HOUSING CHOICE VOUCHER HOMEOWNERSHIP GUIDEBOOK

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Chapter 1 Introduction & Guidebook Overview

Introduction

The Housing Choice Voucher (HCV) Homeownership Program allows a Public Housing Authority (PHA) to make monthly housing assistance payments on behalf of a low-income first-time homebuyer to assist in meeting their monthly homeownership expenses. The HCV Homeownership Program is considered a special voucher type under the Housing Choice Voucher Program, which typically pays a housing assistance payment towards a low-income family's rental costs.

Through the Homeownership option, a PHA may provide voucher assistance for an eligible family that purchases a dwelling unit for residence by the family.

HUD regulations[1] set up program guidelines and a few specific mandatory requirements covering areas of program operation (for example, income and employment requirements, calculation of the voucher subsidy, and the term of the homeownership assistance to be provided). Otherwise, the regulations allow PHAs broad flexibility in tailoring their programs to local conditions. The level of flexibility is at once exhilarating and intimidating — exhilarating because there are so many options available to PHAs and intimidating because many PHAs have little experience with homeownership and do not know where to start.

PHAs that wish to administer an HCV Homeownership program must revise their Administrative Plans to reflect this activity, we discuss this more in Chapter 10. PHAs may be enthusiastic about the possibility of assisting families in purchasing homes but need guidance on designing programs that allow participating families to have the greatest chance for success. This guidebook is intended as a first step in meeting that need.

Guidebook Organization

This guidebook has been developed to provide assistance to PHAs that are thinking about starting a homeownership program, and also to PHAs that have taken the first tentative steps and are wondering what to do next. The guidebook provides a hands-on approach to program development and provides resources that will be helpful to PHAs in identifying and resolving program issues.

The Guidebook is organized as follows:

Chapter 1 gives a basic overview of the HCV Homeownership Program and how it compares with a non-subsidized home buying process

Chapter 2 provides program requirements and guidelines for deciding whether a home-ownership program is right for your agency

[1] 24 CFR §982.625-§982.643

Chapter 3 describes the steps necessary to begin developing an HCV Homeownership Program

Chapters 4-8 provide details about program design including homebuyer counseling, financing, types of eligible housing and the physical standards requirements for potential units

Chapter 9 discusses post-purchase activities

Chapter 10 covers policy development and program reporting requirements

Voucher Home Buying – The same, only different

The following table highlights the similarities and differences of buying a home in the HCV Homeownership Program or unassisted.

	Homebuyer	Homebuyer with a Voucher
Family Eligibility	Most home buyers need to qualify for a loan to finance the purchase of a home.	The voucher home buyer must first meet the PHA's eligibility criteria, then they will need to qualify for a loan.
Home-ownership Counseling[2]	Homeownership counseling is not required.	Participants must complete a homeownership counseling program by a HUD certified housing counselor.
Applying for a Mortgage	Home buyers meet with a lender of their choosing to determine how much house, or loan, they can afford.	The PHA will likely have a significant role to play in helping participating families find receptive lenders.
Finding a Home	Home buyers usually start out with a general idea of what they can afford to pay and look for homes within their price range. As they look at more homes their search criteria is refined.	Searching for a home with a homeownership voucher is similar, additionally: • The entire unit must be owner-occupied • The home must pass two home inspections • The home must be within the PHA's jurisdiction
Contract Negotiation	When a home buyer finds a home they make an offer to the seller. If the seller accepts the offer and signs the sales contract, the terms of the proposed contract are legally binding.	Clauses must be added to the sales contract: • A pre-purchase inspection is required, • The buyer is not obligated to pay for any pre-purchase repairs, and the home must meet inspection standards • The seller must certify that they have not been debarred, suspended, or subject to a limited denial of participation
Property Inspections	Home inspections are generally not required except by local ordinance.	Two inspections are required: A Housing Quality Standards (HQS) inspection conducted by the PHA, and an independent inspection.
Closing / Settlement	Closing is the day that the loan note and other paperwork is signed, the seller gets the proceeds of the sale, and the buyer receives the title and keys to the home.	The settlement process is no different for voucher home buyers than for unassisted homebuyers.

[2] FR 5339-F-03
Housing Counseling: New Certification Requirements Final Rule
FR-6092-P-01

Chapter 2 HCV Homeownership Program Basics

HCV Homeownership Basics

Under the Housing Choice Voucher (HCV) Homeownership Program, low-income families can use federal housing assistance to purchase and build equity in a home of their own. This chapter focuses on the fundamentals of the HCV Homeownership Program. The next chapter looks more closely at the factors a PHA should consider in making the local decision of whether to offer the homeownership option.

The HCV Homeownership Program is more accurately described as the "homeownership option" in the Housing Choice Voucher (HCV) program. What is the difference between a program and an option? The primary difference is that a PHA administering a tenant-based voucher program has the *option* to allow families to use their voucher assistance to purchase, rather than lease, a home.

The HCV Homeownership Program is not independent from HCV; rather it is considered a special housing type permitted under the PHA's Housing Choice Voucher Program. There is not a separate annual contributions contract (ACC) between HUD and the PHA for homeownership vouchers, nor are there any special voucher allocations earmarked exclusively for homeownership use.

Homeownership voucher assistance is tenant-based assistance. This means that homeownership voucher participants may purchase an eligible unit anywhere they wish within the PHA's jurisdiction. In addition, homeownership voucher households may, in certain instances, transfer to another PHA that is also operating an HCV Homeownership Program if that PHA is accepting new participants into its program. Participating families have the primary responsibility for finding eligible units to purchase, and for securing financing.

This chapter describes the basic requirements of the HCV Homeownership Program: the process of selecting and qualifying families that wish to participate in the program, the housing search process, the home purchase, and the ongoing program activities that the PHA must perform during the term of the families' homeownership assistance. The end of the chapter includes a chart comparing key characteristics of the HCV Homeownership Program with the regular HCV Program.

HCV Homeownership Program Requirements[3]

Applicant Selection

Only families who are otherwise eligible to receive assistance under the Housing Choice Voucher Program may exercise the homeownership option. Eligibility requirements must be in the PHA's Administrative Plan. These may include:

[3] 24 CFR § 982.625- 24 CFR § 982.643

- Current voucher program participants who are eligible to end their leases and move under the PHA's policies; or
- Families who have been selected from the PHA's waiting list for admission to the Housing Choice Voucher Program, and whom PHAs have determined eligible to receive a voucher.

If a PHA makes the homeownership voucher option available to applicants who have not previously received rental assistance, the applicants are selected from the PHA's Housing Choice Voucher (HCV) program waiting list in accordance with the PHA's standard selection policies. A PHA may not withhold available vouchers for use with a special housing type or provide a selection preference based on family eligibility and willingness to use the voucher for a special housing type. A PHA cannot keep a separate applicant waiting list only for homeownership eligible applicants. Also, a PHA may not provide a selection preference to applicant families based on their interest in, or eligibility for, homeownership.

Qualifying Families

In addition to the family's basic eligibility for housing voucher assistance, families admitted to the HCV Homeownership Program must meet additional requirements[4]. They must qualify as "first-time home buyers," meet income, employment, and other eligibility standards; and complete a homeownership counseling program. PHAs may establish additional eligibility requirements which must be described in the Administrative Plan.

First-time Homebuyers

To meet the first-time homebuyer eligibility requirement, a family must be one of the following[5]:

1) A first-time homeowner;
2) A cooperative member; or
3) A family of which a family member is a person with disabilities and use of the homeownership option is needed as a reasonable accommodation

A first-time homebuyer is a family of which no member owned any present ownership interest in a residence of any family member during the three years before commencement of homeownership assistance for the family. The term first-time homeowner includes 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.

A cooperative member is a family of which one or more members owns membership shares in a cooperative[6].

[4] 24 CFR § 982.627
[5] 24 CFR § 982.627(b)
[6] 24 CFR § 982.4

Minimum Income Requirements[7]

At the time the family begins receiving homeownership assistance, the adult family members of a non-disabled family who will own the home must collectively meet a minimum, non-welfare, annual income requirement that is not less than the Federal minimum hourly wage ($7.25 in 2022) multiplied by 2,000 hours ($14,500).

For a disabled family (a family whose head, spouse or sole member is a person with disabilities), the adult family members who will own the home must have an annual income that is not less than the monthly Federal Supplemental Security Income (SSI) benefit for an individual living alone ($841 in 2022) multiplied by 12 ($10,092).

Minimum income eligibility only applies when determining if the family meets the requirement to participate in the homeownership voucher option. The PHA must follow the normal income definitions and rules for the Housing Choice Voucher Program for all other aspects of program administration, such as determining family income for eligibility for admission to the Housing Choice Voucher Program, income targeting requirements, and rental or homeownership subsidy calculations[8].

