAP contracts for the number of units or funding reserved under ACC for at least one year.
- Points are based on the percent of units leased during the last completed SAHA fiscal year, or the percent of allocated budget authority that has been expended by SAHA, according to data from SAHA's last year-end operating statement that is recorded in HUD's accounting system.

**Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances****Maximum Points: 10**

- Only applies to PHAs with mandatory FSS programs.
- This indicator shows whether the PHA has enrolled families in the FSS program as required, and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.
- Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.

**Success Rate of Voucher Holders****Maximum Points: 5**

- Only applies to PHAs that have received approval to establish success rate payment standard amounts, and isn't effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.
- This indicator shows whether voucher holders were successful in leasing units with voucher assistance.
- Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.

**Deconcentration Bonus Indicator****Maximum Points: 5**

- Submission of data for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50 percentile rent, starting with the second full SAHA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50<sup>th</sup> percentile.
- Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.
- Points are based on whether the data that is submitted meets the requirements for bonus points.

## **PART VI: RECORD KEEPING**

### **16-VI.A. OVERVIEW**

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

In addition, SAHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

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

During the term of each assisted lease, and for at least three years thereafter, SAHA must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, SAHA must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting SAHA budget and financial statements for the program;
- Records to document the basis for SAHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.
- Notice PIH 2014-20 requires PHAs to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D., Retention of Documents.

## 16-VLC. RECORDS MANAGEMENT

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

### SAHA Policy

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

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

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

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

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

### **Upfront Income Verification (UIV) Records**

PHAs that access UIV data through HUD's Enterprise Income Verification (EIV) system are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD-issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data*.

### SAHA Policy

Prior to utilizing HUD's EIV system, SAHA has adopted and implemented EIV security procedures required by HUD.

### **Criminal Records**

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

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

SAHA must establish and implement a system of records management that ensures that any sex offender registration information received by SAHA from a State or local agency is maintained

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

**Medical/Disability Records**

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

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

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

## **PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL**

### **16-VII.A. OVERVIEW**

SAHA has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that SAHA is subject to.

### **16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]**

SAHA must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

#### SAHA Policy

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

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

At least quarterly, SAHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified environmental intervention blood lead level.

If SAHA obtains names and addresses of environmental intervention blood lead level children from the public health department(s), SAHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, SAHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, SAHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

#### SAHA Policy

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



## **PART VIII: DETERMINATION OF INSUFFICIENT FUNDING**

### **16-VIII.A. OVERVIEW**

The HCV regulations allow PHAs to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.354(e)(1) and 982.454]. If a PHA denies a family a portability move based on insufficient funding, SAHA is required to notify the local HUD office within 10 business days [24 CFR 982.354]. Insufficient funding may also impact SAHA's ability to issue vouchers to families on the waiting list. This part discusses the methodology SAHA will use to determine whether or not SAHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

### **16-VIII.B. METHODOLOGY**

#### SAHA Policy

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

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

### 16-IX.A. OVERVIEW

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

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and SAHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and SAHA policies are located primarily in the following sections: 3-I.C, “Family Breakup and Remaining Member of Tenant Family”; 3-III.G, “Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, and Stalking”; 10-I.A, “Allowable Moves”; 10-I.B, “Restrictions on Moves”; 12-II.E, “Terminations Related to Domestic Violence, Dating Violence, or Stalking”; and 12-II.F, “Termination Notice.”

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

As used in VAWA:

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

- Any other individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *sexual assault* means:
  - Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent
- The term *stalking* means:
  - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

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

#### **Notification to Public**

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

#### SAHA Policy

SAHA will make the following information readily available to anyone who requests it:

- A summary of the rights and protections provided by VAWA to HCV program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (see sample notices in Exhibits 16-1 and 16-2)
- The definitions of domestic violence, dating violence, sexual assault, and stalking provided in VAWA (include in Exhibits 16-1 and 16-2)
- An explanation of the documentation that SAHA may require from an individual who claims the protections provided by VAWA (included in Exhibits 16-1 and 16-2)
- A copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
- A statement of SAHA's obligation to keep confidential any information that is received from a victim unless (a) SAHA has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information (includes in Exhibits 16-1 and 16-2)
- The National Domestic Violence Hot Line: 1 800-799-SAFE (7233) or 1 800-787-9224 (TTY) (included in Exhibits 16-1 and 16-2)
- Contact information for local victim advocacy groups or service providers

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

PHAs are required to inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

**SAHA Policy**

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

SAHA will provide all participants with information about VAWA at the time of admission (see section 5-I.B.) and at annual reexamination. SAHA will also include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.

The VAWA information provided to applicants and participants will consist of the notice in Exhibit 16-1 and a copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, Sexual Assault and Stalking.

**Notification to Owners and Managers [24 CFR 5.2005(a)(2)]**

PHAs are required to notify owners and managers participating in the HCV program of their rights and obligations under VAWA.

**SAHA Policy**

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

The VAWA information provided to owners will consist of the notice in Exhibit 16-2 and a copy of form HUD-500066, Certification of Domestic Violence, Dating Violence, Sexual Assault, and Stalking.

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

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

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

- (1) A completed and signed HUD-approved certification form (HUD-50066, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the

name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim

- (2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record
- (3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

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

#### SAHA Policy

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

SAHA may, in its discretion, extend the deadline for 14 days. Any extension granted by SAHA will be in writing.

#### **Conflicting Documentation [24 CFR 5.2007(e)]**

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

#### SAHA Policy

If presented with conflicting certification documents (two or more forms HUD-500066) from members of the same household, SAHA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(b)(2) or (3) and by following any HUD guidance on how such determinations should be made.

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

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

SAHA Policy

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

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

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

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

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

SAHA Policy

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

**EXHIBIT 16-1: SAMPLE NOTICE TO HOUSING CHOICE VOUCHER APPLICANTS  
AND TENANTS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)**

*This sample notice was adapted from a notice prepared by the National Housing Law Project.*

A federal law that went into effect in 2013 protects individuals who are victims of domestic violence, dating violence, sexual assault, or stalking. The name of the law is the Violence against Women Act, or “VAWA.” This notice explains your rights under VAWA.

**Protections for Victims**

If you are eligible for a Section 8 voucher, the housing authority cannot deny you rental assistance solely because you are a victim of domestic violence, dating violence, sexual assault, or stalking.

If you are the victim of domestic violence, dating violence, sexual assault, or stalking, you cannot be terminated from the Section 8 program or evicted based on acts or threats of violence committed against you. Also, criminal acts directly related to the domestic violence, dating violence, sexual assault, or stalking that are caused by a member of your household or a guest can’t be the reason for evicting you or terminating your rental assistance if you were the victim of the abuse.

**Reasons You Can Be Evicted**

You can be evicted and your rental assistance can be terminated if the housing authority or your landlord can show there is an *actual* and *imminent* (immediate) threat to other tenants or employees at the property if you remain in your housing. Also, you can be evicted and your rental assistance can be terminated for serious or repeated lease violations that are not related to the domestic violence, dating violence, sexual assault, or stalking committed against you. The housing authority and your landlord cannot hold you to a more demanding set of rules than it applies to tenants who are not victims.

**Removing the Abuser from the Household**

Your landlord may split the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the assisted unit. Also, the housing authority can terminate the abuser’s Section 8 rental assistance while allowing you to continue to receive assistance. If the landlord or housing authority chooses to remove the abuser, it may not take away the remaining tenants’ rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, your landlord must follow federal, state, and local eviction procedures.

**Moving to Protect Your Safety**

The housing authority may permit you to move and still keep your rental assistance, even if your current lease has not yet expired. The housing authority may require that you be current on your rent or other obligations in the housing choice voucher program. The housing authority may ask you to provide proof that you are moving because of incidences of abuse.

**Proving That You Are a Victim of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

The housing authority and your landlord can ask you to prove or “certify” that you are a victim of domestic violence, dating violence, sexual assault, or stalking. The housing authority or your

landlord must give you at least 14 business days (i.e., Saturdays, Sundays, and holidays do not count) to provide this proof. The housing authority and your landlord are free to extend the deadline. There are three ways you can prove that you are a victim:

- Complete the certification form given to you by the housing authority or your landlord. The form will ask for your name, the name of your abuser, the abuser's relationship to you, the date, time, and location of the incident of violence, and a description of the violence. You are only required to provide the name of the abuser if it is safe to provide and you know their name.
- Provide a statement from a victim service provider, attorney, mental health professional, or medical professional who has helped you address incidents of domestic violence, dating violence, sexual assault, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both you and the professional must sign the statement, and both of you must state that you are signing "under penalty of perjury."
- Provide a police or court record, such as a protective order, or an administrative record.

Additionally, at its discretion, the housing authority can accept a statement or other evidence provided by the applicant or tenant.

If you fail to provide one of these documents within the required time, the landlord may evict you, and the housing authority may terminate your rental assistance.

### **Confidentiality**

The housing authority and your landlord must keep confidential any information you provide about the violence against you, unless:

- You give written permission to the housing authority or your landlord to release the information.
- Your landlord needs to use the information in an eviction proceeding, such as to evict your abuser.
- A law requires the housing authority or your landlord to release the information.

If release of the information would put your safety at risk, you should inform the housing authority and your landlord.

### **VAWA and Other Laws**

VAWA does not limit the housing authority's or your landlord's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking.

### **For Additional Information**

If you have any questions regarding VAWA, please contact \_\_\_\_\_ at \_\_\_\_\_.

