

Chapter 15

HOUSING CHOICE VOUCHER HOMEOWNERSHIP PROGRAM

OVERVIEW (24 CFR 982.625)

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option may be newly admitted or an existing participant in the HCV program. The PHA must have the capacity to operate a successful HCV Homeownership program as defined by the regulations.

There are two forms of homeownership assistance a PHA may offer under this option: monthly homeownership assistance payments, or a single down payment assistance grant. PHAs may choose to offer either both forms of assistance; a family must choose which form of assistance to receive.

HACEP Policy

HACEP will only offer monthly homeownership assistance payments. HACEP will not offer down payment assistance.

15-I.A. HOUSING CHOICE VOUCHER RULES APPLY

With the exception of unique eligibility and “family obligation” procedures identified elsewhere in the chapter, HACEP will administer the HCV Homeownership program in accordance with all the policies and procedures contained in the HCV Administrative Plan and 24 CFR Part 982.

15-I.B. ELIGIBILITY REQUIREMENTS FOR FAMILIES

Participation in the HCV Homeownership Program is voluntary. Each participant must meet the general requirements for admission to the HCV rental program as set forth in the HACEP Administrative Plan. The family must also meet all eligibility requirements of the HCV Homeownership Program.

General Requirements

- Only current participants in the HCV rental program who have received assistance for at least one full year may apply for the homeownership program.
- An applicant must be in good standing with their landlord and HACEP with regard to their family obligations and contracts.

The family must satisfy the prerequisite of being in “good standing” prior to receiving a Certificate of Eligibility for the homeownership program. For the purposes of the homeownership program, “good standing” is defined as meeting all of the conditions prior to and during the homeownership shopping period, as outlined below.

- A landlord reference(s) indicating that during the prior year the family has an uninterrupted record of paying monthly rent in full, on time, and satisfactorily meets all other lease obligations, as documented on the *Landlord Verification* form. All verifications will be completed via third-party written or oral communication with the applicant’s landlord.
- Within the past year, the family has met all the HUD and HACEP family obligations under the HCV program.
- Within the past year and throughout the homeownership shopping period, the family may not owe HACEP or any other housing authority any outstanding debt nor enter into a repayment agreement. A participant may become eligible to apply for the homeownership program on the first anniversary date of full payment of any debt, subject to meeting the other conditions of good standing.
- An applicant must be a “first-time homeowner.”

To qualify as a “first-time homeowner,” the assisted family may not include any person with a “present ownership interest” in a residence during the three years before the commencement of homeownership assistance for the family. Cooperative membership shares acquired prior to the commencement of homeownership assistance are exempt from this rule. A single parent or displaced homemaker who, while married, owned a home with his or her spouse, or resided in a home owned by his or her spouse, is considered a “first-time homeowner”

Other conditions also apply to “first-time homeowner” definition:

- No family member may have a present ownership interest in a second residence while receiving homeownership assistance.
- If HACEP determines that a disabled family requires homeownership assistance as a reasonable accommodation, the first-time homeowner requirement does not apply.
- HACEP will not commence homeownership assistance for a family if any family member has previously received assistance under the homeownership option, and has defaulted on a mortgage securing debt incurred to purchase the home.
- An applicant must demonstrate a minimum down payment of at least three percent (3.50%) or more. One percent (1%) of the purchase price of the property must come from the family’s personal resources.
- An applicant must meet the minimum income standards defined below:

- For a family whose head or co-head of household, spouse or sole member is an individual that experiences permanent disability, the standard is equal to the monthly Federal Supplemental Social Security Income (SSI) benefit for an individual multiplied by twelve.
- For non-disabled or elderly families, the minimum income standard is \$20,500.

For purposes of program eligibility, welfare assistance may only be counted as income in cases where the applicant meets the definition of an elderly or disabled family.

An applicant shall be considered to have satisfied the minimum income requirement if the family can demonstrate that it has been pre-qualified or pre-approved for financing. The pre-qualified or pre-approved financing amount must be sufficient to purchase housing that meets HUD Housing Quality Standards (HQS).

- An applicant must attend and satisfactorily complete a pre-assistance Housing Counseling workshop, Budgeting and Financial Planning, Good Neighbor and any other workshops prescribed by HACEP.

Employment Obligations

Except for a disabled family or an elderly family, assistance under the homeownership program is limited to families who demonstrate a work history of one year. The employment requirement is used to determine eligibility and is a continuing requirement throughout the period of homeownership assistance.

Regular seasonal employees and self-employed workers, who have a demonstrated work history averaging thirty (30) hours per week on an annualized basis and an annualized income at or above the minimum income, will be considered continuously employed for purposes of HCV Homeownership program eligibility and subsequent employment requirements.

- The applicant head of household, spouse, or adult that will be on the mortgage document is required to document full-time (no less than 30 hours per week), continuous employment for a period of no less than 12 months prior to application. Part-time employment by two or members in the household totaling 30 hours per week will not be considered full time employment for purposes of HCV Homeownership program eligibility and subsequent employment requirement.
- The applicant head of household, spouse or adult on the mortgage document must remain continuously employed full time (no less than 30 hours per week) while participating in the program.

For eligibility purposes, continuous employment is defined as: **"No gap in employment lasting more than 60 DAYS total during the past year."** Continuous employment for seasonal employees and self-employed workers is defined as two consecutive years of regular/seasonal employment where HACEP 'annualizes' family income when determining family rent.