Higher Minimum Income Requirements as a Local Option[9]

PHAs may establish minimum income requirements higher than the HUD standard for either or both types of families (disabled and non-disabled), based on factors such as local housing costs and/or the practices of local lenders. However, families that meet the HUD minimum income requirement but do not meet the PHA's local minimum income requirement shall nevertheless be considered to meet the income requirement if the following considerations are met:

- The family demonstrates that it has been pre-qualified or pre-approved for financing;
- The pre-qualified or pre-approved financing meets and PHA established requirements for financing the purchase of a home; and
- The pre-qualified or pre-approved financing amount is sufficient to purchase housing that meets HQS in the PHA's jurisdiction.

Minimum Employment Requirements[10]

One or more adult members of the family who will own the home must be:

- Currently employed on a full-time basis (meaning not less than an average of 30 hours per week); and
- Has been continuously employed during the year before commencement of homeownership assistance .

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[7] 24 CFR § 982.627(c)
[8] The definition of Annual Income under 24 CFR Part 5 is being revised to comply with the Housing Opportunity Through Modernization Act of 2016 (HOTMA) but were not yet in effect at the time this guidebook was published.
[9] 24 CFR § 982.627(c)(3)
[10] 24 CFR § 982.627(d)

The PHA can set its own policies regarding what it considers continuous employment and may consider self-employment.

The employment requirement does not apply to an elderly or disabled family (head, spouse or sole member is elderly or disabled). Also, the employment requirement does not apply to a family that includes a person with disabilities, if other family members are unable to work on a full-time basis because they are required to care for the person with disabilities, and a reasonable accommodation is necessary.

The PHA may not establish an employment requirement in addition to the HUD established employment requirement.

No Prior Default[11]

A family may not receive a homeownership voucher if the family includes an individual who was an adult member of a family at a the time when such family received homeownership assistance and defaulted on a mortgage securing debt incurred to purchase the home.

Local HCV Homeownership Program Requirements[12]

Except in those areas where HUD has established mandatory eligibility criteria, PHAs have the option to adopt their own policies limiting homeownership assistance to families or purposes defined by the PHA. For example, a PHA may elect to limit participation in the HCV Homeownership Program to families who are current participants in the PHA's HCV program, or to families who are participants in, or have graduated from, a Family Self-Sufficiency (*FSS*) program.

A PHA may also limit the number of families who will be permitted to exercise the homeownership option and may establish policies for selecting among eligible families who wish to participate. These selection policies must be included in the PHA's Administrative Plan.

Homeownership Counseling[13]

Families who wish to participate in the HCV Homeownership Program must first complete a pre-assistance homeownership and housing counseling program required by the PHA. Further detail on the counseling requirement can be found in Chapter 5 of this Guidebook.

Housing Search

Eligible Housing[14]

Single-family houses, single dwelling units in a cooperative or condominium development, and manufactured homes that are permanently installed on land that will

[11] 24 CFR § 982.627(e)
[12] 24 CFR § 982.626(b)
[13] 24 CFR § 982.630
[14] 24 CFR § 982.628

be owned by the family (or where the family has the right to occupy the land for at least 40 years) are eligible for purchase under the HCV Homeownership Program. Units purchased under a lease-purchase agreement may be eligible for rental assistance prior to the actual sale, and for homeownership assistance after the unit has been sold to the family (provided the family meets the homeownership eligibility requirements, was selected by the PHA, and has completed the pre-assistance homeownership counseling program at the time the family will assume ownership of the unit).

Families may enter into contracts of sale for units not yet under construction, however, homeownership assistance cannot begin for that unit until environmental review requirements have been satisfied.

Homeownership assistance may not be used to purchase a property that includes other residential or commercial space that will be leased by the homeowner.

Housing Search & Purchase Time Limits[15]

A PHA may establish time limits for families that have been approved for homeownership voucher assistance to find a home, and also to complete the purchase of the property. These time limits may differ in length from the time limit provided to a family to search under the rental program. If the PHA is allowing participants to use the voucher for homeownership, families who are already participating in the Housing Choice Voucher Program may continue to receive rental assistance while they search for a unit to purchase. If the PHA is allowing applicants to use the voucher for homeownership, at the conclusion of any PHA-established search period or the period allowed for the completion of the purchase, families admitted from the waiting list who have not found or purchased a unit may, at the PHA's discretion, may be given the option to receive a rental voucher or to be returned to the waiting list.

Portability[16]

Families in the HCV Homeownership Program may use portability to purchase a home in another PHA locality only if the new or receiving PHA locality has an HCV Homeownership Program and is accepting new participants. Families with Homeownership Vouchers do not have the right to exercise portability into a jurisdiction where the PHA does not have an HCV Homeownership Program or is not accepting new families into the program. As in the rental voucher program, the policies of the receiving PHA apply to families who are permitted to exercise portability with their homeownership assistance. The receiving PHA decides whether it will bill the initial PHA or absorb the family into its own HCV homeownership program using available funding under its own ACC.

Physical Condition of Units[17]

Units assisted under the voucher homeownership program must meet HUD's Housing Quality Standards (HQS) before the Homeownership Voucher assistance may

[15] 24 CFR § 982.629
[16] 24 CFR § 982.636(b)
[17] 24 CFR § 982.401

commence. In fact, two inspections are required for a unit to be approved for assistance: an HQS inspection, performed by the PHA's inspector, and a professional home inspection conducted by a qualified independent home inspector that is hired by and paid for by the family. See Chapter 8 for more information on inspection requirements.

Home Purchase

Contract (or Agreement) of Sale[18]

Each participating family must submit a copy of the contract of sale to the PHA. The agreement must include:

- The price and other terms of purchase;
- Provision for pre-purchase inspection by an independent home inspector chosen by the purchaser;
- Provision that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;
- Provision that the purchaser is not obligated to pay for any necessary repairs; and
- Seller certification that the seller has not been debarred, suspended, or subject to a LDP under 24 CFR § 24.

PHAs have found it helpful to develop their own addendum to the contract of sale to be used by the family to negotiate the necessary HUD requirements into the sales agreement. These requirements are not generally covered by a standard contract of sale.

In addition, some PHAs include additional language, such as provisions that explicitly allow the PHA to inspect the unit, allow the family to terminate the agreement without penalty if the PHA disapproves the unit, and require that any repairs that the owner agrees to bring the unit into compliance with HQS will be completed prior to settlement. The potential drawback of such an approach is that sellers may balk at agreeing to terms and conditions above and beyond those required in a standard contract of sale.

Financing[19]

In the HCV Homeownership Program, the primary responsibility for securing the necessary financing rests with the family. The PHA is permitted and encouraged to partner and educate lenders in the community in order to assist families in obtaining financing. However, a PHA may not require a family to use a particular lender or lenders. The family makes the selection, so long as the lender meets the qualifying criteria and conditions as set forth by the PHA. See Chapter 6 for more information on financing.

[18] 24 CFR § 982.631(c)
[19] 24 CFR § 982.632(e)

Ongoing Program Activities

Housing Assistance Payments[20]

In the HCV Homeownership Program, the housing assistance payment (HAP) is equal to the lower of the payment standard or the actual monthly homeownership expense for the unit minus the total tenant payment (TTP). Monthly HAP payments can be paid either to the lender or directly to the family. If the assistance payment exceeds the amount due to the lender, the PHA must pay the excess directly to the family. See Chapter 7 for more information on homeownership expenses.

Accessibility Modifications Included as a Homeownership Expense

If the family includes a member with disabilities, principal and interest on the debt incurred to finance the costs of making the home accessible for the family member may be included in the family's eligible homeownership expenses. The PHA must determine whether the inclusion of the expense is needed as a reasonable accommodation[21].

Regular Reexaminations

Families who participate in the voucher homeownership program are required to complete regular (annual or biennial) and interim reexaminations in accordance with the PHA's voucher program policies.

Unlike the rental assistance program, the Voucher Payment Standard (VPS) used at regular reexaminations is either the higher of the current VPS or the VPS used for the family at the commencement of its homeownership assistance. This means that there is a floor VPS once the family has closed on a home under the program.

The key factor in determining the floor VPS is to focus on the VPS that was applicable at the time the initial homeownership assistance payment was calculated on the unit in question. The PHA establishes this amount at the commencement of the assistance by using the lower of the VPS of the family unit size or the VPS for the size of the home. The VPS amount may go up for the family, but the payment standard will never drop below the initial amount that was applicable to the family when the homeownership commenced.

For example, a family qualifies for a three-bedroom unit and buys a three-bedroom unit. The VPS at the commencement for a three-bedroom unit is $700. During the year, the PHA reduced the VPS to $650. At the regular recertification, the PHA would continue to apply $700 as the VPS since the floor VPS amount could be no less than the initial amount of $700. By the next regular recertification, the PHA has raised the VPS to $680. The PHA will continue to apply the floor VPS of $700. At the next regular recertification, the PHA has raised the VPS to $730. The PHA will now use the $730 as the amount to be used, since it is higher than the floor amount of the initial VPS.