For help and advice on escaping an abusive relationship, call the National Domestic Violence Hotline at 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).



## Definitions

For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines *domestic violence* to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse or intimate partner of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

VAWA defines *dating violence* as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

VAWA defines *sexual assault* as "any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent" (42 U.S.C. 13925(a)).

VAWA defines *stalking* as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

**EXHIBIT 16-2: SAMPLE NOTICE TO HOUSING CHOICE VOUCHER OWNERS AND MANAGERS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)**

*This sample notice was adapted from a notice prepared by the National Housing Law Project.*

A federal law that went into effect in 2013 protects individuals who are victims of domestic violence, dating violence, sexual assault, and stalking. The name of the law is the Violence against Women Act, or “VAWA.” This notice explains your obligations under VAWA.

### **Protections for Victims**

You cannot refuse to rent to an applicant solely because he or she is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

You cannot evict a tenant who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking based on acts or threats of violence committed against the victim. Also, criminal acts directly related to the domestic violence, dating violence, sexual assault, or stalking that are caused by a household member or guest cannot be cause for evicting the victim of the abuse.

### **Permissible Evictions**

You can evict a victim of domestic violence, dating violence, sexual assault, or stalking if you can demonstrate that there is an *actual and imminent* (immediate) threat to other tenants or employees at the property if the victim is not evicted. Also, you may evict a victim for serious or repeated lease violations that are not related to the domestic violence, dating violence, sexual assault, or stalking. You cannot hold a victim of domestic violence, dating violence, sexual assault, or stalking to a more demanding standard than you hold tenants who are not victims.

### **Removing the Abuser from the Household**

You may bifurcate (split) the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the unit. If you choose to remove the abuser, you may not take away the remaining tenants’ rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, you must follow federal, state, and local eviction procedures.

### **Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

If a tenant asserts VAWA’s protections, you can ask the tenant to certify that he or she is a victim of domestic violence, dating violence, sexual assault, or stalking. You are not required to demand official documentation and may rely upon the victim’s statement alone. If you choose to request certification, you must do so in writing and give the tenant at least 14 business days to provide documentation. You are free to extend this deadline. A tenant can certify that he or she is a victim by providing any one of the following three documents:

- A completed, signed HUD-approved certification form. The most recent form is HUD-50066. This form is available at the housing authority or online at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/hudclips/forms/hud5](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/forms/hud5).
- A statement from a victim service provider, attorney, mental health professional, or medical professional who has helped the victim address incidents of domestic violence, dating violence, sexual assault, or stalking. The professional must state that he or she believes that

the incidents of abuse are real. Both the victim and the professional must sign the statement under penalty of perjury.

- A police or court record, such as a protective order, or administrative record.

If the tenant fails to provide one of these documents within 14 business days, you may evict the tenant if authorized by otherwise applicable law and lease provisions.

### **Confidentiality**

You must keep confidential any information a tenant provides to certify that he or she is a victim of domestic violence, dating violence, sexual assault, or stalking. You cannot enter the information into a shared database or reveal it to outside entities unless:

- The tenant provides written permission releasing the information.
- The information is required for use in an eviction proceeding, such as to evict the abuser.
- Release of the information is otherwise required by law.

The victim should inform you if the release of the information would put his or her safety at risk.

### **VAWA and Other Laws**

VAWA does not limit your obligation to honor court orders regarding access to or control of the property. This includes orders issued to protect the victim and orders dividing property among household members in cases where a family breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking.

### **Additional Information**

- If you have any questions regarding VAWA, please contact \_\_\_\_\_.

### **Definitions**

For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines *domestic violence* to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse or intimate partner of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

VAWA defines *dating violence* as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

VAWA defines *sexual assault* as “any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent” (42 U.S.C. 13925(a)).

VAWA defines *stalking* as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.



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# ADMINISTRATIVE PLAN

FOR THE  
HOUSING AUTHORITY OF THE  
CITY OF SANTA ANA

Kelly Reenders  
Steven A. Mendoza  
Executive Director

Judson Brown  
Housing Division Manager

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| Approved by the Housing Authority of the City of Santa Ana: ~~April 1, 2016~~December 1, 2020

## Chapter 7

### VERIFICATION

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH 2010-19]

#### INTRODUCTION

SAHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. SAHA must not pass on the cost of verification to the family.

SAHA will follow the verification guidance provided by HUD in Notice PIH 2010-19 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary SAHA policies.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of SAHA.

## PART I: GENERAL VERIFICATION REQUIREMENTS

### 7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230]

The family must supply any information that SAHA or HUD determines is necessary to the administration of the program and must consent to SAHA verification of that information [24 CFR 982.551].

#### Consent Forms

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and SAHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

#### Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, SAHA will deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with SAHA procedures.

### 7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

#### HUD's Verification Hierarchy [Notice PIH 2010-19]

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires SAHA to use the most reliable form of verification that is available and to document the reasons when SAHA uses a lesser form of verification.

#### SAHA Policy

In order of priority, the forms of verification that SAHA will use are:

- **Upfront Income Verification (UIV)** using HUD's Enterprise Income Verification (EIV) system
- **Upfront Income Verification (UIV)** using non-HUD system
- **Written third Party Verification** (may be provided by applicant or participant)
- **Written Third Party Verification Form**
- **Oral Third Party Verification**
- **Self-Certification** (Use as a last resort when unable to obtain any type of third party verification)

Each of the verification methods is discussed in subsequent sections below.



**Requirements for Acceptable Documents**SAHA Policy

Any documents used for verification must be dated within 60 days of the interview date with SAHA. The documents must not be damaged, altered or in any way illegible.

Print-outs from Web pages are considered original documents.

Any family self-certifications must be made in a format acceptable to SAHA.

**File Documentation**

SAHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that SAHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

SAHA Policy

SAHA will document in the family file the following:

- Reported family annual income
- Value of assets
- Expenses related to deductions from annual income
- Other factors influencing adjusted income

When SAHA is unable to obtain third-party verification, SAHA will document in the family file the reason that third-party verification was not available [24 CFR 982.516(a) (2); Notice PIH 2010-19].

**7-I.C. UP-FRONT INCOME VERIFICATION (UIV)**

Up-front income verification (UIV) refers to SAHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to SAHA.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until SAHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of SAHA.

See Chapter 6 for SAHA's policy on the use of UIV/EIV to project annual income.

### **Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)**

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income in accordance with 24 CFR 5.236 and administrative guidance issued by HUD. The EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. The following policies apply to the use of HUD's EIV system.

#### ***EIV Income Reports***

The data shown on income reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

#### **SAHA Policy**

SAHA will obtain income reports for annual re-examinations on a monthly basis. Reports will be generated as part of the regular re-examination process.

Income reports will be compared to family provided information as part of the annual re-examination process. Income reports may be used in the calculation of annual income as described in Chapter 6-I.C. Income reports will also be used to meet the regulatory requirements for third party verifications, as described above. Policies for resolving discrepancies between income reports and family provided information will be resolved as described in Chapter 6-I.C. and in this chapter.

Income reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify and calculate earned income, unemployment benefits, Social Security and or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

EIV income reports will be retained in participant files with the applicable annual or interim re-examination documents.

When SAHA determines through income reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

***EIV Identity Verification***

The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2012-10].

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

**SAHA Policy**

SAHA will identify participants whose identity verification has failed by reviewing EIV's Identity Verification Report on a monthly basis.

SAHA will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When SAHA determines that the discrepancies exist due to staff error such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

**Upfront Income Verification Using Non-HUD Systems (Optional)**

In addition to mandatory use of the EIV system, HUD encourages PHAs to utilize other upfront verification sources.

**SAHA Policy**

SAHA will inform all applicants and participants of its use of the following EIV resources during the admission and reexamination process.

In addition to mandatory use of the EIV system, SAHA will also utilize other up-front verification sources, such as The Work Number (an automated verification system) and state government databases, to validate tenant-reported income.

**7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION**

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to SAHA by the family. If written third-party verification is not available, SAHA must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

**Written Third-Party Verification [Notice PIH 2010-19]**

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or

printouts, and unemployment monetary benefit notices.

SAHA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

SAHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

#### SAHA Policy

Third party documents provided by the family must be dated within 60 days of the interview date with SAHA.

If SAHA determines that third-party documents provided by the family are not acceptable, SAHA will explain the reason to the family and request additional documentation.

As verification of earned income, SAHA will generally request pay stubs covering the last 3 months.

#### **Written Third-Party Verification Form**

When upfront verification is not available and the family is unable to provide written third-party documents, SAHA must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks which may be reduced through the use of family-provided third-party documents.

PHAs may mail, fax, or e-mail third-party written verification form requests to third-party sources.

#### SAHA Policy

SAHA may mail, fax, e-mail third-party written verification requests and will accept third-party responses using any of these methods. SAHA will send a written request for verification as needed to each required source within 7 days of securing a family's authorization for the release of the information. If a response has not been received by the 15<sup>th</sup> day, SAHA will send a second request, or will request third-party oral verification.

#### **Oral Third-Party Verification [Notice PIH 2010-19]**

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Oral third-party verification is mandatory if neither form of written third-party verification is available.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs should document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

SAHA Policy

SAHA staff will document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information/facts provided.

When any source responds verbally to the initial written request for verification, SAHA staff will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

**When Third-Party Verification is Not Required [Notice PIH 2010-19]**

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

SAHA Policy

If the family cannot provide original documents, SAHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. SAHA will also consider that third-party verification is not available when there is a service charge for verifying an asset or expense. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets and expenses is not an unreasonable cost [VG. P. 18].