- Part-time employment by both parties, totaling over 30 hours per week, does not constitute full-time employment by either party.

HACEP has the discretion to interpret small gaps in employment. Permissible gaps can only occur if loss of employment resulted from measures beyond the employee's control (layoff, medical emergency); and did not result in an employment gap of more than four consecutive weeks. But no gap is allowed over 60 days total during a year – see above.

Documentation of the initial employment requirement for the HCV Homeownership program will be completed using the *Employment Verification* form. All verifications will be completed via EIV, third-party written or oral communication with the applicant's employer. Annual documentation of the full-time employment requirement will be completed using the *Employment Verification* form and EIV at annual reexamination.

Lenders may have separate requirements and further require participants to demonstrate a history of full-time, continuous employment of no less than 24 months at 40 hours per week.

The employment requirement is not applicable to elderly families or those whose head of household, spouse, or co-head are verified disabled in accordance with the occupancy definition of disabled.

15-I.C. APPLICATION PROCESS

Applicants may contact the HCV Homeownership Coordinator or a HCV Housing Specialist to receive information about HCV Homeownership Program and a *Homeownership Application*.

Application Form

An applicant must complete and submit the *Homeownership Application* to the HCV Homeownership Coordinator for review. The application includes information on income, assets, obligations, and family composition.

Application Attachments

1. A current bank statement verifying \$1,000 in savings designated toward the one percent (1%) of personal funds down payment requirement. Applicants must document a three percent (3.5%) down payment with the mortgage lender prior to closing.
2. A signed *Employment Verification* form.
3. A signed *Landlord Verification form*.
4. If applicable, a verification of disability, if not on file.

5. The applicant must document household composition for all individuals currently on the HCV Program who will reside in the household.
6. All documents submitted must not be over 60 days old.

Application Review

Upon receipt of a HCV *Homeownership Application*, the HCV Homeownership Coordinator determines whether an applicant meets the eligibility criteria for the program. The application review will include:

1. Evaluation of family composition and HCV rental status.
2. Review of income, savings, and disability documentation.
3. Verification that the applicant is in compliance with HCV Family Obligations
4. Verification that the applicant is in compliance with all lease provisions using the HACEP *Landlord Verification* form.
5. Evaluation of employment history.

All documentation is subject to independent verification by HACEP program staff. The HCV Homeownership Coordinator will review the file for discrepancies or omissions. If, at any time throughout the process, the HCV Homeownership Coordinator sees a discrepancy in reported income, assets, or family share, he/she shall report it to the HCV Housing Specialist. The HCV Housing Specialist shall perform an interim reexamination, resolve whether further action is necessary, and report the outcome to the Program Administrator.

- If, in the course of a loan application, a loan originator, or other third party, document income not previously reported to the Housing Authority, HACEP will conduct an interim reexamination of income. Should the reexamination result in a debt or proposed repayment agreement, HACEP shall retain sole discretion to withdraw the *Certificate of Eligibility* subject to the outcome of any grievance procedure related to the income discrepancy. The participant family must remain on the HCV program for an additional year, in good standing, before HACEP may re-issue a *Certificate of Eligibility*.

Incomplete Applications

Incomplete applications will not be reviewed and will be returned to applicants for completion. A checklist of application deficiencies will be attached to the incomplete application. Participants must correct all deficiencies noted on the checklist and resubmit the checklist, complete application, and attachments, for additional consideration. Applications

that are returned for incompleteness will be re-stamped and dated when they are returned complete.

15-I.D. INELIGIBILITY

A participant will be considered ineligible for the following reasons:

- A participant on the HACEP HCV program for less than one year;
- Not in good standing with the HACEP or any other housing authority;
- Negative payment history with current or most recent past landlord;
- Negative landlord verification;
- Not a first-time homeowner;
- Applicant does not have the 1% for the down payment;
- Less than 30 hours worked per week;
- Do not meet the minimum income guidelines;

15-I.E. DETERMINING “MORTGAGE READY” APPLICANTS

Applications for homeownership are date-stamped. Complete applications – those with all necessary attachments in place – are placed on a waiting list in order of date and time received.

A *Certificate of Eligibility* is awarded on a first-come, first-served, basis after a participant is determined eligible and “mortgage ready.” HACEP will issue approximately five *Certificates* each fiscal year as set forth in the HACEP Agency Plan.

The *Certificate* contains an estimate of the amount of HAP available to the family. This estimate is useful to the applicant and lender when determining the housing and debt ratios.

Certificate of Eligibility

HACEP shall use a priority mechanism to ensure a fair and equitable selection of applicants.

Priority will be given in the following order:

- HACEP FSS participants that have graduated from the FSS program and meet the HCV HO eligibility requirements.
- HACEP FSS participants that have been enrolled in the FSS program for one or more years and are meeting goals set forth in their ITSP, have a positive escrow and meet the HCV HO eligibility requirements.
- Families that are HACEP HCV participants for more than one year and have verified that they meet the eligibility requirements and are acceptable for lender/loan requirements by a qualified lender with qualified loan products.
- All other HACEP HCV eligible families.