[20] 24 CFR § 982.635
[21] 24 CFR § 982.635(c)(2)(vii)

Let's turn to another example of the application of the VPS at the initial period, and the amount at a regular recertification. The two-bedroom VPS at the time of commencement is $600. The three-bedroom VPS at the time of commencement is $700. One year later the two-bedroom is $630, and three-bedroom is $740. The family qualifies for a two-bedroom but purchases a three-bedroom. The applicable VPS at the commencement is $600 using the two-bedroom VPS that the family size qualified under.

One year later, the family size increases, and the family now qualifies for a three-bedroom voucher. The PHA uses the greater of the VPS at commencement, or the applicable VPS at the recent regular recertification. In this case, the family qualifies for a three-bedroom VPS and the rate is $740.

This basic provision is to give the lenders some assurances that the level of subsidy will not be reduced unless there is a corresponding increase in the family's ability to pay.

Term Limits on Assistance[22]

Unlike the rental assistance program, which provides assistance to families for as long as they remain eligible, the homeownership voucher has term limits on the family's receipt of homeownership assistance. For families who finance their purchase with a mortgage with a 20-year term or longer, the maximum term of the homeownership assistance is 15 years. For families with shorter mortgage terms, the maximum is 10 years.

The term limits do not apply to elderly or disabled families (head, spouse or sole member is elderly or disabled) at the time of purchase. In the case of an elderly family, the exception on term limits only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception on term limits applies if at any time during receipt of homeownership assistance, the family qualifies as a disabled family. If the family ceases to qualify as a disabled or elderly family, the maximum term of assistance becomes applicable from the date the homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

Term Limits on Assistance – Elderly and Disabled Families

As noted above, term limits on assistance do not apply to elderly and disabled families. This exception applies to:

- Elderly families who qualify as elderly families when homeownership assistance begins; and
- Disabled families who qualify at any time during receipt of homeownership assistance.

If a family ceases to qualify as an elderly or disabled family, the maximum term is effective from the date that homeownership assistance began. However, the PHA must give

[22] 24 CFR § 982.634

the family at least 6 months' notice regarding their change in status before terminating their homeowner ship assistance (provided they are otherwise eligible).

If a family receiving homeownership assistance sells one unit and purchases another unit, the term limit applies to the total term during which the family receives assistance. The applicable limit is based on the term of the mortgage used to purchase the first unit.

Homeownership Assistance as a Reasonable Accommodation[23]

In the case where homeownership assistance is requested, the family demonstrates that the housing available to lease under the Housing Choice Voucher Program is not readily accessible to or usable by the family, and the nature of the disability of the disabled family member makes such an accommodation necessary, the PHA will determine if an accommodation is necessary and reasonable on a case-by-case basis, based on the specific circumstances and individual needs of the person with the disability.

The following are some examples of circumstances in which a PHA might determine that homeownership is necessary as a reasonable accommodation:

- A voucher participant who receives kidney dialysis three times a week has no car and transportation to and from the hospital where he receives treatment is unreliable and expensive. There are no suitable rental properties within walking distance of the hospital, but there are condominium units across the street that would be affordable to the participant with homeownership assistance.
- A voucher participant with Tourette's syndrome needs to find a detached single-family unit where her behavior will not disturb neighbors. In the PHA's jurisdiction, there are typically few, if any, single-family rentals, so the participant would like to use her voucher assistance to purchase a home.
- A voucher participant with multiple chemical sensitivities has severe reactions to substances commonly found in paint, floor coverings, cabinets, and countertops. The participant requests a homeownership voucher so that he can find a housing unit that does not make him sick.

In these examples, the PHA's decision would ultimately rest on its judgment of the validity of the request and the administrative burden involved in complying with the participant's request.

It is also noted that the family in the above cases would have to meet the eligibility requirements for the HCV Homeownership Program, including attending and satisfactorily completing the pre-assistance homeownership counseling program.

[23] 24 CFR § 982.625(d)

Summary – Rental vs. Homeownership Assistance

The following is a summary of the major provisions of the voucher homeownership program compared with provisions of the rental voucher program.

Comparison between Rental & Homeownership Voucher Assistance

	Rental	Homeownership
Optional for PHA w/ HCV Program	No	Yes
Program Funding	Funding is provided to support tenant-based housing types	No special funding or set-aside from HUD, PHA uses the current ACC funds and allocation
Applicant Selection	Voucher waiting list, using PHA's selection criteria	Voucher waiting list, using PHA's selection criteria, or current rental voucher participants
Eligibility	Income, other PHA screening criteria	Income, other PHA screening criteria plus mandatory HUD requirements on income and employment
Initial Payment Standard	90-110% of FMR, or higher or lower with HUD approval	Same as rental payment standard at the commencement
Subsidy Calculation	HAP is the lower of payment standard or gross rent minus TTP, annually adjusted to qualification of family or unit size	HAP is the lower of payment standard or monthly homeownership expense minus TTP. Annually adjusted but will not fall below the payment standard at the commencement of the homeownership assistance
Participant Training	Applicant briefing	Housing counseling
Voucher Issuance	Yes	No
Housing Search	Family responsible for finding suitable unit	Family responsible for finding suitable unit and securing financing
Portability	To any jurisdiction with tenant-based rental voucher program	To any jurisdiction with tenant-based homeownership program that is accepting new applicants
Time Limits on Housing Search	At least 60 days, or longer at PHA discretion	Time limits on finding and purchasing units set by PHA
Participant Notice to PHA	Request for Tenancy Approval	Proposed Contract of Sale
Physical Inspection	Initial and Periodic HQS Inspection required	Initial HQS inspection plus professional independent housing inspection required, Periodic HQS is PHA option
PHA Review of Cost	Review of rent reasonableness	Review of rate and terms of financing
40% Affordability Cap	Applicable	Not required but allowed as a PHA policy

Comparison between Rental & Homeownership Voucher Assistance Continued

	Rental	Homeownership
Failure to Find Housing – Current Participant	Rental assistance continues in current unit	Rental assistance continues in current unit
Failure to Find Housing – New Admission	Applicant re-applies when waiting list is open or is placed at the end of the waiting list	Applicant re-applies when waiting list is open. PHA policy may also permit offer of rental voucher or return to top of waiting list
Up-front Costs	HAP funds may not be used for security deposit	HAP funds may not be used for down payment and closing costs.
HAP Contract	Between owner and PHA	No HAP Contract – Family signs Statement of Homeowner Obligations, PHA has no contract with the lender
Effective Date of Assistance	HAP begins on 1st day of HAP Contract (1st day of lease)	HAP begins when family's first mortgage payment is due (assuming family has taken possession of the unit)
Monthly HAP Payments	To owner	To family or to lender
Regular Reexaminations	Yes	Yes
Time Limits on Assistance	None	10-15 years, depending on mortgage term. Term limit does not apply to elderly or disabled families
Compliance with Family Obligations	Required as condition for continued assistance	Required as condition for continued assistance
Eligible Housing Types	Single family home, condominium, apartment, duplex, row house, co-op, manufactured homes	Single family home, condominium, manufactured homes, 1-side of a duplex, row house. Unit must be on a permanent foundation and owner must have rights to the land for at least 40 years
Recapture of HAP Subsidy	None	HAP assistance may not be recaptured. Other funds that are not HAP can still contain recapture provisions
Eligible Housing Expense	Rent and utilities, including pad rent and condominium fee	Principal, taxes, homeowner's insurance, interest, utilities, maintenance escrow amount, replacement escrow, condo fees, land lease for 40+ years, etc.
Treatment of Home owned in Net Family Assets[24]	Equity value of home included in determining net family assets	Equity value of home excluded from calculation in determining net family assets.[25]

[24] The definition of net family assets found in 24 CFR § 5.603 is being revised to align with the provisions in section 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA) but revisions were not yet in effect at the time this guidebook was published.

[25] 24 CFR § 5.603(b)(4)

Chapter 3 Planning for a Homeownership Program

Preliminary Planning

If your PHA is considering implementing an HCV Homeownership program, consider the factors discussed in this chapter prior to deciding and during the planning and implementation process.

While conditions for starting an HCV Homeownership program in your community may feel challenging, this chapter will help you understand what additional resources may be needed for your PHA to get ready. You may be able to initiate some activities and establish partnerships that will provide a good foundation when you are ready to start.

For a homeownership program to succeed, four basic elements are needed:

- Bankable program participants;
- Affordable units;
- Willing lenders; and
- Agency and partner capacity to pull it all together.

You can better prepare your agency and participants for success by laying some ground-work before taking the program public. The best place to start is with an assessment of the conditions necessary for successful HCV Homeownership Program in your community and in your PHA. Formal HUD approval is not required to implement a homeownership program, although your PHA must demonstrate your capacity to administer an HCV homeownership program.