***Primary Documents***

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

***Imputed Assets***

HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

SAHA Policy

SAHA will not accept a self-certification from a family as verification of assets disposed of for less than fair market value.

**Value of Assets and Asset Income [24 CFR 982.516(a)]**

For families with net assets totaling \$5,000 or less, SAHA may accept the family's declaration of asset value and anticipated asset income. However, SAHA is required to obtain third-party verification of all assets regardless of the amount during the intake process and at least every three years thereafter.

SAHA Policy

For families with net assets totaling \$5,000 or less, SAHA will accept the family's self-certification of the value of family assets and anticipated asset income when applicable. The family's declaration must show each asset and the amount of income expected from

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that asset. All family members 18 years of age and older must sign the family's declaration.

SAHA will use third-party documentation for assets as part of the intake process, whenever a family member is added to verify the individual's assets, and every three years thereafter.

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### **7-I.E. SELF-CERTIFICATION**

Self-certification, or "tenant declaration," is used as a last resort when SAHA is unable to obtain third-party verification.

When SAHA relies on a tenant declaration for verification of income, assets, or expenses, the family's file must be documented to explain why third-party verification was not available.

#### SAHA Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to SAHA. SAHA staff must document the family's file to explain why third-party verification was not available when SAHA relies on tenant declaration for verification of income, assets, or expenses.

SAHA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to SAHA and must be signed by the family member whose information or status is being verified.

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

SAHA Policy

SAHA will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicles identification card U.S. military discharge (DD 214) Current U.S. passport Current Employer identification card	Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified school records

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at SAHA’s discretion, a third party who knows the person may attest to the person’s identity. The certification must be provided

in a format acceptable to SAHA and be signed in the presence of a SAHA representative or SAHA notary public.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where SAHA has reason to doubt the identity of a person representing him or herself to be a participant.

#### **7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216, Notice PIH 2012-10]**

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

Note that an individual who previously declared to have eligible immigration status may not change his or her declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

SAHA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

SAHA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

##### SAHA Policy

SAHA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN within 90 days.

SAHA will grant one additional 90-days extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, SAHA will terminate the individual's assistance.

In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within 90 calendar days from the date of admission into the program. SAHA must grant one additional 90-day extension if it determines that the applicant's



failure to comply was due to circumstances that were beyond the applicant's control and could not have been reasonably foreseen.

When a participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. SAHA may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if SAHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period SAHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

#### SAHA Policy

SAHA will grant one additional 90-day extension if needed for reasons beyond the participants control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

Social security numbers must be verified only once during continuously-assisted occupancy.

#### SAHA Policy

SAHA will verify each disclosed SSN by:

- Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers
- Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file

Once the individual's verification status is classified as "verified," SAHA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

#### SAHA Policy

Once an individual's status is classified as "verified" in HUD's EIV system, SAHA will remove and destroy copies of documentation accepted as evidence of social security numbers.

### **7-IL.C. DOCUMENTATION OF AGE**

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

#### SAHA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, SAHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously-assisted occupancy.

## **7-II.D. FAMILY RELATIONSHIPS**

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

### SAHA Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

### **Marriage**

#### SAHA Policy

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Certification by the head of household is normally sufficient verification. If SAHA has reasonable doubts about a marital relationship, SAHA will require the family to document the marriage.

### **Separation or Divorce**

#### SAHA Policy

A certified copy of a divorce decree, signed by a court officer, may be required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record may be required to document a separation.

### **Absence of Adult Member**

#### SAHA Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

**Foster Children and Foster Adults**SAHA Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

**7-II.E. VERIFICATION OF STUDENT STATUS****General Requirements**SAHA Policy

SAHA requires families to provide verification of student status at the time of eligibility appointment for all family members of school age. Verification of status is also required for all students who are 18 years of age or older. This information will be verified only if:

- The family claims full-time student status for an adult other than the head, spouse, or co-head, or
- The family claims a childcare deduction to enable a family member to further his or her education.
- The family includes a student enrolled in an *institution of higher education*.

Verification of full-time student status includes all of the following:

- Written verification from the registrar's office or other school official.
- School records indicating enrollment in sufficient credits to qualify as full-time by the educational institution.
- Final report of units completed will be required to provide at the family's annual re-examination or as needed.

Full-time students that are over eighteen (18) years of age and are employed are required to provide an official transcript from each institution of higher education at the family's annual re-examination or as needed.

**Restrictions on Assistance to Students Enrolled in Institutions of Higher Education**

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

SAHA Policy

In accordance with the verification hierarchy described in section 7-1.B, SAHA will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see Section Exhibit 3-2).

- The student is at least 24 years old.
- The student is a veteran, as defined in Section 3-II.E.
- The student is married.
- The student has at least one dependent child, as defined in Section 3-II.E.
- The student is a person with disabilities, as defined in Section 3-II.E, and was receiving assistance prior to November 30, 2005.

If SAHA cannot verify at least one of these exemption criteria, SAHA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, SAHA will then proceed to verify either the student's parents' income eligibility (see section 7-III.J) or the student's independence from his/her parents (see below).

### ***Independent Student***

#### **SAHA Policy**

SAHA will verify a student's independence from his/her parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

- Either reviewing or verifying previous address information to determine whether the student has established a household separate from his/her parents for at least one year or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student* (see Section 3-II.E).
- Reviewing prior year income tax returns to verify whether a parent has claimed the student as a dependent.
- Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is \$0.

### **7-II.F. DOCUMENTATION OF DISABILITY**

SAHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. SAHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. SAHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If SAHA receives a verification document that provides such information, SAHA will not place this information in the tenant file. Under no circumstances will SAHA request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at <http://www.hhs.gov/ocr/privacy/>.

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy

- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

#### **Family Members Receiving SSA Disability Benefits**

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

##### SAHA Policy

For family members claiming disability who receive disability benefits from the SSA, SAHA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system when it is available. If documentation from HUD's EIV System is not available, SAHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), SAHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the applicant or participant receives the benefit verification letter they will be required to provide it to SAHA.

#### **Family Members Not Receiving SSA Disability Benefits**

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403.

##### SAHA Policy

For family members claiming disability who do not receive disability benefits from the SSA, a licensed professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The licensed professional will verify whether the family member does or does not meet the HUD definition.

### **7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]**

#### **Overview**

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter.

This verifications chapter discusses HUD and SAHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy. [24 CFR 5.508(g)(5)]

#### **U.S. Citizens and Nationals**

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

SAHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

#### SAHA Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless SAHA receives information indicating that an individual's declaration may not be accurate.

#### **Eligible Immigrants**

##### ***Documents Required***

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

##### ***SAHA Verification*** [HCV GB, pp. 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, SAHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

SAHA will follow all USCIS protocols for verification of eligible immigration status.

SAHA will accept the following documents as evidence of eligible immigration status, subject to verification:

- (1) Form 1-151, Alien Registration Receipt Card (issued to lawful permanent residents prior to 1979). Form 1-151 will no longer be valid after March 20, 1996.

- (2) Form 1-5,1, Alien Registration Receipt Card (for permanent resident aliens)
- (3) Form 1-94, Arrival-Departure Record, with one of the following annotations:
  - (a) “Admitted as Refugee Pursuant to Section 207”
  - (b) “Section 208” or “Asylum”
  - (c) “Section 243(h)” or “Deportation stayed by Attorney General”
  - (d) “Paroled pursuant to Section 212 (d) (5) of the INA”
- (4) If Form 1-94, Arrival-Departure Record, is not annotated, then accompanied by one of the following documents:
  - (a) A final court decision granting asylum (but only if no appeal is taken)
  - (b) A letter from an INS asylum officer granting asylum (if application is filed on or after October 1, 1990) or from an INS district director granting asylum (if application filed before October 1, 1990)
  - (c) A court decision granting withholding of deportation
  - (d) A letter from an asylum officer granting withholding of deportation (if application filed on or after October 1, 1990)
- (5) Form 1-668, Temporary Resident Card, which must be annotated “Section 245A” or “Section 210”
- (6) Form 1-688B, Employment Authorization Card, which must be annotated “Provision of Law 274a.12(11)” or “Provision of Law 274a.12”

#### 7-II.H. VERIFICATION OF PREFERENCE STATUS

SAHA must verify any preferences claimed by an applicant that determined placement on the Waiting List.

##### SAHA Policy

1. **United States Military Veteran Preference:** The veteran must have been discharged under conditions other than dishonorable and were/is eligible to receive veteran’s benefits. Form DD-214 with a discharge status of other than dishonorable, or equivalent verification, must be provided at their eligibility interview appointment. The individual must have served a minimum of 90 days to qualify for the preference. “Surviving spouse” means not divorced from, or not remarried prior to or after the death of the veteran. A marriage and death certificate will be required for a surviving spouse.
2. **Residency Preference:** At least two pieces of evidence must be provided for families who live or work in the City of Santa Ana including but not limited to a lease, utility bills, bank statements, or paycheck stubs.

SAHA will offer priority to any family that has been terminated from its HCV program due to insufficient program funding. SAHA will verify this preference using termination records.

*Homeless Individuals and Families Set-Aside Preference*

In accordance with PIH Notice 2013-15, SAHA will accept direct referrals to the HCV Program for the following target population:

- **Homeless Individuals and Families:** To qualify for this preference, homeless individuals and families must be referred by agencies with a contract or Memorandum of Understanding (MOU) in place with the Housing Authority, or by Community Based Organizations (CBO's) contracted with the Housing Authority. The referring agency must provide a certification of the family's homeless status. Additionally, families already registered on the Waiting List who declare themselves as homeless, but are not referred by a CBO must provide a certification of their homeless status from an agency that has an MOU in place with the Housing Authority.