- Other HACEP HCV families that are participating to achieve eligibility.
- Ports (subject to funding)

If the HCV Homeownership Coordinator determines that a family meets minimum eligibility criteria, he/she may issue a *Certificate of Eligibility* to enable the applicant to shop for a home purchase. The HCV Homeownership Coordinator will deliver the *Certificate of Eligibility* and a copy of the *Homeownership Application* to the participant. These documents will assist the applicant in determining the maximum sales price and loan amount in the pre-qualification process in conjunction with their lender.

Whenever an opening occurs in the program, HACEP will select the next available applicant for an intake interview. The HCV Homeownership Coordinator will interview the applicant to ensure that all the information contained in their *Homeownership Application* is current and that the applicant is eligible for homeownership.

The issuance of a *Certificate of Eligibility* does not guarantee that a participant will have the ability to secure a homeownership loan. Other considerations such as the housing market, an applicant's credit history, total indebtedness, and current income will be factors that will determine a participant's ability to secure a home mortgage. All participants will qualify independently through a mortgage lender approved by HACEP.

Should the participant demonstrate inappropriate or unacceptable behavior during the shopping period the HCV Homeownership Coordinator at his/her discretion may terminate the *Certificate of Eligibility*.

15-I.F. HOMEOWNERSHIP COUNSELING

HACEP shall provide a list of HUD approved homeownership counselors. The applicant must attend and satisfactorily complete pre and post housing counseling. The counseling program should cover the topics listed below. Applicants who HACEP determines are not yet "mortgage ready" may be required to obtain additional information on any of the following issues:

- Is homeownership right for you?
- Home maintenance (including care of the grounds);
- Budgeting and money management;
- Credit Counseling;
- How to negotiate the purchase price of a home;
- How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing;

- How to find a home, including information about homeownership opportunities, schools, and transportation in the HACEP jurisdiction;
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies;
- Taxes, escrows and homestead exemptions;
- Information about the Real Estate Settlement Procedures Act (12 U.S.C 2601 et seq.) (RESPA), state and federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions; and
- Post purchase counseling.

15-I.G. CHANGES IN FAMILY SIZE OR COMPOSITION

All changes in family composition must be reported within 10 days prior to the HCV Housing Specialist and the HCV Homeownership Coordinator. The *Certificate of Eligibility* will reflect the applicable subsidy standard HACEP assigns to the family based upon the family's size and composition. The final *Housing Assistance Payment Certificate* (HAP) will be issued based upon the subsidy standard applicable on the date of closing.

15-I. H. CHANGES IN PAYMENT STANDARDS

The payment standard applicable on the date of closing establishes the baseline payment standard for the unit. If the payment standard changes after an offer to purchase has been made, but prior to closing, the payment standard applicable on the date of closing applies. HACEP will reissue a revised *Certificate of Eligibility* effective on the effective date of the new Payment Standard.

Occasionally, a buyer and seller may execute an Earnest Money Agreement prior to a decrease in payment standard, with the closing taking place after the effective date of a decreased payment standard. For families whose head of household, spouse or co-tenant experiences permanent disability, HACEP may request HUD approval to use the payment standard in effect on the date the Earnest Money Agreement was fully executed if the new, decreased, payment standard would jeopardize the sales agreement. This may only occur as a reasonable accommodation to a disabled household.

15-1.1 ELIGIBLE UNITS

Eligible homes must be located within the jurisdictions that govern the HACEP HCV rental program. These areas are:

- East Point, 30344
- College Park, 30349 (Fulton County Only)
- Fairburn, 30213
- Hapeville, 30354
- Palmetto, 30268
- Riverdale, 30296 (Fulton County Only)

A family approved for homeownership assistance may purchase the following type of homes:

- A new or existing home;
- A single-family home;
- A foreclosed home;
- A condominium;
- A home in a planned use development, a cooperative, a loft or live/work unit;
- A manufactured home, if situated on a privately owned lot or on a leased pad in a mobile home park.

If the family does not own fee title to the real property (such as a manufactured home) on which the home is located, the family must have the right to occupy the site for a period of at least forty (40) years and the home must have a permanent foundation.

A unit can be under construction at the time a family enters into the contract of sale. A unit is considered to be "under construction" if the footers have been poured. The PHA will not commence Housing Assistance Payments until the unit has satisfactorily passed an HQS and Independent inspections and meet all other program requirements.

For HACEP-owned units all of the following conditions must be satisfied:

- HACEP informs the family, both orally and in writing, that the
 - family has the right to purchase any eligible unit and a HACEP-owned unit is freely selected by the family without HACEP pressure or steering;
- The unit is an eligible housing unit;

- HACEP obtains the services of an independent agency to inspect the unit for compliance with HQS, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any HACEP provided financing. All of these actions must be completed in accordance with program requirements. HACEP will obtain the services of a neighboring PHA or other independent HCV administering agency to perform these services, so long as the independent agency is operating a HCV Program.

A foreclosed home may be purchased by the family but the home must pass a HQS inspection before the purchase will be approved by HACEP.

For units not yet under construction, families may enter into contracts of sale for units not yet under construction at the time the family enters into the contract for sale. However, the PHA shall not commence homeownership assistance for the family for that unit, unless and until:

(1) Either:

(a) The responsible entity completed the environmental review procedures required by 24 CFR part 58, and HUD approved the environmental certification and request for release of funds prior to commencement of construction; or

(b) HUD performed an environmental review under 24 CFR part 50 and notified the PHA in writing of environmental approval of the site prior to commencement of construction; and

(2) Construction of the unit has been completed; and

(3) The unit has passed the required Housing Quality Standards (HQS) inspection and independent inspection.