Bankable Program Participants

The first requirement for a successful HCV Homeownership Program is to have sufficient eligible — and bankable — participants. The PHA must determine whether there are enough participants, applicants, and/or prospective applicants who meet their eligibility standards, and who are interested in purchasing a home.

Sufficient Income[26]

At the time the family begins receiving homeownership assistance, the adult family members of a non-disabled family must collectively meet a minimum, non-welfare, annual income requirement that is not less than the federal minimum hourly wage ($7.25 in 2022*)* multiplied by 2,000 hours ($14,500).

Here are some steps a PHA could take to identify potential program participants:

- Review voucher program records to determine how many participants have at least $14,500 in non-welfare income. This provides a rough estimate of the number of current voucher participants who could potentially qualify for the

[26] 24 CFR § 982.627(c)

homeownership option. If your agency has adopted or is considering a higher income threshold, use the higher threshold for your local determinations.

- If data is collected on the type and source of income for program applicants, review this data to identify how many applicant families may have the potential for homeownership.
- Examine the incomes and escrows of FSS participants. Families that have been participating in the FSS program for some time may have been working longer, and have higher incomes, than non-FSS families. Further, these families will often be good candidates for the program because they have escrow savings that can be used to assist with the down-payment and/or settlement costs generally required for the purchase of a home.
- Review public housing residents' profiles as a potential source for HCV Homeownership Program participants. If the PHA is planning to do HOPE VI, demolition/disposition, or voluntary conversion, keep in mind that the HCV Homeownership Program could provide an attractive option for relocating families who meet the basic eligibility standards.

Other public housing residents may be interested, especially families who are paying flat rent (who may be waiting for just such an incentive to move on), and/or families who are participants in public housing FSS program. Using the standard described above, review the public housing rent roll for families who are at or above the minimum required non-welfare income.

Keep in mind that voucher homeownership is a tenant choice program, not an adjunct to your HOPE VI or public housing sales program. While homeownership vouchers can, in some instances, be used to purchase units developed under HOPE VI, the PHA should be sure that families understand that this is one of many possible choices in the selection of units. The PHA must avoid any potential conflict of interest and comply with the HCV Homeownership Program regulations on PHA owner units[27]. An independent agency must assume many of the PHA administrative functions in cases where units under consideration for purchase by homeownership voucher families are owned or controlled by the PHA (see Chapter 7 for more information).

Credit Issues

When they began selecting families for participation in an HCV Homeownership Program, many PHAs have encountered the following:

- Many otherwise eligible applicant families have unacceptable credit risk scores, and the family will require credit repair before they can qualify for a mortgage.
- Credit repair, and the process of reducing outstanding debts, could take as much as 18-24 months.

With hard work, dedicated counseling, and a commitment to obtaining homeownership, many of these families may eventually qualify for a mortgage loan. However, it does

[27] 24 CFR § 982.628(d)

suggest that the lead-time for participation by many income-eligible families may be longer than expected, and the number of participants ready to move into homeownership from the initial data list may be lower than first anticipated by the PHA.

Limiting Homeownership Assistance[28]

PHAs can adopt additional requirements limiting homeownership assistance to families or purposes as defined by the PHA. For some PHAs, this represents an opportunity to link the HCV Homeownership Program to other local initiatives, for example, to provide opportunities for families with special needs who are inadequately served in the rental market. For other PHAs, the authority to limit assistance to certain families provides a mechanism for limiting access to the program to families they determine to be most likely to succeed, reward families for full-time employment or participation and graduation from economic self-sufficiency programs.

Some PHAs have limited participation in the program to FSS participants because they believe that these families are more highly motivated, generally are earning higher incomes, and can be more easily assisted through the process because of their closer working relationship with the counselors than other voucher assisted families. Some PHAs have based their decision to limit participation in the HCV Homeownership Program to FSS families because the participants are able to access FSS escrow funds to meet down payment and closing costs.

Other PHAs have found that they have a broad base of non-FSS participants who are already working. The working participants have the financial capacity for homeownership, even if they have never participated in FSS. These PHAs do not restrict the program to FSS only families. Some PHAs have given non-FSS families equal access to the HCV Homeownership Program but require all eligible families to have sufficient savings available to cover the up-front costs of homeownership. In considering limitations on family eligibility, PHAs should recognize that some lending institutions have developed loan products tailored to the needs of low-income homebuyers. The financial products will often be used to determine what families will need for additional resources, down payment, closing cost, and specific local eligibility criteria.

Applicants or Participants

Although program regulations make the homeownership option available to both current voucher program participants and applicants who have reached the top of the waiting list, many PHAs do not open the program to applicants. This is primarily attributed to the applicants' lack of a history with the PHA (concerns regarding the present living conditions and eligibility status of the applicant).

The advantages and disadvantages of managing a program with applicants or limiting the program only to participants include:

[28] 24 CFR § 982.626(b)

Homeownership Assistance Available to Applicants	
Advantages	**Disadvantages**
Broader base of potential homeowners	PHA has no history with the family and family's performance under the program
Provides an immediate incentive for applicants to work closely with the PHA	PHA must provide a method to deliver the briefing to all families and provide an opportunity to use the voucher for homeownership
Allows for a greater number of closings during each annual period	Applicant families must complete several other complex steps before PHA can render homeowner assistance.
Provides an opportunity to enter into earlier lease- purchase agreements for potentially upward mobility families	PHA must dedicate additional resources to manage larger pool, including those that want to participate, but are not currently eligible
Provides a greater incentive to engage early into the FSS program	PHA administrative funds are limited and partnerships also have limited capacity
	Many applicants are not lender ready for the program

Homeownership Assistance Restricted to Participants	
Advantages	**Disadvantages**
PHA has developed a working relationship with the family	Pool of potentially eligible homeownership participants is narrowed
Family understands the basic elements of the HCV Program	Current participants may lack an interest in program
PHA can establish local participant criteria, including a good standing requirement	The HCV Homeownership Program requires that the family must first receive homeownership counseling, and some families may need a protracted period of credit counseling and/or repair and a longer-than-usual period for the family to find a home and secure a mortgage.
Participant can take advantage of other programs administered by the agency, such as Family Self Sufficiency (FSS)	
Participants can complete the counseling process while being assisted in the rental program, thus giving the family a greater ability to save resources for homeownership	
PHA partners may already be working with the families on other issues, such as credit, savings, etc.	

Interest in Homeownership

The fact that a family qualifies for homeownership under HUD's eligibility requirements and any additional PHA standards does not necessarily mean that they are ready for, or interested in, homeownership. Homeownership may be the "American Dream" for many families, but for others the prospect of being tied to one place for more than a year or two, or having to assume maintenance repair costs, and additional homeownership responsibilities, is not that attractive. Before you decide to move forward with your HCV Homeownership Program, you should determine how many potentially eligible families are interested in homeownership. Techniques can include polling current participants directly and/or sharing your plans for an HCV Homeownership Program during the PHA plan process (required). Generally, most PHAs have found many qualified voucher families do have an interest in homeownership.

Affordable Units

For a homeownership program to work there must be an adequate supply of affordable housing units for sale. A first step in evaluating the feasibility of voucher homeownership in your area is determining the level of housing debt that participant families can carry. In the Housing Choice Voucher Program, the payment standard determines the maximum monthly housing payment that families will be assisted under. One simple method for estimating how much families can pay to purchase a home is to calculate the mortgage amount with a monthly payment equal to the payment standard for the area.

The following calculation can be used to get a rough estimate of the maximum amount families will be able to borrow when homeownership expenses equal the voucher payment standard. Depending on the underwriting model used by the lender, treatment of the HAP, interest rates, and mortgage terms, the actual loan amounts may vary considerably.

STEP 1. Calculate amount available for principal and interest.

Monthly homeownership expenses minus the Voucher Payment Standard is the amount available for the payment of principal and interest.

STEP 2. Determine range of available mortgage interest rates.

Current mortgage interest rates are easily accessible through a simple internet search or obtaining rates from local lenders.

STEP 3. Calculate amount of mortgage debt that the amount in Step 1 will support.

Locate a mortgage loan calculator on the internet, enter the monthly payment and calculate the amount of the loan.

By changing the proposed term of the loan, and/or the interest rates, the amount that can be borrowed will increase or decrease.

The actual amount that families can afford to spend will also be affected by:

- Lender's treatment of HAPs in calculating allowable debt (more on this in Chapter 6);
- Availability of family resources for down payment, which lowers the amount to be borrowed;
- Availability of other resources to pay points, which lowers the interest rate charged over the term of the loan;
- Availability of other resources to reduce the initial cost of the purchase, down payment assistance, deferred loan programs, cash grants, etc.; and
- The family's willingness to take on additional debt.

Once you have an idea how much families in your program will be able to borrow, you can determine whether there are units available in that price range. There are many sites available on the internet to find average prices of homes in your area, a couple of the most common include Zillow and Redfin. If there is quality housing available within the price range, you already have the makings of a great program. If the cost of a typical starter home in your area is well beyond what the voucher payment standards can support for your area you will have to work a little harder to identify other available resources.