All preferences must be applicable and verifiable at the time of selection from the Waiting List.

### **PART III: VERIFYING INCOME AND ASSETS**

Chapter 6, Part I of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides SAHA policies that supplement the general verification procedures specified in Part I of this chapter.

#### **7-III.A. EARNED INCOME**

##### **Tips**

##### SAHA Policy

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

##### **Wages**

##### SAHA Policy

For wages other than tips, the family must provide originals for past six months of consecutive pay stubs or whatever is applicable for initial eligibility and three months consecutive pay stubs or whatever is applicable for reexaminations.



**7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME**SAHA Policy

Business owners and self-employed persons will be required to provide:

- A statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.
- All schedules completed for filing federal and local taxes in the preceding year.
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.
- SAHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.
- At any reexamination, SAHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.
- If the family member has been self-employed for three (3) to twelve (12) months SAHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

**7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS****Social Security/SSI Benefits**SAHA Policy

To verify the SS/SSI benefits of applicants, SAHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), SAHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the applicant has received the benefit verification letter they will be required to provide it to SAHA.

To verify the SS/SSI benefits of participants, SAHA will obtain information about social security/SSI benefits through the HUD EIV System and confirm with the participant(s) that the current listed benefit amount is correct. If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, SAHA will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) SAHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the participant has received the benefit verification letter they will be required to provide it to SAHA.

**7-III.D. ALIMONY OR CHILD SUPPORT**SAHA Policy

The way SAHA will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that it *receives regular payments*, verification will be sought in the following order:

- Receipts and/or payment stubs for the 90 days prior to SAHA's appointment or as needed.
- Third-party verification form/printout from the state or local child support enforcement agency for record of payments for the past 12 months and request that the entity disclose any known information about the likelihood of future payments.
- Third-party verification form from the person paying the support.
- Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.
- A separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules

**7-III.E. ASSETS AND INCOME FROM ASSETS****Assets Disposed of for Less than Fair Market Value**

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. SAHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

SAHA Policy

SAHA will verify the value of assets disposed of only if the amount reported by the family in the reexamination appears obviously in error on its market value.

**Example 1:** An elderly participant reported a \$10,000 certificate of deposit at the last annual reexamination and SAHA verified this amount. Now the person reports that she has given this \$10,000 to her son. SAHA has a reasonable estimate of the value of the asset; therefore, re-verification of the value of the asset is not necessary.

**Example 2:** A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, SAHA will verify the value of this asset.

**7-III.F. NET INCOME FROM RENTAL PROPERTY**SAHA Policy

The family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current tenant.
- A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If Schedule E was not prepared, SAHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

**7-III.G. RETIREMENT ACCOUNTS**SAHA Policy

SAHA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of document that will be accepted depends upon the family member's retirement status:

- *Before* retirement, SAHA will accept a copy of document provided from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 120 days from the effective date of the re-examination.
- SAHA will send third party verification to determine if family has access to the account to determine penalties, early withdrawal fees, and any related fees.
- SAHA will consider limited access as having no access.
- *Upon* retirement, SAHA will accept a copy of document provided from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.
- *After* retirement, SAHA will accept a copy of document provided from the entity holding the account dated no earlier than 90 days before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

**7-III.H. INCOME FROM EXCLUDED SOURCES**

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, SAHA is **not** required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example, food stamps, earned income of a minor, or foster care funds) [Notice PIH 2013-04].

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, SAHA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student, or income excluded under the earned income disallowance).

#### SAHA Policy

SAHA will accept the family's self-certification as verification of fully excluded income. SAHA may request additional documentation if necessary to document the income source.

SAHA will verify the source and amount of partially excluded income as described in Part I of this chapter.

### **7-III.I. ZERO ANNUAL INCOME STATUS**

#### SAHA Policy

SAHA will require a self-certification statement of zero income from all adult family members that are not attending school or any type of training.

For zero income families SAHA requires these families to undergo a file review every 90 days.

### **7-III.J. STUDENT FINANCIAL ASSISTANCE**

Any financial assistance, in excess of amounts received for tuition, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving HCV assistance [24 CFR 5.609(b)(9) and FR 4/10/06].

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income [24 CFR 5.609(c)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 3-2). Excluded amounts are verified only if, without verification, SAHA would not be able to determine whether or to what extent the income is to be excluded (see section 7-III.H).

#### SAHA Policy

For a student subject to having a portion of his/her student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), SAHA will request written third-party verification of both the source and the amount. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, SAHA will request written verification of the student's tuition amount.

If SAHA is unable to obtain third-party written verification of the requested information, SAHA will pursue other forms of verification following the verification hierarchy in Section 7-I.B.

### **7-III.K. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS**

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from his or her parents in accordance with SAHA policy [24 CFR 5.612 and FR 4/10/06, p. 18146].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

#### SAHA Policy

If SAHA is required to determine the income eligibility of a student's parents, SAHA will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E). SAHA will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to SAHA. The required information must be submitted (postmarked) within 14 days of the date of SAHA's request or within any extended timeframe approved by SAHA.

SAHA reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay

stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

#### **PART IV: VERIFYING MANDATORY DEDUCTIONS**

##### **7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS**

The dependent and elderly/disabled family deductions require only that SAHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

##### **Dependent Deduction**

See Chapter 6 (6-II.B.) for a full discussion of this deduction. SAHA must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

##### **Elderly/Disabled Family Deduction**

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. SAHA must verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

##### **7-IV.B. MEDICAL EXPENSE DEDUCTION**

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

##### **Amount of Expense**

SAHA Policy

Medical expenses will be verified through:

- Written third-party documents provided by the family, such as pharmacy printouts or receipts.
- SAHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. SAHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months. SAHA will use monthly payments or total balance whichever is less.

In addition, SAHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

### **Eligible Household**

The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62, or a person with disabilities. SAHA must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

### **Qualified Expenses**

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for SAHA's policy on what counts as a medical expense.

### **Unreimbursed Expenses**

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

#### SAHA Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

### **Expenses Incurred in Past Years**

#### SAHA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, SAHA will verify:

- The anticipated repayment schedule
- The amounts paid in the past, and

- The amounts to be repaid have been deducted from the family's annual income in past years.

#### **7-IV.C. DISABILITY ASSISTANCE EXPENSES**

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

##### **Amount of Expense**

##### ***Attendant Care***

###### SAHA Policy

SAHA will accept written third-party documents provided by the family.

If family-provided documents are not available, SAHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelled checks.
- Third-party verification form signed by the provider, if family-provided documents are not available

##### ***Auxiliary Apparatus***

###### SAHA Policy

Expenses for auxiliary apparatus will be verified through:

- Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.
- Third-party verification form signed by the provider, if family-provided documents are not available.

In addition, SAHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

##### **Family Member is a Person with Disabilities**

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. SAHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).



**Family Member(s) Permitted to Work**

SAHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

SAHA Policy

SAHA will request third-party verification from a licensed medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

**Unreimbursed Expenses**

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

SAHA Policy

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

**7-IV.D. CHILD CARE EXPENSES**

Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, SAHA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of child care.
- The costs are reasonable.

**Eligible Child**

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. SAHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

**Unreimbursed Expense**

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

SAHA Policy

The family and the child care provider will be required to certify that, the child care expenses are not paid by or reimbursed to the family from any source.

### **Pursuing an Eligible Activity**

SAHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

#### SAHA Policy

##### *Information to be gathered*

SAHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

##### *Seeking Work*

Whenever possible SAHA will use documentation from a state or local agency that monitors work-related requirements (e.g., TANF or unemployment). In such cases SAHA will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to SAHA any reports provided to the other agency.

In the event third-party verification is not available, SAHA will provide the family with a form on which the family member must record job search efforts. SAHA will review this information at each subsequent reexamination for which this deduction is claimed.

##### *Furthering Education*

SAHA will request third-party documentation to verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

##### *Gainful Employment*

SAHA will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

### **Allowable Type of Child Care**

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

#### SAHA Policy

SAHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

SAHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an

eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

SAHA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

#### **Reasonableness of Expenses**

Only reasonable child care costs can be deducted.

##### SAHA Policy

The actual costs the family incurs will be compared with SAHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, SAHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

<b>EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10]</b>	
<ul style="list-style-type: none"> <li>• All noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to SAHA.</li> <li>• Except for persons 62 or older, all noncitizens must sign a verification consent form</li> <li>• Additional documents are required based upon the person's status.</li> </ul>	
<b>Elderly Noncitizens</b>	
<ul style="list-style-type: none"> <li>• A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.</li> </ul>	
<b>All other Noncitizens</b>	
<ul style="list-style-type: none"> <li>• Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.</li> </ul>	

<ul style="list-style-type: none"> <li>• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)</li> <li>• Form I-94 Arrival-Departure Record annotated with one of the following: <ul style="list-style-type: none"> <li>• “Admitted as a Refugee Pursuant to Section 207”</li> <li>• “Section 208” or “Asylum”</li> <li>• “Section 243(h)” or “Deportation stayed by Attorney General”</li> <li>• “Paroled Pursuant to Section 221 (d)(5) of the USCIS”</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Form I-94 Arrival-Departure Record with no annotation accompanied by: <ul style="list-style-type: none"> <li>• A final court decision granting asylum (but only if no appeal is taken);</li> <li>• A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);</li> <li>• A court decision granting withholding of deportation; or</li> <li>• A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.</li> </ul>	<ul style="list-style-type: none"> <li>• Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.</li> </ul>
<ul style="list-style-type: none"> <li>• A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or</li> <li>• Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the <i>Federal Register</i></li> </ul>	

## Chapter 16

### PROGRAM ADMINISTRATION

#### INTRODUCTION

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

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

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

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

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

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

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

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes SAHA's responsibilities for reporting, data collection, and record keeping relative to children with environmental intervention blood lead levels that are less than six years of age, and are receiving HCV assistance.