15-I.J. FAMILY SEARCH and OFFER to PURCHASE

At the time the *Certificate of Eligibility* is issued, the family is placed in "home shopping status." The family has 180 days to locate and make an offer on a home and secure a prequalification letter from their lender. Additional 30-days extensions are available on a case-by-case basis, subject to approval by the Executive Director or their designee.

During a participant's search for a home, their housing choice voucher rental assistance shall continue. The participant family remains subject to all applicable rules and regulations.

Applicants must meet with HCV Homeownership Coordinator every 30 days to document progress toward homeownership.

If a participant family is unable to locate and purchase a home within the timeframe approved by HACEP, the family may continue to receive rental assistance through their Housing Choice Voucher.

The family may not re-apply for the Homeownership Program until they have completed an additional full year of participation in the rental program following the expiration date of the *Certificate of Eligibility*.

HACEP may require additional homeownership counseling prior to issuance of a second *Certificate of Eligibility*. The participant must meet all other eligibility criteria of the program at the time of resubmission.

A unit is considered "located" if a 90% letter from the lender has been issued to the participant and the buyer and seller have executed an 'earnest money' purchase agreement that includes the *HACEP Addendum to the Residential Purchase Agreement*.

15-I.K. CONTRACT OF SALE

Eligible homes must be located within the jurisdiction of HACEP. The seller cannot be an individual, company, or corporation who has been debarred, suspended, or is subject to a limited denial of participation by HUD or HACEP. HACEP may deny approval of a seller for reasons provided for disapproval of an owner under the voucher rental program regulations.

Before commencement of homeownership assistance, the homeownership applicant must enter into a contract of sale, or earnest money agreement, with the home seller.

HACEP will provide the buyer with an *Addendum to the Residential Purchase Agreement*. Both the buyer and seller must execute the earnest money agreement and *Addendum*.

The *Addendum to the Residential Purchase Agreement* shall contain the following provisions:

- Specify price and other terms of sale by the seller to the purchaser.
- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser.
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser and HACEP.
- Provide that the purchaser is not obligated to pay for any necessary repairs.
- Specify that an HQS inspector be granted access to the property to perform an HQS inspection prior to closing. Homeownership assistance is contingent on satisfactory inspections by both inspectors and subject to approval by HACEP.

- Specify that the seller has not been debarred, suspended, or subject to a limited denial of participation in a HUD program under 24 CFR.
- Specify that before Buyer is obligated under any contract to purchase Property, Seller shall permit Buyer a 10-day minimum period (unless the parties mutually agree, in writing, upon a different period of time) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards. Buyer may waive the opportunity to conduct the risk assessment or inspection by so indicating in writing.

The *Addendum to the Residential Purchase Agreement* shall contain the following provisions if the unit is not yet constructed:

- The purchaser is not obligated to purchase the unit unless an environmental review has been performed and the site has received environmental approval prior to commencement of construction in accordance with 24 CFR 982.628.
- The construction will not commence until the environmental review has been completed and the seller has received written notice from the PHA that environmental approval has been obtained. Conduct of the environmental review may not necessarily result in environmental approval, and environmental approval may be conditioned on the contracting parties' agreement to modifications to the unit design or to mitigation actions.
- Commencement of construction in violation of either of the above two provisions voids the purchase contract and renders homeownership assistance under 24 CFR part 982 unavailable for purchase of the unit.

In its administrative discretion, HACEP may deny approval of a seller for the same reasons HACEP may disapprove an owner under the HCV program. (24 CFR 982.306c)

15-I.L. HOME INSPECTIONS

Two home inspections are required prior to purchase: (A) An independent home inspection, and (B) an HQS inspection.

Independent Home Inspection

HUD regulations require a home inspection by an approved independent, professional home inspector. The family is required to select and pay for a home inspector to identify any physical defects and determine the condition of the major building systems and components. The buyer and HACEP must receive a written report of this examination describing the observable major defects, required repairs and/or accessibility modification requirements.

The inspector shall also be acceptable to the local lending institutions. In all cases the

inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical and heating systems. The unit must pass a termite or wood destroying organism report and any other requirements as determined by the State.

HACEP may not require the family to use an independent inspector selected by HACEP. The independent inspector may not be a HACEP employee or contractor, or other person under control of HACEP. However, HACEP has established standards for qualification of inspectors selected by families under the homeownership program.

HACEP and the family will discuss the results of the inspection and determine if any pre-purchase repairs are necessary. ICBO inspections performed by an independent inspector, performed at periodic points in the homebuilding process, may be utilized. The cost of the ICBO inspection is included in the cost of the home. HACEP may disapprove the unit for purchase based on the results of the independent inspection.

Housing Quality Standards (HQS) Inspection

A Housing Quality Standards (HQS) inspection is required whenever the home is 100% ready for occupancy. The condition of the home must satisfy HQS standards before a sale may occur. HACEP will conduct a Housing Quality Standards (HQS) inspection first, and if satisfactory, then require the independent inspection.

No further HQS inspections are required. However, HACEP reserves the right to conduct interim HQS inspections before continuing to provide yearly homeownership assistance. HACEP may exercise this option if it has reason to believe the home would no longer meet HQS standards, or has reason to believe that unauthorized individuals are living in the household.