Decrease housing costs for program participants by working in partnership with local agencies or other nonprofit developers who can write down the cost of the units or provide assistance with other homeownership expenses.

Explain to the seller that this is a low-income family, sometimes they will be willing to assist with closing costs or negotiate price.

Increase the amount of down payment with homeownership grants, down payment assistance programs, soft second mortgages and other outside sources of housing funds.

- Explore the use of Community Reinvestment Act Funds to assist with down payments;
- Check with the State Housing Finance Agency to identify programs; and
- Housing Counseling agencies may have information about funding sources.

Willing Lenders

While planning an HCV Homeownership Program, the PHA should speak to as many lenders in the community as possible. Your goal will be to obtain input from lenders on adapting your program to the standards of your community, and to identify and recruit lenders who will be willing to work with families receiving homeownership voucher assistance. Some ideas for recruiting willing lenders include:

- Devote time to developing relationships with lenders and real estate professionals.

- Maintain the relationship by establishing a pattern of regular communications, this could be through an email or phone call with program updates or just to check on how things are going and if they have any questions or concerns.
- Keep track of all outreach efforts, even if a lender says no the first time they may respond differently over time with a change in staff or as the program has been successful with other lenders.
- Maintain a professional looking website and materials, include testimonials and successful experiences.

PHAs should also take the time to consult with local homeownership counseling agencies. Often, they will identify the lenders in your area that are willing to work with low-income families and special programs. Their experience with local lenders can save the PHA a lot of missteps in the early days of planning a homeownership program.

FHA, Fannie Mae and Freddie Mac Lenders

The Federal Housing Administration (FHA), the Federal National Mortgage Association (Fannie Mae), and the Federal Home Loan Mortgage Corporation (Freddie Mac) have adopted underwriting standards for mortgage loans originated by local lenders that will supply loans to families receiving homeownership voucher assistance. A good way to start searching for local lenders is to contact mortgage lenders in your community who originate FHA-insured loans, and/or use Fannie Mae or Freddie Mac-backed loans.

Fannie Mae regional and Community Business Centers are also a good place to start. Fannie Mae does not make mortgage loans directly to the participating family, but instead buys mortgage loans on the secondary market. Fannie Mae does offer a choice of flexible mortgage options for low- and moderate-income borrowers through local lenders. Contacts in Fannie Mae's regional and Community Business Centers are anxious to work with PHAs to help them identify and develop partnerships with local lenders.

The underwriting procedures for the primary and secondary housing financial market will determine how much the family can borrow. Mortgage lenders may treat the monthly homeownership assistance payment as an offset to the monthly mortgage payment, i.e., reduce the payment by the amount of the homeownership assistance payment before dividing by the monthly income to determine the payment-to-income and debt-to-income ratios. More on the specific mortgage models will be covered in Chapter 6.

To use this procedure for qualifying the borrower, the homeownership assistance payments must not pass through the hands of the homebuyer, i.e., the homeownership assistance payment must either be paid directly to the servicing lender or placed into an account that only the servicing lender may access. If the homeownership assistance payment is made directly to the homeowner, it may only be considered as income in qualifying the borrower[29]. FHA believes these underwriting guidelines will increase homeownership opportunities for those homebuyers who receive Section 8 monthly homeownership assistance payments while not increasing the risk of borrower defaults

[29] Reference Mortgagee Letter 2001-20, found in the FHA Single Family Housing Policy Library

on the mortgage. Specific questions by lenders can be made to the local FHA Homeownership Center.

State and Local Housing Finance Agencies

Some PHAs have negotiated financing agreements with their state Housing Finance Agencies (HFAs) — agencies already committed to meeting the needs of low- and moderate-income homebuyers. The National Council of State Housing Agencies (*NCSHA*) has a directory of HFA member agencies in each state.

The National Association of Local Housing Finance Agencies (NALHFA) listings of city, county, nonprofit organizations, and private firms involved in financing affordable housing.

Savings and Loans, and Credit Unions

Some PHAs have found portfolio lenders, who hold their own mortgage loans as an investment, to be more receptive to the program than lenders who anticipate problems reselling assisted mortgages on the secondary market. Do an internet search for savings banks, and savings and loan associations (S&Ls) that may be interested in the program. Credit unions have also provided loans to families, although their lending is usually limited to credit union members.

Commercial Banks

Do not disregard the local bank the PHA uses or other commercial banks as a potential resource for program families. Several PHAs have helped families to secure mortgage loans from large commercial banks. Some of these institutions are ready and willing to work with voucher homebuyers.

All banks (as well as savings and loans and credit unions) are federally regulated institutions, and subject to the laws governing equal opportunity lending and the requirements of the Community Reinvestment Act (*CRA*). The HCV Homeownership Program can be promoted to lenders as a vehicle for meeting their CRA goals. This may help the lender fulfill CRA requirements while the assisted family may also lower the risks generally associated with loans to unassisted low-income families. It helps to pre-educate yourself on the requirements of the CRA before you meet with prospective lenders. The list below may be of some assistance. Do not forget to also discuss the program with the bank or S&L where PHA funds are deposited.

The Community Reinvestment Act

The Community Reinvestment Act (CRA) was enacted by Congress in October 1972 to encourage federally insured depository institutions to address the credit needs of their communities, and to prohibit banks from refusing to lend in low- and moderate-income communities. Regulations issued by the Federal Financial Institutions Examination Council define low- and moderate-income areas as census tracts with median family incomes below 80 percent of the median for the metropolitan area.

The CRA was followed by two other federal laws aimed at increasing credit flow in low- and moderate-income communities:

The Equal Credit Opportunity Act of 1974, which prohibits discrimination in lending and the Home Mortgage Disclosure Act of 1975, which requires institutions with assets over $10 million to annually disclose key information about mortgage applicants and borrowers by census tract.

The key requirements of the CRA are:

- Federal banking regulators[30] are required, as part of their periodic examinations, to assess the record of depository institutions in meeting the credit needs of the communities in which they are located.
- Based on required periodic examinations, one of four CRA ratings are assigned: Outstanding, Satisfactory, Needs to Improve, or Substantial Non-Compliance.
- Depository institutions must post a prescribed CRA notice in their offices and maintain a public file that includes information about the institution's CRA performance.
- The public may submit written comments on the institution's community lending record, which must be included in the institution's public file and considered by the regulator in evaluating CRA performance.

Federal banking regulators are required to take CRA performance into account in determining whether to approve an institution's application for:

- A Federal bank, thrift charter, or FDIC deposits insurance;
- Relocating a main office or establishing or relocating a branch; or
- Merging, consolidating, or acquiring the assets (or assuming the liabilities) of another regulated depository institution.

Outreach Materials

Some PHAs have developed professional-looking outreach materials that explain the operation of the program and provide lenders with contact(*s*) at the PHA who will provide additional information on the program. This cannot hurt, especially if the information is given to families to pass along to prospective lenders unfamiliar with the program. However, a color glossy brochure will not replace the one-on-one contact and communication necessary to get the HCV Homeownership Program off the ground. HUD has developed a flyer that PHAs can use as is or modify for their own programs: HCV Homeownership Lender FAQ.

[30] the Federal Reserve, Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency, and the Office of Thrift Supervision

Agency Capacity[31]

HCV Homeownership Program regulations require PHAs to demonstrate the capacity to operate a successful homeownership program in one of three ways:

- By establishing a minimum down payment requirement of at least three percent of the purchase price, and a requirement that at least one percent of the purchase price comes from the family's own resources;
- By requiring that financing for the purchase of a home 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; or
- By demonstrating in its Annual Plan that it has, or will acquire, the capacity to successfully operate an HCV Homeownership Program.

Beyond meeting one of these requirements, a PHA that must have the management capacity to do the required work with the program. PHAs who are considering the homeownership option should demonstrate capacity to perform functions directly related to providing voucher assistance — determining eligibility, conducting HQS inspections, reviewing affordability, making HAP payments, and enforcing family obligations. Additional skills and capacities will also be needed to operate an HCV Homeownership Program.

Developing a successful homeownership program requires a certain level of planning, partnership development, capacity building, and the ability to continuously interact with a new array of local agencies and financial institutions. Implementing a homeownership counseling program requires the ability to counsel and educate low-income families in all aspects of locating, financing, purchasing and maintaining a home. The local PHA may have the management capacity inside the agency or must have the ability to identify local agencies qualified and willing to provide such counseling and education to program families. Providing pre-and post-sale support to program families requires a thorough understanding of the physical, financial, and legal aspects of purchasing and owning a home. The counseling will require a lot of one-on-one time. PHAs that expect to succeed at homeownership must realistically assess their agency capacity to perform these additional functions, and/or be open to seeking outside partnerships to make the program work.