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

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

**PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]**

SAHA will maintain administrative fee reserves, or unrestricted net assets (UNA) for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a SAHA fiscal year. HUD appropriations acts beginning with FFY 2004 have specified that administrative fee funding may be used only for activities related to the provision of HCV assistance, including related development activities. Notice PIH 2012-9 cites two examples of related development activities: unit modification for accessibility purposes and development of project-based voucher units. The notice makes clear that other activities may also qualify as related development activities. Administrative fees that remain in the UNA account from funding provided prior to 2004 may be used for “other housing purposes permitted by state and local law,” in accordance with 24 CFR 982.155(b)(1).

If a PHA has not adequately administered its HCV program, HUD may prohibit use of funds in the UNA Account and may direct the PHA to use funds in that account to improve administration of the program, for HCV HAP expenses, or to reimburse ineligible expenses in accordance with the regulation at 24 CFR 982.155(b)(3).

HUD requires SAHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the UNA account without specific approval.

**SAHA Policy**

Expenditures from the administrative fee reserve will be made in accordance with all applicable Federal requirements. Expenditures will not exceed \$25,000 per occurrence without the prior approval of the Housing Authority of the City of Santa Ana (Santa Ana City Council).

## PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

### 16-II.A. OVERVIEW

Although many of the program's requirements are established centrally by HUD, the HCV program's regulations recognize that some flexibility is required to allow SAHA to adapt the program to local conditions. This part discusses how SAHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- *Payment Standards*, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
- *Utility Allowances*, which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

#### SAHA Policy

Copies of the payment standard and utility allowance schedules are available in SAHA's offices during normal business hours and on the City of Santa Ana website.

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

SAHA will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

Establishing and updating SAHA passbook rate, which is used to calculate imputed income from assets, is covered in Chapter 6 (see Section 6-I.G.).

### 16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7]

The payment standard sets the maximum subsidy payment a family can receive from SAHA each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

SAHA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within SAHA's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, SAHA may establish a single payment standard amount for the whole FMR area, or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, SAHA is required to establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

#### **Updating Payment Standards**

When HUD updates its FMRs, SAHA must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require SAHA to make further

adjustments if it determines that rent burdens for assisted families in SAHA's jurisdiction are unacceptably high 24 CFR 982.503(g)].

#### SAHA Policy

SAHA will review the appropriateness of the payment standards on an annual basis when the new FMR is published. In addition to ensuring the payment standards are always within the "basic range" SAHA will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

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

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

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

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

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

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

Changes to payment standard amounts will be effective on December 1<sup>st</sup> of every year unless, based on proposed FMRs, it appears that one or more of SAHA's current payment standard amounts will be outside the basic range when the final FMRs are published. In that case, SAHA's payment standards will be effective on October 1<sup>st</sup> instead of December 1<sup>st</sup>.

#### **Exception Payment Standards [982.503(c)]**

SAHA must request HUD approval to establish payment standards that are higher than the basic range. At HUD's sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area. Any SAHA with jurisdiction in



the exception area may use the HUD-approved exception payment standard amount. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

**Unit-by-Unit Exceptions [24 CFR 982.503(c)(2)(ii), 24 CFR 982.505(d), Notice PIH 2010-26]**

Unit-by-unit exceptions to SAHA's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect SAHA's payment standard schedule.

When needed as a reasonable accommodation, SAHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 110 percent of the applicable FMR for the unit size [HCV GB 7-9]. SAHA may request HUD approval for an exception to the payment standard for a particular family if the required amount falls between 110 and 120 percent of the FMR.

**SAHA Policy**

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, SAHA must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and
- The rent for the unit is reasonable.

**"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]**

If a substantial percentage of families have difficulty finding a suitable unit, SAHA may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows SAHA to set its payment standards at 90-110 percent of a higher FMR (the 50<sup>th</sup>, rather than the 40<sup>th</sup> percentile FMR). To support the request, SAHA must demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants;
- SAHA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- SAHA had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, SAHA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of SAHA's jurisdiction within the FMR area.

**Decreases in the Payment Standard below the Basic Range [24 CFR 982.503(d)]**

SAHA must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share

for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

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

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

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, SAHA must use normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, SAHA must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type. Chapter 18 of the *HCV Guidebook* provides detailed guidance to SAHA about establishing utility allowance schedules.

#### **Air Conditioning**

An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

#### SAHA Policy

SAHA will not include an allowance for air-conditioning in its schedule.

#### **Reasonable Accommodation**

HCV program regulations require a SAHA to approve a utility allowance amount higher than shown on SAHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, SAHA will approve an allowance for air-conditioning, even if SAHA has determined that an allowance for air-conditioning generally is not needed (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

#### **Utility Allowance Revisions**

SAHA must review its schedule of utility allowances each year, and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised.

SAHA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

## PART III: INFORMAL REVIEWS AND HEARINGS

### 16-III.A. OVERVIEW

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

The process for applicant appeals of SAHA decisions is called the “informal review.” For participants (or applicants denied admission because of citizenship issues), the appeal process is called an “informal hearing.” PHAs are required to include informal review procedures for applicants and informal hearing procedures for participants in their administrative plans [24 CFR 982.54(d)(12) and (13)].

### 16-III.B. INFORMAL REVIEWS

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a “minimum hearing requirement” [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements [*Federal Register* 60, no. 127 (3 July 1995): 34690].

#### Decisions Subject to Informal Review

SAHA must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on SAHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by SAHA
- General policy issues or class grievances
- A determination of the family unit size under SAHA subsidy standards
- SAHA determination not to approve an extension or suspension of a voucher term
- SAHA determination not to grant approval of the tenancy
- SAHA determination that the unit is not in compliance with the HQS
- SAHA determination that the unit is not in accordance with the HQS due to family size or composition

#### SAHA Policy

SAHA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on SAHA’s waiting list; denying or

withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

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

SAHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for SAHA decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

#### **Scheduling an Informal Review**

##### SAHA Policy

A request for an informal review must be made in writing and delivered to SAHA either in person or by first class mail, by the close of the business day, no later than 14 days from the date of SAHA's notice of denial of assistance.

Except as provided in Section 3-III.G, SAHA will schedule and send written notice of the informal review within 14 days of the family's request.

#### **Remote Informal Reviews**

All PHA policies and processes for remote informal reviews must be conducted in accordance with due process requirements and be in compliance with HUD regulations.

##### SAHA Policy

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

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

#### **Conducting Remote Informal Reviews**

The PHA must ensure that the applicant has the right to hear and be heard.

##### SAHA Policy

SAHA will conduct remote informal reviews via telephone conferencing call-in or via videoconferencing. If the informal review will be conducted via videoconferencing, SAHA will ensure that all applicants, applicant representatives, SAHA representatives and the person conducting the informal review can adequately access the platform (i.e., hear, be heard, see, and be seen). If any applicant, applicant representative, SAHA representative, or person conducting the informal review is unable to effectively utilize the videoconferencing platform, the informal review will be conducted by telephone conferencing call-in.

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Whether the informal review is to be conducted via videoconferencing or telephone call-in, SAHA will provide all parties login information and/or conferencing call-in information before the review.

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

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of SAHA.

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

SAHA must notify the applicant of SAHA's final decision, including a brief statement of the reasons for the final decision.

##### SAHA Policy

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

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

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

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

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

SAHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision, within 14 days of the informal review decision. The notice will be mailed to the applicant and his or her representative, if any, along with proof of mailing.

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

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

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

PHAs must offer an informal hearing for certain SAHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted

to SAHA's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether SAHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and SAHA policies.

SAHA is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

#### **Decisions Subject to Informal Hearing**

Circumstances for which SAHA must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from SAHA utility allowance schedule
- A determination of the family unit size under SAHA's subsidy standards
- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under SAHA policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by SAHA
- General policy issues or class grievances
- Establishment of SAHA schedule of utility allowances for families in the program
- SAHA determination not to approve an extension or suspension of a voucher term
- SAHA determination not to approve a unit or tenancy
- SAHA determination that a unit selected by the applicant is not in compliance with the HQS
- SAHA determination that the unit is not in accordance with HQS because of family size
- A determination by SAHA to exercise or not to exercise any right or remedy against an owner under a HAP contract

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SAHA Policy

SAHA will only offer participants the opportunity for an informal hearing when required by the regulations.

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Remote Informal Hearings

The PHA's essential responsibility is to ensure informal hearings meet the requirements of due process and comply with HUD regulations. Therefore, all PHA policies and processes for remote informal hearings will be conducted in accordance with due process requirements and will be in compliance with HUD regulations.

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SAHA Policy

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

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

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Conducting Informal Hearings Remotely

In conducting any informal hearing remotely, the PHA shall ensure due process and that all parties are able to have full access to the hearing.