A PHA inspection is required if the PHA has granted as a reasonable accommodation an additional bedroom size for medical equipment or for a live-in aide. The inspection is to verify that the additional bedroom is being used for its intended purpose. If the extra bedroom is not being used for the intended purpose, the PHA must reduce the subsidy standard and corresponding payment standard at the family's next annual recertification.

If the home does not pass the initial HQS inspection, then the HCV Homeownership Coordinator will discuss with the purchasing family whether it would be more feasible to locate another home to purchase, or to have the needed repairs completed prior to the sale. Non-compliance with HQS standards may jeopardize a family's housing assistance payment.

15-I.M. FINANCING and AFFORDABILITY OF PURCHASE

It is the responsibility of the family to secure financing for the home purchase. The issuance of the *Certificate of Eligibility* does not guarantee that a family has the ability to secure financing for a home purchase. The HCV Homeownership Coordinator and/or partner

agencies will provide guidance to potential home buyers to ensure they avail themselves of various down payment assistance programs, optimum loan packages, mortgage interest rates, and ways to avoid predatory lending practices.

The PHA demonstrates its capacity to administer the HCV Homeownership program by requiring the financing to purchase a home either be provided, insured, or guaranteed by the state or Federal government; comply with secondary mortgage market underwriting requirements; or comply with generally accepted private sector underwriting standards.

Down Payment Requirement

The purchasing family is required to invest at least three percent (3.50%) of the purchase price of the home. This investment can take the form of a down payment, closing costs, or a combination of the two. Of this sum, at least one percent (1.00%) of the purchase price must come from the family's personal resources.

If the family is an FSS graduate, the FSS escrow may be used to meet 50% of the down payment and closing costs contribution requirements established by HACEP.

The buyer may acquire financing through any HACEP approved lender. If the home is purchased using FHA mortgage insurance, it is subject to FHA mortgage insurance requirements.

Qualified participants may use the value of rental assistance as a form of "income" to help them qualify for a mortgage. Their assistance may be applied directly against their mortgage payment, therefore enabling a borrower to qualify for a home purchase.

There is no prohibition against using local/state grants or other subsidized financing in conjunction with the Housing Choice Voucher Homeownership Program. The program can be combined with a variety of mortgage loan products and other HUD programs to assist a potential home buyer in achieving the most favorable interest rate and terms of purchase.

Lending Partners

HACEP may not influence a family's choice of lending options by limiting the use of homeownership assistance to particular units, neighborhoods, developers, lenders or require a family to use a set financing approach. However, HUD encourages local public housing authorities to develop partnerships with lenders to better serve the needs of families. HACEP will counsel the family to avoid predatory lenders or lending practices.

Underwriting Options

The following underwriting options are suggested under this program. The lender will decide upon the option based upon income and borrower qualifications determined on a case-by-case basis by the lender, and dependent upon the specific loan products utilized.

Option One: Deduct HAP from Principal, Interest, Taxes & Insurance (PITI)

The borrower's HAP is applied directly to the PITI, and the housing debt to income ratio is calculated on the "net housing obligation" of the borrower.

Option Two: Add HAP to Borrower's Income

Calculate total income as a combination of the tax-exempt HAP (grossed up by 25%) and the borrower's income from employment using underwriting ratios specific to the loan product being used.

Option Three: Two Mortgage Approach

Borrower qualifies for the first mortgage (PITI) using only earned income. The HAP is used to pay the full P&I for a second mortgage.

Loan Restrictions

Mortgages with balloon payments, interest only, or variable interest rates are not allowed under HACEP's program. The buyer may not enter into a seller financing or lease-purchase agreement under this program.

HACEP reserves the right to review lender qualifications and the loan terms before authorizing homeownership assistance. HACEP may disapprove proposed financing of the debt if HACEP determines that the debt is unaffordable. In making this determination, HACEP will take into account family expenses such as child care, un-reimbursed medical expenses, homeownership expenses, and other family expenses, in addition to the participant's income.

Independent of the lender's requirements, HACEP has established criteria that the family cannot have a family share in excess of 45% of the monthly adjusted income at the time of the initial closing.

HACEP must approve any proposed refinancing of the property. A loan committee will be convened to review all requests for refinancing.

Refinancing the property, without prior written approval from HACEP, may result in termination of the HCV Homeownership assistance.

In making its determination, HACEP will take into account the reason(s) for the request to refinance, as well as the current assets and liabilities of the family, and how the refinancing will impact the total tenant payment. Homeownership assistance may continue if refinancing is approved, but will be limited to the remaining term based on the initial mortgage loan.

15-I.N. CONTINUED ASSISTANCE:FAMILY OBLIGATIONS

After a home is located, but before homeownership assistance can begin, the family and HACEP must execute a HUD prescribed "Statement of Homeowner Obligations." In the statement the family agrees to comply with all obligations under the homeownership option.

The initial "Statement of Homeowner Obligations, HUD-52649" will be reviewed and executed at the HCV homeownership orientation.

The family must also execute the *HACEP Statement of Family Obligations* which details the additional HACEP HCV Homeownership Program obligations.

Continuous Reporting Requirements

HACEP will reexamine the family's income and composition on an annual basis.