Managing the Homeownership Workload

As with many programs, the start-up phase of the voucher homeownership program is labor intensive and the PHA should be prepared to spend some time on the program in order to be successful. Partnering with outside sources for help with homeownership activities allows the PHA to access the technical expertise and experience of other agencies and organizations in the community.

[31] 24 CFR § 982.625(g)

Some services required by homeownership program participants are not so easy to find. For example, local agencies and organizations may have experience selling or financing units for low- and moderate-income homebuyers but may not have worked with families with the very low incomes typical of the voucher program. For them, the HCV Homeownership Program may provide an opportunity to expand their client base, but it may also provide unexpected challenges. These may be areas, in the long run, where a collaborative approach will work better than either the PHA or the outside agency independently performing the program functions.

PHAs should work with local agencies and organizations to identify areas where strategic partnerships can work to the benefit of all parties, and further the goals of the PHA's HCV Homeownership Program.

A PHA may ultimately determine that it does not have the capacity to administer a homeownership program. If local circumstances are otherwise suitable for the implementation of a homeownership program, the PHA may consider using partnerships or contractual arrangements with experienced nonprofits to assist families using the homeownership option. The PHA could, theoretically, limit its homeownership activities to verifying participant eligibility, making HAP payments, and enforcing family obligations over the term of the homeownership assistance. In any such arrangement, the PHA as HUD's contractor would continue to have the primary responsibility and accountability for oversight on the subcontractor's overall compliance with program requirements.

Managing in the "out-years"

After a family has purchased a home, the workload can be expected to decrease while the earned administrative fees continue. The PHA is still responsible for regular recertifications and may elect to continue HQS Inspections or not. Some families may sell one home and purchase another, but it is expected that homeownership families will not move nearly as often as families who are renting. The PHA's efforts in planning and implementing the program are rewarded in later years when the administrative burden for the homeownership family is lower yet the on-going administrative fee is the same.

Managing PHA Priorities

PHAs whose resources are stretched may be wary of implementing new initiatives.

These situations may include:

- PHAs with low or failing Section 8 Management Assessment Program (SEMAP) scores; or
- PHAs currently processing significant numbers of new vouchers, increasing utilization, increasing issuance in connection with public housing relocation, litigation, or other special initiatives.

A successful homeownership program can be a tremendous asset to a PHA and help meet local needs. A PHA should carefully plan so it is not overly diverting attention and resources needed to meet basic program requirements and/or obligations that may lead to failure on all fronts.

Chapter 4 Program Management

HCV Homeownership Program Management

Allowing voucher families to exercise the homeownership voucher option will certainly have both immediate and long-term effects on a PHA. Workload levels may be hard to predict since these vary based on partnerships, experience of staff, participant motivation, local lending conditions, and the housing market. Implementing an HCV Homeownership Program is initially labor-intensive. In part, the programs are demanding because the planning, partnering and preparation must be done before the first family is ready to begin their housing search. The program may also be new to the lending community, and you will need to be involved in recruiting lenders to provide a full understanding of the financing aspects of the program.

A PHA considering implementation of an HCV Homeownership Program needs to structure the program to keep qualified participants in various stages of moving steadily towards homeownership. By doing so, a PHA will help manage the energy and effort that will be required to implement and operate the program. It also provides a method to set reasonable expectations regarding how long it will take before the PHA sees results of a closing using HCV funding.

Chapter 3 described the activities a PHA must undertake in creating an HCV Homeownership Program. This chapter begins with the steps a PHA must take once it has opened its doors to homeownership. Additional details about these topics are provided in subsequent chapters.

In order to manage the program, a PHA must understand the homeownership terms, language, acronyms, and lingo.

Outreach and Briefing

PHAs implementing an HCV Homeownership Program may wish to discuss the homeownership voucher option at voucher holders' briefings for admission to the Housing Choice Voucher (HCV) Program. Even if the PHA has limited the program to current participants, the briefing is an excellent opportunity to pique the family's interest in the program as an incentive and future option. For some families, the possibility of homeownership may become an additional incentive to actively pursue Family Self Sufficiency (FSS) goals. The potential of homeownership assistance as a motivational tool should not be over looked at this first formal meeting between the family and the PHA, or at subsequent encounters, such as recertification's, with the family.

If the PHA intends to make the homeownership option available to families from the waiting list, there are a couple of important factors to keep in mind. The HCV Homeownership Program is a special housing type under the Housing Choice Voucher Program. A PHA may not set aside program funding for special housing types or a specific special housing type. Consequently, a PHA may not provide a selection preference based on a family's willingness to use the housing voucher for homeownership or bypass a family on the HCV waiting list to admit a family into the Housing Choice Voucher Program because of the family's eligibility for and interest in homeownership assistance. The PHA may offer an applicant that has reached the top of its waiting list the opportunity to receive assistance through the homeownership option but may not require that the family do so as a condition of voucher issuance.

For PHAs that require homeownership applicants to be current voucher participants, the annual reexamination may be a suitable time to inform the family about the homeownership program. If the PHA has developed program flyers to be included in the voucher holder's briefing packet, the same material can be distributed to current participants.

However, before families can make the decision to pursue homeownership, there are questions that should be addressed about homeownership in general, the operation of the HCV Homeownership Program, and their own ability to purchase and maintain a home. Rather than having prolonged independent one-on-one discussions with individual families about the program, it may be effective to hold periodic group homeownership "briefings" for families who express an interest in homeownership. These meetings can be used to provide in-depth information about the program, and to answer both general and individual questions that arise. The group meetings should include no more than 10-15 families to allow families sufficient opportunities to ask questions. Consider holding briefing sessions in the evening or weekend, since many of the potentially qualified families have adult working members.

Selecting Homeownership Program Participants

If the PHA decides to limit the number of families that can participate in the homeownership program at any given time, the PHA simply suspends offering homeownership assistance at such time. This will occur when the number of families receiving homeownership assistance, in combination with the number of families currently in the pre-assistance phase of the program, reaches the PHA limit. The PHA can always revise the policy, adjust resources to the program, adjust partnerships, or use other techniques depending on supply and demand. Remember, the program is flexible and many of these conditions are controlled at the local level.

Bankable mortgage credit is an issue that participants will be faced with, sooner or later. If a PHA is not reviewing the credit worthiness of potential participants, it may lead the PHA to believe that there are more families qualified for the program than are, in fact, ready for closing in the homeownership program. Rather than creating unrealistic expectations for families and the PHA at the application stage, it may be in everyone's best interests to conduct a credit check early in the evaluation of the family for the program.

Information on the credit report can be used to determine whether the family is ready to be placed on the homeownership list, or whether the family should begin the credit cleansing process. The family can re-apply for the homeownership program when the necessary level of credit is achieved.

Additional details about credit reports and credit repair are provided in Chapter 5.

Housing Counseling[32]

Once a family has been selected for participation in the homeownership program and verified that they meet all of the requirements for participation, they must then complete a PHA-prescribed course of housing counseling. The substance of this counseling is discussed in Chapter 5.

Issuing the Voucher Equivalent[33]

PHAs do not issue a homeownership voucher per se to families participating in the HCV Homeownership Program, even if they are admitted directly from the waiting list. Nevertheless, at the point when the family is ready to begin its housing search and before the PHA is ready to review a contract of sale from the family, certain ground rules need to be established.

PHAs may set a time limit for families to locate and purchase a home and/or require periodic reports on a family's progress towards finding and purchasing a home. If the PHA has admitted families directly from the waiting list into the HCV Homeownership Program, the PHA will have the same concerns that it has in the rental voucher program. These concerns include balancing the time needed by one family to conduct a thorough housing search against the time that another family must wait to receive assistance. Also, as with the rental assistance program, the PHA receives no administrative fee for an applicant family while the housing search is ongoing. Most PHAs find that the search and closing time for homeownership units takes longer than the housing search and lease execution time under the rental program.

If the PHA only selects homeownership program families from its current participant pool, the issues related to search and closing time are less critical. However, the PHA may still wish to control the time and flow of families using the program so that the PHA is not suddenly faced with more families in the process or under contracts of sale than it has available staff and resources. The PHA must ensure that families make a serious, concentrated effort within a certain time period to find a home, rather than possibly procrastinating over a long, undefined term that will only result in a loss of staff, participants, counseling partners, and local lenders.

In addition to the time limits for the housing search and/or the completion of the financing arrangements, the PHA may require periodic reports on the family's progress. This information, guidelines, and standards should be communicated to the family before they begin the housing search.

Many PHAs require the family to contact the lenders and be pre-approved for a loan before commencing their housing search. The benefit of involving the lender this early in the process is that the participant will be provided information on affordability caps and

[32] 24 CFR § 982.630
[33] 24 CFR § 982.629

available loan products, and any remaining credit issues can be further discussed and resolved. While the lender calculates the family's mortgage payment based on the local lending criteria, the PHA will still calculate the family's HAP assistance.