SAHA Policy

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The PHA SAHA will conduct remote informal hearings via telephone conferencing call-in or via videoconferencing. If the informal hearing will be conducted via videoconferencing, the PHA will ensure that all participants, participant representatives, advocates, witnesses, PHA representatives, and the hearing officer can adequately access the platform (i.e., hear, be heard, see, and be seen).

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If any participant, representative, advocate, witness, PHA SAHA representative, or hearing officer is unable to effectively utilize the videoconferencing platform, the informal hearing will be conducted by telephone conferencing call-in.

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Whether the informal hearing is to be conducted via videoconferencing or telephone call-in, the PHA will provide all parties login information and/or telephone call-in information before the hearing.

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

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

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, SAHA must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to SAHA's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

#### SAHA Policy

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

- The proposed action or decision of SAHA.
- A brief statement of the reasons for the decision including the regulatory reference.
- The date the proposed action will take place.
- A statement of the family's right to an explanation of the basis for SAHA's decision.
- A statement that if the family does not agree with the decision the family may request an informal hearing regarding the decision.
- A deadline for the family to request the informal hearing.
- To whom the hearing request should be addressed.
- A copy of SAHA's hearing procedures.

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

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

#### SAHA Policy

A request for an informal hearing must be made in writing and delivered to SAHA either in person or by first class mail, by the close of the business day, no later than 14 days from the date of SAHA's notice to terminate assistance.

SAHA will schedule and send written notice of the informal hearing to the family within 30 days of the family's request.

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



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

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

Participants and SAHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any SAHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If SAHA does not make the document available for examination on request of the family, SAHA may not rely on the document at the hearing.

SAHA hearing procedures may provide that SAHA must be given the opportunity to examine at SAHA offices before the hearing, any family documents that are directly relevant to the hearing. SAHA must be allowed to copy any such document at SAHA's expense. If the family does not make the document available for examination on request of SAHA, the family may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

SAHA Policy

The family will be allowed to copy any documents related to the hearing at a cost of \$.10 per page. The family must request discovery of SAHA documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

SAHA must be given an opportunity to examine at SAHA offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, SAHA may mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date.

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

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

SAHA Policy

The family must notify SAHA of their intent to have legal counsel present a minimum of three business days prior to the hearing date.

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

Informal hearings will be conducted by a person or persons approved by SAHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

SAHA Policy

SAHA has designated the following to serve as hearing officers:

- Contracted Informal Hearing Officer; or
- Representative from City of Santa Ana ~~Attorney's Office.~~

### *Attendance at the Informal Hearing*

#### SAHA Policy

Hearings may be attended by the following applicable persons:

- SAHA representative(s) and any witnesses for SAHA
- The participant and any witnesses for the participant
- The participant's counsel or other representative
- Any other person approved by SAHA as a reasonable accommodation for a person with a disability

### *Conduct at Hearings*

The person who conducts the hearing may regulate the conduct of the hearing in accordance with SAHA's hearing procedures [24 CFR 982.555(4)(ii)].

#### SAHA Policy

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

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

SAHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

#### SAHA Policy

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

**Oral evidence:** the testimony of witnesses.

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

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

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

*Hearsay Evidence* is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either SAHA or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

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

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

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family.

**SAHA Policy**

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

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

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

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

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

The hearing officer will issue a written decision to the family and SAHA no later than 14 days after the hearing. The report will contain the following information:

**Hearing information:**

- Name of the participant;
- Date, time and place of the hearing;
- Name of the hearing officer;
- Name of SAHA representative; and
- Name of family representative (if any).

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

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

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

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

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

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

##### SAHA Policy

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

#### ***PHA Notice of Final Decision [24 CFR 982.555(f)]***

SAHA is not bound by the decision of the hearing officer for matters in which SAHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to federal, state, or local laws.

If SAHA determines it is not bound by the hearing officer's decision in accordance with HUD regulations, SAHA must promptly notify the family of the determination and the reason for the determination.

##### SAHA Policy

SAHA will mail a "Notice of Final Decision" including the hearing officer's report, to the participant and their representative. This Notice will be sent by first-class mail and certified mail. A copy of the "Notice of Final Decision" along with the original proof mailing will be maintained in SAHA's file.

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

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

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while SAHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or SAHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

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

The notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with SAHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

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

When SAHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, SAHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide SAHA with a copy of the written request for appeal and the proof of mailing.

**SAHA Policy**

SAHA will notify the family in writing of the results of the USCIS secondary verification within 14 days of receiving the results.

The family must provide SAHA with a copy of the written request for appeal and proof of mailing within 14 days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to SAHA, of its decision. When the USCIS notifies SAHA of the decision, SAHA must notify the family of its right to request an informal hearing.

#### SAHA Policy

SAHA will send written notice to the family of its right to request an informal hearing within 14 days of receiving notice of the USCIS decision regarding the family's immigration status.

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

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that SAHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of SAHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

#### ***Informal Hearing Officer***

SAHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. See Section 16-III.C. for a listing of positions that serve as informal hearing officers.

#### ***Evidence***

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of SAHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

#### SAHA Policy

The family will be allowed to copy any additional documents that were not included in SAHA's hearing packet mailed to the family. The City of Santa Ana's current copy rate will be used which is currently \$.20 per page. The family must request discovery of SAHA documents no later than three the business days prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by SAHA, and to confront and cross-examine all witnesses on whose testimony or information SAHA relies.

***Representation and Interpretive Services***

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or SAHA, as may be agreed upon by the two parties.

***Recording of the Hearing***

The family is entitled to have the hearing recorded by audiotape. SAHA may, but is not required to provide a transcript of the hearing.

**SAHA Policy**

SAHA will not provide a transcript or copy of an audio taped hearing.

***Hearing Decision***

SAHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

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

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that SAHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of SAHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

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

SAHA must retain for a minimum of 5 years the following documents that may have been submitted to SAHA by the family, or provided to SAHA as part of the USCIS appeal or SAHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing

- The final informal hearing decision

PART IV: OWNER OR FAMILY DEBTS TO THE PHA

16-IV.A. OVERVIEW

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PHAs are required to include in the administrative plan, policies concerning repayment by a family of amounts owed to SAHA [24 CFR 982.54]. This part describes SAHA's policies for recovery of monies owed to SAHA by families or owners.

SAHA Policy

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

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

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

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

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

##### **Owner Debts to SAHA**

SAHA Policy

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

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

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

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

##### **Family Debts to SAHA**

SAHA Policy

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

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, SAHA will terminate assistance in accordance with the policies in Chapter 12 and pursue other modes of collection.

### **Repayment Agreement [24 CFR 792.103]**

The term *repayment agreement* refers to a formal written document signed by a tenant or owner and provided to SAHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

### **General Repayment Agreement Guidelines for Families**

#### ***Down Payment Requirement***

##### SAHA Policy

Before executing a repayment agreement with a family, SAHA will generally require a down payment of 10 percent of the total amount owed unless the amount exceeds \$3,500. If the amount exceeds \$3,500, the family must pay the full amount that exceeds \$3,500 prior to making any monthly payments on their Repayment Agreement.

If the family can provide evidence satisfactory to SAHA that a down payment of 10 percent would impose an undue hardship, SAHA may, in its sole discretion, require a lesser percentage or waive the requirement.

#### ***Payment Thresholds***

Notice PIH 2010-19 recommends that the total amount that a family must pay each month—the family’s monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family’s monthly adjusted income. However, a family may already be paying 40 per cent or more of its monthly adjusted income in rent. Moreover, Notice PIH 2010-19 acknowledges that PHAs have the discretion to establish “thresholds and policies” for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

##### SAHA Policy

SAHA has established the following thresholds for repayment of debts:

- The maximum amount for which SAHA will enter into a repayment agreement with a family is \$3,500.00. Debts larger must be paid down prior to making payments on the repayment agreement.
- The maximum length of time SAHA will enter into a repayment agreement with a family is 36 months.
- The minimum monthly payment amount for any repayment agreement is \$10.00.

If a family can provide evidence satisfactory to SAHA that the threshold applicable to the family’s debt would impose an undue hardship, SAHA may, in its sole discretion,

determine that a lower monthly payment amount is reasonable. In making its determination, SAHA will consider all relevant information, including the following:

- The amount owed by the family
- The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family's control
- The family's current and potential income and expenses
- The family's current family share, as calculated under 24 CFR 982.515
- The family's history of meeting its financial responsibilities

#### ***Execution of the Agreement***

##### SAHA Policy

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

#### ***Due Dates***

##### SAHA Policy

All payments are due by the close of business on the 1<sup>st</sup> day of the month.

#### ***Late or Missed Payments***

##### SAHA Policy

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by SAHA, SAHA will send the family a delinquency notice giving the family until the next scheduled payment to make the note current. If the payment is not received by the second and final due date, it will be considered a breach of the agreement and SAHA will proceed with termination of assistance in accordance with the policies in Chapter 12.

For families requesting to exercise portability, all debts owed to SAHA must be paid in full prior to SAHA approval of portability.

#### ***No Offer of Repayment Agreement***

##### SAHA Policy

SAHA will not enter into a repayment agreement with a family if the family has a current or past repayment agreement. Any amount that is owed by the family will need to be paid in full within 60 days of meeting with SAHA to sign acknowledgement of debt owed.