After purchase of the home, the family must continue to adhere to the "HUD Statement of Homeowner Obligations" and the *HACEP Statement of Family Obligations* in order to continue to receive the monthly housing assistance payment. The *HACEP Statement of Family Obligations* will be reviewed by the family and signed at each annual reexamination.

A new *Certificate of Housing Assistance Payment* must be issued prior to any change in the housing assistance payment. Non-elderly and non-disabled families are required to annually document continued compliance with the full-time work requirement of the program by annual completion of the *Employment Verification*.

A family must disclose all changes in income within ten (10) business days of the change and at the annual reexamination. Failure to disclose or accurately report changes will jeopardize a family's continued participation in this program. A family may not add an adult household member without prior HACEP approval. HACEP will deny admission to any individual who would otherwise not qualify for admission to the program due to criminal history, drug related history, or registry on a sex-offender list.

Participant must agree to attend post-purchase counseling sessions in conjunction with acceptance into this program to continue to receive assistance. The classes must be taken within the first 12 months after the closing date.

HACEP may require families who become delinquent on their mortgage payments to participate in additional homeownership and/or credit counseling classes.

HACEP may deny or terminate assistance for violation of participant obligations as described in the "HUD Statement of Homeowner Obligations", the *HACEP Statement of Family Obligations*, or other program obligations.

Continuous Employment Obligations

The applicant head of household or spouse must remain continuously employed (no less than 30 hours per week) while participating in the program.

Part-time employment by both parties, totaling over 30 hours per week, does not constitute full-time employment by either party.

For continued eligibility purposes, continuous employment as defined by HACEP is, continuous employment by the head, spouse or co-head defined as full time employment (30 hours x 52 weeks = 1,560 hours) with no gap in employment lasting more than four weeks total (30 hours x 48 weeks = 1,440 hours). The employment requirement is not applicable to elderly families or those whose head or co-head of household, spouse or sole member experience permanent disability.

Mitigating Circumstances

If a working family is subsequently determined by HACEP to now qualify as a “disabled family,” as defined by HUD, the full-time employment requirement is no longer applicable to that family.

HACEP will consider mitigating circumstances where certain lapses in employment prohibit the family from meeting its continuous employment obligation. These include receipt of Unemployment Insurance Benefits due to layoff; absences defined under the Family Medical Leave Act; receipt of Workman’s Compensation benefits.

HACEP will allow week-for-week substitutions whenever any of these benefits are received.

The participant must return to full-time employment within 30 days after exhaustion of unemployment benefits. Failure to return to full-time employment (30 hours per week) within 30 days will generate a 60-day *Notice to Correct*. Failure to correct will result in a correctable 30-day *Notice of Termination*.

A participant who is employed but is on leave from work due to maternity leave, FMLA or is receiving Workman’s Compensation, is exempt from the full-time employment requirement during the period of approved leave from work. A participant must return to full-time employment within 30 days after exhaustion of applicable benefits. Willful failure to return to full-time employment (30 hours per week), after 30 days, will generate a 60-day *Notice to Correct*. Failure to correct will result in a correctable 30-day *Notice of Termination*.

Consideration of other mitigating circumstances is at the discretion of the HCV Homeownership Coordinator. The HCV Homeownership Coordinator will convene a three-person committee to review any additional mitigating circumstances that prevent a participant’s return to full-time employment within the time frames allotted. Determinations of the review committee are made on a case-by-case basis. Their decisions are subject to final approval by the Executive Director.

Guests and Changes in Family Composition

All changes in family composition must be reported to the HCV Housing Specialist within 10 days. All new family members must be approved as eligible residents before moving into the residence.

Family guests are permitted for a period not to exceed 30 days total in any calendar year. HACEP may consider persons who exceed the 30 day occupancy limit, or who use the

residence as a personal mailing address, unauthorized family members. The family may be in violation of their family obligations and HACEP may take appropriate action up to and including termination of assistance.

Other Continued Family Obligations

In addition to completing the HUD Statement of Homeowner Obligations and HACEP's Statement of Family Obligations Addendum prior to the issuance of the homeownership voucher, agreeing to comply with all family obligations under the Homeownership Program, including but not limited to:

- The family agrees that the home will be their primary residency and they must remain in the home in order to continue to receive homeownership assistance.
- The family must comply with the terms of any mortgage securing debt incurred to purchase the home or any refinancing of such debt.
- At any time the family is receiving homeownership assistance, the family may not sell or transfer any interest in the home to any entity or person other than a member of the assisted family residing in the home.
- A home equity loan or any refinancing may not be acquired without the prior written consent of HACEP.
- The family must provide required information regarding income and family composition in order to correctly calculate the total tenant payment (TTP) and homeownership assistance, consistent with the HCV requirements and any other information requested by HACEP concerning financing, the transfer of any interest in the home, or the family's homeownership expenses.
- While receiving homeownership assistance, the family must notify HACEP if the family defaults on a mortgage securing any debt incurred to purchase the home.
- While receiving homeownership assistance, the family must notify HACEP before the family moves out of the home.
- The family must, at annual reexamination, document that the family is current on mortgage, insurance, escrow accounts, repair reserve account, and utility payments.
- The family is prohibited from moving more than one time in a one (1) year period. The family will be required to participate in pre and post-purchase homeownership counseling prior to re-housing. In order to remain eligible for the program, the participant must sell the current home purchased under the HCV Homeownership Program and incur no mortgage default.
- While receiving homeownership assistance, no family member may have any ownership interest in any other residential property.