The HAP assistance is:

> The lower of the payment standard or the monthly homeownership expense for the unit purchased by the family, minus
>
> The family's Total Tenant Payment (TTP)

Since the payment standard and the TTP are known in advance, the PHA can provide the family with an estimated, or maximum, HAP amount, to be used in presenting the program to lenders. Materials provided to families should explain how the HAP subsidy is calculated, and the impact on subsidy levels based on changes in the family's income, deductions, and composition. This can be a big selling point to lenders, who need to understand that the HAP subsidy will increase if the family's income goes decreases. Additional detail is provided in Chapter 6.

Reviewing the Contract of Sale[34]

Program regulations require that participating families, except for co-op members who have acquired membership shares prior to the commencement of homeownership assistance, enter into a Contract or Agreement of Sale with the seller of the unit to be purchased by the family.

The contract of sale is required to include:

- The price and other terms of sale agreed to by the seller and the buyer;
- A provision that the buyer will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector;
- A provision that the buyer is not required purchasing the unit unless the inspection is satisfactory to the buyer;
- A provision that the buyer is not obligated to pay for any necessary repairs; and
- Certification that the seller has not been debarred, suspended, or subject to a limited denial of participation.

Although there is no specific regulatory requirement for a provision in the contract of sale allowing the PHA to inspect the unit, and to disapprove the family's purchase if the unit does not pass HQS, some PHAs also require that these conditions be negotiated into the body of the contract or attached as an addendum. This is because the PHA is required to perform an initial HQS inspection on the unit before any assistance can be rendered.

Some PHAs provide a sample addendum to the family before they begin their housing search. The addendum includes the required provisions and other local requirements, and the PHA advises the family that the addendum, or the wording of the addendum,

[34] 24 CFR § 982.631(c)

needs to be negotiated into the contract. PHAs should stress the importance of including the provisions in the contract. If the required provisions are not included in the original contract, and the seller is not willing to modify the contract, the family runs the risk of having the PHA disapprove the contract and losing the earnest money deposited with the seller's agent. It is critical that the family (and the family's real estate agent) understand the importance of not signing a contract of sale unless the necessary conditions are included (either the seller has accepted and included the language provided to the family by the PHA or the PHA has reviewed and approved the proposed contract of sale before the family signs the contract of sale).

Inspecting Homeownership Units[35]

The HCV Homeownership Program requires two inspections of properties: (1) an initial Housing Quality Standards (HQS) inspection conducted by the PHA; and (2) a professional home inspection conducted by an independent inspector selected by the homebuyer. In Chapter 8, we discuss the inspections in greater detail.

PHAs need to instruct participants about the requirements for these two inspections. Depending on the market and the PHA, it may be possible (and is certainly preferable) for the PHA to conduct its HQS inspection prior to the family entering into the actual contract of sale. If that is the case, the HQS inspection should be conducted within a few days to ensure the family has an opportunity to make an offer on the home in a timely manner. In any event, the PHA needs to ensure the timeliness of the HQS and independent inspection. This will ensure that the homebuyer and the PHA have adequate time to use the information gathered in the inspections, and that the sale is not jeopardized by delays in obtaining or processing the inspections.

Reviewing the Family's Financing Documents[36]

Although PHAs are not *required* to review and approve the families' financing, many have chosen to do so, and HUD strongly recommends that PHAs establish financing requirements for their programs and that the PHA review the proposed financing against its requirements. PHAs are permitted to establish requirements regarding qualifications of the lenders, the terms of the proposed financing and whether the financing is affordable for the family (see Chapter 6).

The PHA's review of the family's proposed financing differs in two key aspects from its review of proposed rents under the rental assistance. First, there is no requirement for the PHA to review the reasonableness of the sale price of the unit. Instead, PHAs are encouraged to review the financing, which normally will include an appraisal report.

Second, there is no regulatory affordability cap in the homeownership program comparable to the 40 percent cap in the rental assistance program. The PHA may adopt an affordability policy as a local program option but is not required to do so by HUD.

[35] 24 CFR § 982.631
[36] 24 CFR § 982.632

It is important to keep in mind that the PHA is reviewing the reasonableness of the entire financing package, not just the individual pieces. If the financing package consists of a first mortgage and a second mortgage, for example, or two mortgages plus the requirement for a substantial down payment and/or other miscellaneous loans and grants, the PHA must evaluate the entire financing package and its conditions. Material provided by the family should include all documents provided to the family by the prospective lender, and information about other resources that the family will use to complete the purchase.

The factors that the PHA will use to review the reasonableness of the financing package must be described in the PHA's Administrative Plan. On the one hand, the PHA should be wary of adopting standards that may unreasonably restrict the financing options available to program families. On the other hand, the PHA will want to ensure that the standards effectively protect families from predatory lending practices and allow families to retain adequate resources for periodic maintenance and necessary repairs. See Chapter 6 for more information on reviewing the financing package.

Reporting Requirements

All PHAs that administer tenant-based rental assistance program are required to develop and maintain two key documents:

- A PHA Plan, which provides a comprehensive overview of the locality's needs, resources, goals and objectives for all of the PHA's programs; and
- A Housing Choice Voucher Program administrative plan that describes the PHA's discretionary policies relating specifically to the voucher program.

The Administrative Plan and any revisions of the plan must be formally adopted by the PHA Board of Commissioners or other authorized PHA officials.

Chapter 10 provides a detailed description of the areas in which the PHA's Agency Plan and Administrative Plan must be modified to address the requirements of the HCV Homeownership Program.

Chapter 5 Homeownership Counseling

Homeownership Counseling

Homeownership Counseling and Education for first-time homebuyers provides both before and after assistance on purchasing a home, helps enhance the success of individual homebuyers and prevent mortgage defaults. In general, the goal of homebuyer education and counseling is to ensure that homebuyers are prepared for homeownership and are mortgage-ready when they seek available lenders. Homebuyer counseling and education is an integral component of the Housing Choice Voucher (HCV) Homeownership Program.

Participation Requirement[37]

HUD requires that families attend and satisfactorily complete a pre-assistance homeownership and housing counseling program before homeownership assistance can be provided. These expectations should be communicated to the family at the beginning of the counseling process.

Families failing to attend sessions can be re-scheduled if the counselor determines that reasons for the absence are valid. However, families who repeatedly fail to attend housing counseling sessions, or fail to perform required activities, may be sending the message that they are not ready to deal with the demands of homeownership. The family still has additional obligations, such as finding a home, securing a mortgage, completing the annual recertifications, caring for the property, and assuming the responsibilities of being a homeowner. The PHA's policies regarding families' participation in homeownership counseling, and the conditions under which truant families will be permitted to continue in the homeownership program, should be included in the PHA's Administrative Plan.

Selecting a Counseling Agency

Homeownership counseling must be conducted by a HUD-certified housing counselor working for a HUD-approved housing counseling agency. A list of HUD approved Housing Counseling Agencies can be found on HUD's website.

HUD-approved counseling agencies are funded by HUD to develop and provide the type of counseling required for the program. They can usually provide the counseling to the PHA at no cost.

In selecting a counseling agency and training program, it is important to consider the needs of your voucher participant group. Many of the participants in the HCV Homeownership Program will not only be first-time homebuyers, but they may also be first-generation homebuyers. Such families may have had little direct contact with homeowners and may require a great deal of assistance to understand the home

[37] 24 CFR § 982.630 (a)

purchase process. These families may need greater credit and budget counseling to qualify for a home mortgage.

Many counseling providers have adapted their standard curriculum to offer lengthier sessions and more intensive training to respond to the in-depth education and additional support voucher homebuyers may need. Since the counseling agencies do not necessarily have an in-depth knowledge of the voucher program, some PHAs maintain a presence at the group sessions, or are placed on the agenda to address specific questions that arise regarding the HCV Homeownership Program.

Counseling Curriculum[38]

Pre-assistance Counseling

The following topics are typically included in pre-assistance counseling programs the content of homeownership counseling can be adapted to meet local circumstances and the needs of individual families.

- 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 the types of financing that might 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 PHA 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; and
- Information about the Real Estate Settlement Procedures Act[39], state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

Credit Repair Assistance

Problems associated with either a lack of credit history or poor credit scores are the most common reasons for more intensive, longer-term counseling. Credit repair counseling typically begins by obtaining an individual’s credit report and reviewing the information contained in the report. First-time, low-income homebuyers often need help deciphering the details of their credit reports and may lack a fundamental understanding of the

[38] 24 CFR § 982.630(c)
[39] 12 U.S.C. 2601 et seq.

impact of past credit problems on their ability to obtain a mortgage. The process of credit cleansing frequently takes 12-18 months or more.