#### **Repayment Agreements Involving Improper Payments**

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

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- A reference to the items in the family briefing packet that state the family's obligation to provide true and complete information at every reexamination and the grounds on which SAHA may terminate assistance because of a family's action or failure to act
- A statement clarifying that each month the family not only must pay to SAHA the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to owner
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance

## **PART V: SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)**

### **16-V.A. OVERVIEW**

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure SAHA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each SAHA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect SAHA in several ways.

- High-performing PHAs can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- PHAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].
- PHAs with an overall rating of “troubled” are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, PHAs that are designated “troubled” may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
- HUD may determine that a PHA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

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

PHAs must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by SAHA board resolution and signed by SAHA executive director. If SAHA is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Section 8 program director.

PHAs with less than 250 voucher units are only required to be assessed every other PHA fiscal year. HUD will assess such PHAs annually if the PHA elects to have its performance assessed on an annual basis; or is designated as “troubled” [24 CFR 985.105].

Failure of a PHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of “troubled.”

A PHA's SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the PHA's SEMAP certification, HUD will rate the PHA's performance under each SEMAP indicator in accordance with program requirements.

#### **HUD Verification Method**

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. SAHA or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify SAHA's certification on the indicator due to SAHA's failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].

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

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

A SAHA that expends less than \$300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor, is not be rated under SEMAP indicators 1-7.

<b>SEMAP Indicators</b>
<b>Indicator 1: Selection from the waiting list</b> <b>Maximum Score: 15</b> <ul style="list-style-type: none"> <li>This indicator shows whether SAHA has written policies in its administrative plan for selecting applicants from the waiting list and whether SAHA follows these policies when selecting applicants for admission from the waiting list.</li> <li>Points are based on the percent of families that are selected from the waiting list in accordance with SAHA's written policies, according to SAHA's quality control sample.</li> </ul>
<b>Indicator 2: Rent reasonableness</b> <b>Maximum Score: 20</b> <ul style="list-style-type: none"> <li>This indicator shows whether SAHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units</li> <li>Points are based on the percent of units for which SAHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to SAHA's quality control sample.</li> </ul>
<b>Indicator 3: Determination of adjusted income</b> <b>Maximum Score: 20</b> <ul style="list-style-type: none"> <li>This indicator measures whether SAHA verifies and correctly determines adjusted</li> </ul>

<p>income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent.</p> <ul style="list-style-type: none"> <li>Points are based on the percent of files that are calculated and verified correctly, according to SAHA's quality control sample.</li> </ul>
<p><b>Indicator 4: Utility allowance schedule</b>  <b>Maximum Score: 5</b></p> <ul style="list-style-type: none"> <li>This indicator shows whether SAHA maintains an up-to-date utility allowance schedule.</li> <li>Points are based on whether SAHA has reviewed the utility allowance schedule and adjusted it when required, according to SAHA's certification.</li> </ul>
<p><b>Indicator 5: HQS quality control inspections</b>  <b>Maximum Score: 5</b></p> <ul style="list-style-type: none"> <li>This indicator shows whether a PHA supervisor reinspects a sample of units under contract during SAHA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.</li> <li>Points are based on whether the required quality control reinspections were completed, according to SAHA's certification.</li> </ul>
<p><b>Indicator 6: HQS enforcement</b>  <b>Maximum Score: 10</b></p> <ul style="list-style-type: none"> <li>This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any PHA-approved extension.</li> <li>Points are based on whether SAHA corrects all HQS deficiencies in accordance with required time frames, according to SAHA's certification.</li> </ul>
<p><b>Indicator 7: Expanding housing opportunities</b>  <b>Maximum Points: 5</b></p> <ul style="list-style-type: none"> <li>Only applies to PHAs with jurisdiction in metropolitan FMR areas.</li> <li>This indicator shows whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside SAHA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration.</li> <li>Points are based on whether SAHA has adopted and implemented written policies in accordance with SEMAP requirements, according to SAHA's certification.</li> </ul>
<p><b>Indicator 8: FMR limit and payment standards</b>  <b>Maximum Points: 5 points</b></p> <ul style="list-style-type: none"> <li>This indicator shows whether the PHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in SAHA's</li> </ul>

<p>jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.</p> <ul style="list-style-type: none"> <li>Points are based on whether SAHA has appropriately adopted a payment standard schedule(s), according to SAHA's certification.</li> </ul>
<p><b>Indicator 9: Annual reexaminations</b>  <b>Maximum Points: 10</b></p> <ul style="list-style-type: none"> <li>This indicator shows whether the PHA completes a reexamination for each participating family at least every 12 months.</li> <li>Points are based on the percent of reexaminations that are more than 2 months overdue, according to data from PIC.</li> </ul>
<p><b>Indicator 10: Correct tenant rent calculations</b>  <b>Maximum Points: 5</b></p> <ul style="list-style-type: none"> <li>This indicator shows whether the PHA correctly calculates the family's share of the rent to owner.</li> <li>Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.</li> </ul>
<p><b>Indicator 11: Pre-contract HQS inspections</b>  <b>Maximum Points: 5</b></p> <ul style="list-style-type: none"> <li>This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.</li> <li>Points are based on the percent of newly leased units that passed HQS inspection prior to the effective date of the lease and HAP contract, according to data from PIC.</li> </ul>
<p><b>Indicator 12: Annual HQS inspections</b>  <b>Maximum Points: 10</b></p> <ul style="list-style-type: none"> <li>This indicator shows whether SAHA inspects each unit under contract at least annually.</li> <li>Points are based on the percent of annual HQS inspections of units under contract that are more than 2 months overdue, according to data from PIC.</li> </ul>
<p><b>Indicator 13: Lease-up</b>  <b>Maximum Points: 20 points</b></p> <ul style="list-style-type: none"> <li>This indicator shows whether the PHA enters HAP contracts for the number of units or funding reserved under ACC for at least one year.</li> <li>Points are based on the percent of units leased during the last completed SAHA fiscal year, or the percent of allocated budget authority that has been expended by SAHA, according to data from SAHA's last year-end operating statement that is recorded in HUD's accounting system.</li> </ul>
<p><b>Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances</b>  <b>Maximum Points: 10</b></p> <ul style="list-style-type: none"> <li>Only applies to PHAs with mandatory FSS programs.</li> <li>This indicator shows whether the PHA has enrolled families in the FSS program as</li> </ul>



required, and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.

- Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.

#### **Success Rate of Voucher Holders**

##### **Maximum Points: 5**

- Only applies to PHAs that have received approval to establish success rate payment standard amounts, and isn't effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.
- This indicator shows whether voucher holders were successful in leasing units with voucher assistance.
- Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.

#### **Deconcentration Bonus Indicator**

##### **Maximum Points: 5**

- Submission of data for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50<sup>th</sup> percentile rent, starting with the second full SAHA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50<sup>th</sup> percentile.
- Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.
- Points are based on whether the data that is submitted meets the requirements for bonus points.

## PART VI: RECORD KEEPING

### 16-VI.A. OVERVIEW

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

In addition, SAHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

### 16-VI.B. RECORD RETENTION [24 CFR 982.158]

During the term of each assisted lease, and for at least three years thereafter, SAHA must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, SAHA must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting SAHA budget and financial statements for the program;
- Records to document the basis for SAHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.
- Notice PIH 2014-20 requires PHAs to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D., Retention of Documents.

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

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

### SAHA Policy

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

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

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

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

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

### **Upfront Income Verification (UIV) Records**

PHAs that access UIV data through HUD's Enterprise Income Verification (EIV) system are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD-issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data*.

### SAHA Policy

Prior to utilizing HUD's EIV system, SAHA has adopted and implemented EIV security procedures required by HUD.

### **Criminal Records**

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

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

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

#### **Medical/Disability Records**

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

#### **Documentation of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

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

## **PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL**

### **16-VII.A. OVERVIEW**

SAHA has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that SAHA is subject to.

### **16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]**

SAHA must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

#### SAHA Policy

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

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

At least quarterly, SAHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified environmental intervention blood lead level.

If SAHA obtains names and addresses of environmental intervention blood lead level children from the public health department(s), SAHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, SAHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, SAHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

#### SAHA Policy

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

## **PART VIII: DETERMINATION OF INSUFFICIENT FUNDING**

### **16-VIII.A. OVERVIEW**

The HCV regulations allow PHAs to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.354(e)(1) and 982.454]. If a PHA denies a family a portability move based on insufficient funding, SAHA is required to notify the local HUD office within 10 business days [24 CFR 982.354]. Insufficient funding may also impact SAHA's ability to issue vouchers to families on the waiting list. This part discusses the methodology SAHA will use to determine whether or not SAHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

### **16-VIII.B. METHODOLOGY**

#### SAHA Policy

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

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

### **16-IX.A. OVERVIEW**

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

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and SAHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and SAHA policies are located primarily in the following sections: 3-I.C, “Family Breakup and Remaining Member of Tenant Family”; 3-III.G, “Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, and Stalking”; 10-I.A, “Allowable Moves”; 10-I.B, “Restrictions on Moves”; 12-II.E, “Terminations Related to Domestic Violence, Dating Violence, or Stalking”; and 12-II.F, “Termination Notice.”