- Sign a release allowing HACEP, counselors, realtors, and participating lenders to exchange information on the borrower.
- Agree to maintain the condition of the home to comply with minimum HUD Housing Quality Standards (HQS).
- Acknowledge that the termination of assistance shall be in accordance with program requirements and the Administrative Plan.
- Acknowledge that the family is obligated for the whole mortgage payment in the event of termination of assistance.
- Disclose any and all changes of family composition and family income immediately to HACEP.
- Disabled, elderly, non-disabled and non-elderly agree to comply with all family and program obligations.
- Agree that the family must immediately notify HACEP of any late payment, delinquency notices, or default notices and must agree to participate in default counseling with a designated agency to become current.
- Agree to attend any identified financial, homeowner or post purchase counseling during time of assistance.
- Agree to the continued employment requirement as stated in HACEP's HCV Homeownership Administrative Plan.
- HACEP requires the family to maintain a minimum reserve for maintenance and major repairs. The family must have the reserve account established by their next annual recertification. The reserve amount shall be equal to the monthly reserve amount times the number of months assisted in a calendar year less any withdrawals.
(\$150x12=\$1800)
- Family agrees that should they itemize deductions for IRS taxing purposes, they shall deduct in accordance with the IRS opinion that provides for a prorated deduction of the interest on a homeownership mortgage and homeownership taxes.

15-I.O. MAXIMUM TERM OF HOMEOWNERSHIP ASSISTANCE

For non-elderly and non-disabled households, homeownership assistance is available for a maximum period of 15 years for a 20 or longer mortgage. For mortgages under 20 years, the maximum term of homeownership assistance is 10 years. The term is calculated from the date of issuance of the first housing assistance payment on the initial mortgage loan.

Families that qualify as a disabled family at the commencement of homeownership assistance, or at any time during the provision of homeownership assistance, are not subject to the term limitation. Homeownership assistance is available for a disabled family as long as the family remains eligible for the program.

During the course of homeownership assistance, if the family ceases to qualify as a disabled or elderly family, the family will continue to be eligible for the homeownership assistance, subject to eligibility requirements of the Housing Choice Voucher program. The term of assistance will change to a maximum of 15 years for mortgages with a 20 year or longer term and a maximum ten years term in all other cases. This term will be calculated from the date of issuance of the first housing assistance payment on the initial mortgage loan. If the family ceases to qualify as a disabled or elderly family and the 15 or 10 year term has expired then the family will receive six months of monthly HAP payments and then homeownership assistance will terminate.

In the case of an elderly/disabled family, the maximum term is for as long as they are eligible, provided the family qualifies as an elderly/disabled family at the start of homeownership assistance and continues to qualify as an elderly/disabled family.

Upon the death of a family member who holds, in whole or in part, title to the home, homeownership assistance may continue, pending settlement of the decedent's estate. The home must be solely occupied and owned by remaining family members in accordance with 24 CFR 982.551(h).

For a nonelderly/nondisabled family, the total homeownership assistance received by a family, whether on different homes or through different public housing agencies, cannot exceed the eligible term of assistance based on the of the initial mortgage loan.

15-I.P. HOUSING ASSISTANCE PAYMENTS (HAP)and EXPENSES

While the family is residing in a homeownership unit, the HAP is equal to the lower of: (1) the payment standard minus the total tenant payment, or (2) the monthly homeownership expenses minus the total tenant payment.

The family is responsible for all monthly homeownership expenses not reimbursed by the housing assistance payment. Homeownership expenses include:

- principal and interest on the initial mortgage debt and any refinancing of such debt;
- any mortgage insurance premium incurred to finance the purchase of the home;
- real estate taxes and public assessments on the home;
- home insurance;

- the land lease where the family does not own fee title to real property on which the home is located [see 24 CFR 982.628(b)];
- the HACEP allowance for maintenance expenses;
- the HACEP allowance for costs of major repairs and replacements;
- the HACEP utility allowance for the home; and
- principal and interest on debt incurred to finance major repairs, replacements or improvements on the home.
- cooperative or condominium operating charges or maintenance fees assessed by the condominium or cooperative homeowner association;

For an individual with disabilities, such debt may include those costs incurred by the family to make the home accessible.

Homeownership expenses for a cooperative member may only include amounts allowed by HACEP to cover:

- the cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
- principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing such debt;
- home insurance;
- the HACEP allowance for maintenance expenses;
- the HACEP allowance for cost of majors repairs and replacements;
- the HACEP utility allowance for the home; and
- principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include incurred by the family to finance costs needed to make the home accessible for such person, if the HACEP determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person
- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

15-I.Q. PAYMENT STANDARD/SUBSIDY STANDARD

For initial homeownership assistance, the payment standard for the family is the lower of: (1) the payment standard for the family unit size or (2) the payment standard for the size of the home purchased (number of bedrooms in the house). At the annual recertification or an interim recertification, HACEP will apply a payment standard that is the greater of: (1) the dollar amount of the payment standard used at the commencement of homeownership assistance, or (2) the HACEP payment standard for family unit size, used at its most recent annual anniversary. [24 CFR 982.635]

The HACEP subsidy standards determine the bedroom-size that HACEP assigns to the family based upon its size and composition. The subsidy standards are approved by the HACEP Board of Commissioners; they generally remain the same from year to year. The initial subsidy standard applied to a homeownership family is the same standard used for the rental program. The standards applicable at closing are the subsidy and payment standards applicable for the initial homeownership period. The *Certificate of Eligibility* will be issued based on the current subsidy and payment standards in effect on the date of closing.