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

As used in VAWA:

- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members’ lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of

the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

- The term *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
  - Any other individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *sexual assault* means:
  - Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent
- The term *stalking* means:
  - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

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

##### Notification to Public

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

##### SAHA Policy

SAHA will make the following information readily available to anyone who requests it:

- A summary of the rights and protections provided by VAWA to HCV program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (see sample notices in Exhibits 16-1 and 16-2)
- The definitions of domestic violence, dating violence, sexual assault, and stalking provided in VAWA (include in Exhibits 16-1 and 16-2)
- An explanation of the documentation that SAHA may require from an individual who claims the protections provided by VAWA (included in Exhibits 16-1 and 16-2)
- A copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
- A statement of SAHA's obligation to keep confidential any information that is received from a victim unless (a) SAHA has the victim's written permission to release the information, (b) it needs to use the information in an eviction



proceeding, or (c) it is compelled by law to release the information (includes in Exhibits 16-1 and 16-2)

- The National Domestic Violence Hot Line: 1 800-799-SAFE (7233) or 1 800-787-9224 (TTY) (included in Exhibits 16-1 and 16-2)
- Contact information for local victim advocacy groups or service providers

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

PHAs are required to inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

##### SAHA Policy

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

SAHA will provide all participants with information about VAWA at the time of admission (see section 5-I.B.) and at annual reexamination. SAHA will also include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.

The VAWA information provided to applicants and participants will consist of the notice in Exhibit 16-1 and a copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, Sexual Assault and Stalking.

#### **Notification to Owners and Managers [24 CFR 5.2005(a)(2)]**

PHAs are required to notify owners and managers participating in the HCV program of their rights and obligations under VAWA.

##### SAHA Policy

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

The VAWA information provided to owners will consist of the notice in Exhibit 16-2 and a copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, Sexual Assault, and Stalking.

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

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

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

- (1) A completed and signed HUD-approved certification form (HUD-50066, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim
- (2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record
- (3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person’s belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

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

#### SAHA Policy

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

SAHA may, in its discretion, extend the deadline for 14 days. Any extension granted by SAHA will be in writing.

#### **Conflicting Documentation [24 CFR 5.2007(e)]**

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

#### SAHA Policy

If presented with conflicting certification documents (two or more forms HUD-500066) from members of the same household, SAHA will attempt to determine which is the true

victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(b)(2) or (3) and by following any HUD guidance on how such determinations should be made.

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

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

SAHA Policy

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

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

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

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

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

SAHA Policy

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

**EXHIBIT 16-1: SAMPLE NOTICE TO HOUSING CHOICE VOUCHER APPLICANTS  
AND TENANTS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)**

*This sample notice was adapted from a notice prepared by the National Housing Law Project.*

A federal law that went into effect in 2013 protects individuals who are victims of domestic violence, dating violence, sexual assault, or stalking. The name of the law is the Violence against Women Act, or “VAWA.” This notice explains your rights under VAWA.

**Protections for Victims**

If you are eligible for a Section 8 voucher, the housing authority cannot deny you rental assistance solely because you are a victim of domestic violence, dating violence, sexual assault, or stalking.

If you are the victim of domestic violence, dating violence, sexual assault, or stalking, you cannot be terminated from the Section 8 program or evicted based on acts or threats of violence committed against you. Also, criminal acts directly related to the domestic violence, dating violence, sexual assault, or stalking that are caused by a member of your household or a guest can’t be the reason for evicting you or terminating your rental assistance if you were the victim of the abuse.

**Reasons You Can Be Evicted**

You can be evicted and your rental assistance can be terminated if the housing authority or your landlord can show there is an *actual* and *imminent* (immediate) threat to other tenants or employees at the property if you remain in your housing. Also, you can be evicted and your rental assistance can be terminated for serious or repeated lease violations that are not related to the domestic violence, dating violence, sexual assault, or stalking committed against you. The housing authority and your landlord cannot hold you to a more demanding set of rules than it applies to tenants who are not victims.

**Removing the Abuser from the Household**

Your landlord may split the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the assisted unit. Also, the housing authority can terminate the abuser’s Section 8 rental assistance while allowing you to continue to receive assistance. If the landlord or housing authority chooses to remove the abuser, it may not take away the remaining tenants’ rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, your landlord must follow federal, state, and local eviction procedures.

### **Moving to Protect Your Safety**

The housing authority may permit you to move and still keep your rental assistance, even if your current lease has not yet expired. The housing authority may require that you be current on your rent or other obligations in the housing choice voucher program. The housing authority may ask you to provide proof that you are moving because of incidences of abuse.

### **Proving That You Are a Victim of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

The housing authority and your landlord can ask you to prove or “certify” that you are a victim of domestic violence, dating violence, sexual assault, or stalking. The housing authority or your landlord must give you at least 14 business days (i.e., Saturdays, Sundays, and holidays do not count) to provide this proof. The housing authority and your landlord are free to extend the deadline. There are three ways you can prove that you are a victim:

- Complete the certification form given to you by the housing authority or your landlord. The form will ask for your name, the name of your abuser, the abuser’s relationship to you, the date, time, and location of the incident of violence, and a description of the violence. You are only required to provide the name of the abuser if it is safe to provide and you know their name.
- Provide a statement from a victim service provider, attorney, mental health professional, or medical professional who has helped you address incidents of domestic violence, dating violence, sexual assault, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both you and the professional must sign the statement, and both of you must state that you are signing “under penalty of perjury.”
- Provide a police or court record, such as a protective order, or an administrative record.

Additionally, at its discretion, the housing authority can accept a statement or other evidence provided by the applicant or tenant.

If you fail to provide one of these documents within the required time, the landlord may evict you, and the housing authority may terminate your rental assistance.

### **Confidentiality**

The housing authority and your landlord must keep confidential any information you provide about the violence against you, unless:

- You give written permission to the housing authority or your landlord to release the information.
- Your landlord needs to use the information in an eviction proceeding, such as to evict your abuser.
- A law requires the housing authority or your landlord to release the information.

If release of the information would put your safety at risk, you should inform the housing authority and your landlord.

### **VAWA and Other Laws**

VAWA does not limit the housing authority's or your landlord's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking.

#### **For Additional Information**

If you have any questions regarding VAWA, please contact \_\_\_\_\_ at \_\_\_\_\_.

For help and advice on escaping an abusive relationship, call the National Domestic Violence Hotline at 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).

#### **Definitions**

For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines *domestic violence* to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse or intimate partner of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

VAWA defines *dating violence* as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

VAWA defines *sexual assault* as "any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent" (42 U.S.C. 13925(a)).

VAWA defines *stalking* as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

**EXHIBIT 16-2: SAMPLE NOTICE TO HOUSING CHOICE VOUCHER OWNERS AND MANAGERS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)**

*This sample notice was adapted from a notice prepared by the National Housing Law Project.*

A federal law that went into effect in 2013 protects individuals who are victims of domestic violence, dating violence, sexual assault, and stalking. The name of the law is the Violence against Women Act, or “VAWA.” This notice explains your obligations under VAWA.

**Protections for Victims**

You cannot refuse to rent to an applicant solely because he or she is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

You cannot evict a tenant who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking based on acts or threats of violence committed against the victim. Also, criminal acts directly related to the domestic violence, dating violence, sexual assault, or stalking that are caused by a household member or guest cannot be cause for evicting the victim of the abuse.

**Permissible Evictions**

You can evict a victim of domestic violence, dating violence, sexual assault, or stalking if you can demonstrate that there is an *actual and imminent* (immediate) threat to other tenants or employees at the property if the victim is not evicted. Also, you may evict a victim for serious or repeated lease violations that are not related to the domestic violence, dating violence, sexual assault, or stalking. You cannot hold a victim of domestic violence, dating violence, sexual assault, or stalking to a more demanding standard than you hold tenants who are not victims.

**Removing the Abuser from the Household**

You may bifurcate (split) the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the unit. If you choose to remove the abuser, you may not take away the remaining tenants’ rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, you must follow federal, state, and local eviction procedures.

**Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

If a tenant asserts VAWA’s protections, you can ask the tenant to certify that he or she is a victim of domestic violence, dating violence, sexual assault, or stalking. You are not required to

demand official documentation and may rely upon the victim's statement alone. If you choose to request certification, you must do so in writing and give the tenant at least 14 business days to provide documentation. You are free to extend this deadline. A tenant can certify that he or she is a victim by providing any one of the following three documents:

- A completed, signed HUD-approved certification form. The most recent form is HUD-50066. This form is available at the housing authority or online at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/hudclips/forms/hud5](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/forms/hud5).
- A statement from a victim service provider, attorney, mental health professional, or medical professional who has helped the victim address incidents of domestic violence, dating violence, sexual assault, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both the victim and the professional must sign the statement under penalty of perjury.
- A police or court record, such as a protective order, or administrative record.

If the tenant fails to provide one of these documents within 14 business days, you may evict the tenant if authorized by otherwise applicable law and lease provisions.

#### **Confidentiality**

You must keep confidential any information a tenant provides to certify that he or she is a victim of domestic violence, dating violence, sexual assault, or stalking. You cannot enter the information into a shared database or reveal it to outside entities unless:

- The tenant provides written permission releasing the information.
- The information is required for use in an eviction proceeding, such as to evict the abuser.
- Release of the information is otherwise required by law.

The victim should inform you if the release of the information would put his or her safety at risk.

#### **VAWA and Other Laws**

VAWA does not limit your obligation to honor court orders regarding access to or control of the property. This includes orders issued to protect the victim and orders dividing property among household members in cases where a family breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking.

#### **Additional Information**

- If you have any questions regarding VAWA, please contact \_\_\_\_\_.

#### **Definitions**

For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines *domestic violence* to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse or intimate partner of the victim



- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

VAWA defines *dating violence* as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

VAWA defines *sexual assault* as “any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent” (42 U.S.C. 13925(a)).

VAWA defines *stalking* as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.