The respective payment and subsidy standard applicable on the date of closing establishes the baseline payment and subsidy standards for the unit. The payment standard for subsequent years is the greater of the payment standard at the commencement of homeownership assistance or the payment standard at the most recent annual re-examination. Unlike the voucher rental program, the initial payment standard shall be the base for future housing payments. The payment standard shall not drop below the initial payment standard dollar amount due to changes by HUD or due to changes in family composition.

15-I.R. PORTABILITY

HACEP will permit portability of HCV homeownership assistance to another jurisdiction subject to HACEP policies governing portability. The receiving jurisdiction must operate a HCV Homeownership Program for which the applicant qualifies and it must be willing to administer new homeownership families. The receiving jurisdiction may absorb the family into its voucher program or bill HACEP. In order to remain eligible for the program, the participant must sell the current home purchased under the HCV Homeownership Program and incur no mortgage default.

HACEP will also accept families from another HCV Homeownership Program subject to HACEP admission requirements for the homeownership program. It will absorb the voucher if approved for homeownership and subject to funding.

15-I.S. MOVE WITH CONTINUED TENANT-BASED ASSISTANCE

A family receiving homeownership assistance may move to a new unit with continued assistance (**subject to provisions in section 16**). A family member must not own any title or

other interest in the prior home and may not move more than once per year. HACEP will review all requests to move with continued tenant-based assistance and may deny permission to move based on lack of sufficient funding to provide continued assistance or based upon the violations listed in Section 18 of this document.

15-I.T. TERMINATION OF HOMEOWNERSHIP ASSISTANCE

A family's homeownership assistance may be terminated if a family fails to comply with its obligations under the HCV Homeownership Program or if the family defaults on the mortgage.

Failure to Comply with Homeowner Obligations

The family must comply with the terms of any mortgage incurred to purchase and/or refinance the home. The family must provide HACEP with prior written notice of any sale or transfer of any interest in the home; any plan to move out of the home prior to the move; notification of the family's household composition and income and homeownership expenses within 10 days and on an annual basis; and any notice of mortgage default received by the family. Except as otherwise specified in this plan, the family may not convey or transfer the home to any entity or person.

Homeownership assistance may be denied or terminated in accordance with any of the provisions listed at 24CFR 982.638 and/or HACEP requirements.

Occupancy of Home

Homeownership assistance will only be provided while the family resides in the home. If the family moves out of the home, HACEP will not continue homeownership assistance commencing with the month after the family moves out. Neither the family nor the lender is obligated to reimburse HACEP for homeownership assistance paid for the month the family moves out.

Changes in Income Eligibility

HACEP may adjust a family's homeownership assistance based upon changes in family income. The effective change shall occur 30 days after the month in which a reexamination of income occurred.

Participation in the HCV Homeownership Program shall continue until such time as the assistance payment amounts to zero for a period of 180 consecutive days. At that time the family will no longer be eligible and the HAP will be terminated. However, should the family go to zero HAP, for 180 consecutive days, the HACEP reserves the right to extend the period past 180 days, should there be documented extenuating circumstances for an extension to the time period. Such documented extenuating circumstances include but is not limited to:

- Death in the family;

- Loss of employment or income due to no fault of the family;
- Documentation of a medical or financial hardship beyond the control of the family for a member of the assisted household.

After receipt of verification, the HACEP shall reinstate the family into the program subject to available funding and other program requirements. The family would be placed on the HCV waitlist and the next available voucher would be issued to the family.

Refusal to Meet Continuous Work Requirement

HACEP may terminate a working family's homeownership assistance based on a willful refusal to adhere to, or properly document, the full-time employment requirement.

Family Requests a Return to Rental Assistance

If a family requests to return to rental assistance, HACEP may provide the family with a rental voucher, provided there is no mortgage loan default and the family has met all obligations under the HCV Program. The family must sell the home before HACEP provides rental assistance. The family will be given a six month time period to sell the home. It will be at the discretion of the Executive Director to extend the time period beyond six months.

15-I.U. MORTGAGE DEFAULT

If a family defaults on a mortgage, HACEP may permit the family to move with continued assistance. The family must demonstrate that it has conveyed title of the home to the lender, or its designee, and moved from the home within the period established and approved by the lender and HACEP [CFR 24 982.638(d)]. Any decision to approve or deny rental assistance is based on HCV rental program policies and procedures addressed in the HACEP Administrative Plan.

15-I.V. INFORMAL HEARINGS [24 CFR 982.555]

An informal hearing will be provided for participants who are being terminated from the Program because of the family's action or failure to act as provided in 24 CFR 982.552. The rules and procedures set forth in the Administrative Plan, entitled "Informal Hearings," will apply.

15-I.W. RECAPTURE [24 CFR 982.640]

HACEP will not recapture the Homeownership Voucher payments unless there was an act of fraud or misrepresentation of a material fact in order to obtain a benefit. The HCV Homeownership recapture provision does not apply to any other program funds that may be used in the transaction.