While there are many credit bureaus, the three most widely used include Experian, Equifax and TransUnion. Each credit bureau uses different forms so the reports may vary from one bureau to the next. In addition, accounts listed with one bureau may not necessarily be listed with another. To obtain a full picture of an individual's credit situation, it is important that all three bureaus be accessed when obtaining a credit report. This can be accomplished by requesting a merged, three repository, or full mortgage credit report. Reports from multiple credit bureaus include basic identifying information. These include the applicant's name, address, Social Security number, and information about the applicant. Most reports also include information about previous addresses and employment information.

Methods to Deal with Credit Issues

All credit reports include information about outstanding collections, revolving loans, or installment credit. Revolving loan information will include a list of companies that have loaned the applicant funds, account numbers, size of the credit limit, dates the accounts were opened and closed, and date of last activity. The reports give details about the repayment terms, amount currently owed, status of payments made, and past due amounts, if any. For collection accounts, the name of the agency holding the collection is listed, with the account number. The collection agency is hired by a creditor to collect payments that are due, and there is usually some flexibility in arranging terms for repayment with these agencies. Collections information may contain a designation of the type of account (revolving credit, installment credit, open, mortgage, or line of credit).

Credit reports typically show public records regarding claims made against the individual, including type of claim, name of the court, docket number, plaintiff name, and amount of the judgment, date reported, and date paid. Credit reports identify the names of companies that have accessed the credit report (inquiries), as well as subscribers, those having their account information listed with the bureau.

Credit scoring is provided at the end of the credit report. Credit scores are used to determine whether the applicant is considered a good credit risk. A credit score attempts to predict the future performance of individuals based on their past credit actions. The factors included in deriving the credit score include:

- Payment history;
- Amount owed;
- Length of credit history;
- Newly acquired lines of credit; and
- Types of credit in use.

Once the basic information regarding credit status is reviewed and discussed with program participants, the counselor and participants will develop a strategy for resolving any outstanding debt. If necessary, a monthly spending plan will result in clearing up outstanding payments, thereby improving the credit score. It is important that families not approach a mortgage lender until the credit history and credit score are assessed, and corrective actions are taken (if needed). Families are likely to require guidance and support as the credit resolution plan is put in place. A credit resolution plan is more likely to be successful if it is based on a realistic monthly budget, and if the participant has an accurate, honest understanding of their monthly patterns of expenditures.

Participants may be very reluctant to communicate with creditors, but counselors advise the client that this is a crucial first step to resolving problem credit. Effective homebuyer counselors can provide sample letters used to communicate with creditors in developing payment plans. These letters and follow-up help to resolve errors on credit reports, and close old accounts to prevent them from causing continued damage to credit scores. Some counseling agencies may refer participants to specialized credit counseling agencies for credit repair assistance. It is not uncommon for resolution of credit problems to take a year or more. When planning for homebuyer education and training, PHAs should be prepared for a significant number of participating families needing to engage in long--term credit counseling.

In addition to previous credit problems, some families may not have an extensive credit history. This can also result in a low credit score. In such cases, counselors can assist families into developing a record of non-traditional credit by working with landlords, childcare providers, utilities, insurance companies or other monthly providers that can document a history of on-time payments to establish good credit.

The PHA and its partners should decide the process it will use in the local area, such as, is it better for either:

- The partner agency to provide credit counseling to a larger number of families, all of whom may not ultimately enter the HCV Homeownership Program; or
- Interested homeownership families to seek credit counseling from credit counseling agencies and, upon approval of meeting the minimum level, be referred to the counseling partner agency for continued processing into the homeownership program?

Post-purchase Counseling[40]

HUD encourages PHAs to consider offering post-purchase counseling and determine if families should be required to participate. Post-purchase counseling may curtail mortgage default and maintains open communication with the participant. Some PHAs have created release forms that allow lenders to notify the PHA in the event a monthly payment is late. This early intervention allows PHA staff to contact the family immediately to ascertain the issue and to provide assistance. A PHA can also assess the need for post-purchase counseling at the time of annual recertification.

[40] 24 CFR § 982.630(d)

Post-purchase forums conducted by the PHAs or counseling agencies can take on various forms. Some general themes are seen in the post-purchase counseling sessions. These include sessions on the following:

- How to treat the interest and taxes on the Federal tax forms as a homeowner;
- Common repairs in the home and ways to save money;
- Do-it-yourself workshops on plumbing, electrical, tile, painting, and yard maintenance;
- Post-purchase predatory lending practices by credit card companies and home equity loans;
- Ways to save on utility bills; and
- How to read mortgage payment statements.

Some PHAs require the participant to attend regular sessions, others use monthly newsletters, flyers, workshops, recognition dinners, or other creative forums to continue communication with the family after the closing. Most PHAs that require the post-purchase program include this as a homeowner obligation agreed to in writing by the participant. All PHAs that require post-purchase counseling must include it in the PHA Administrative Plan.

Use the Existing Tools in the Market

Why reinvent the wheel? There is an abundance of resources available on the internet, below are just a few examples.

The Fannie Mae Foundation has some excellent publications on credit issues and homebuyer education that are available for free.

The Keys to Homeownership guide, as well as other credit related resources, can be found on the National Foundation for Credit Counseling website.

The Federal Deposit Insurance Corporation (*FDIC*) recognizes the importance of financial education, particularly for people with little or no banking experience. That is why FDIC created Money Smart, a training program to help adults outside the financial mainstream enhance their money skills and create positive banking relationships.

Other resources are available on the NeighborWorks® Campaign for Homeownership website.

Chapter 6 Financing

Financing the Home Purchase[41]

Although families are ultimately responsible for securing their own financing, the complexity of the HCV Homeownership program typically requires that PHAs engage in lender outreach and education. PHAs are typically involved in cultivating relationships with lenders who are willing to work with the program. PHAs collaborate with lenders to develop financing models that accurately reflect the family's increased borrowing capacity, partner with agencies and organizations that provide loans or grant funds to qualified families and work with the organizations and participants to achieve the home purchase. This chapter examines the financial models that have evolved allowing families in homeownership programs across the country to purchase homes.

As lenders become more knowledgeable about the HCV Homeownership Program, credit-worthy families in the program will begin to find financing on their own. Over time, the PHA will not need to intervene as much in putting together the financing package. However, PHAs are finding that each deal (financial package) is unique, and they remain involved in the process with each family.

PHA Requirements

When the participant has identified a lender and a loan product, the PHA may review the proposed financing to determine whether the lender and the terms of the loan meet PHA requirements.

The PHA may adopt its own requirements for approval of financing. The policies and standards that the PHA will use in reviewing proposed financing packages must be described in the PHA's Administrative Plan and applied consistently.

Qualifications of Lenders

Program regulations prohibit the purchase of a home from a seller that has been debarred, suspended, or subject to a limited denial of participation by HUD. The PHA may wish to require, at a minimum, that the proposed lender(*s*) meet the same criteria. PHAs can require that financing for the purchase of a home under the program be provided, insured, or guaranteed by the State or Federal government; comply with secondary mortgage underwriting requirements; or comply with generally accepted private sector underwriting requirements. Qualified lenders could be held to these standards and products.

[41] 24 CFR § 982.632

Terms of Financing

Factors that the PHA may wish to incorporate into its plan include:

- *The type of loan proposed.* This would include, for example, any prohibitions, limitations, or review requirements on adjustable-rate mortgages, balloon mortgages, interest only mortgages, or seller financing;
- *Any unreasonably restrictive loan terms.* This would include *restrictions* on prepayment of the loan amount, prepayment penalties, inclusion of high credit insurance premiums, or other demand features;
- *The family's equity in the property.* The PHA's review of the financing package should allow the PHA to confirm, if required, that the financing package meets any PHA requirements regarding the family's down payment and/or amounts required to be paid from the family's own resources;
- *Restrictions on other debt* secured by home (such as second mortgages, home equity loans, etc.); and
- *The interest rate, points, or other fees associated with the loan.* As part of the loan application process, the lender is required to provide the borrower with a Federal Truth in Lending Statement that tells the borrower what the loan will actually cost. The information that the lender is required to provide includes the Annual Percentage Rate (*APR*) — the real rate of the loan, including points and fees — and other information about the terms of the loan. The PHA should compare the interest rate that the family will pay with prevailing rates and fees available from prime lenders in the local area.

Affordability Protections

The PHA may implement affordability protections into their program to limit how much a family may contribute toward monthly homeownership expenses. For example, the rental rule for the maximum participant contribution of 40 percent of Adjusted Income at the time of the initial contract does not apply to the HCV home-ownership option program. However, the PHA, as a local option to reduce the risk of default by the family, can establish a local policy on affordability and include the pol icy in the Administrative Plan. The PHA would then review the financing package to determine whether the mortgage is affordable to the family. In making this determination, the PHA may consider other family expenses, including food and clothing expenses, childcare, un-reimbursed medical expenses, homeownership expenses, and non-housing debt.

Review of Financing Package

It is important to keep in mind that the PHA is reviewing the reasonableness of the entire financing package, not just the individual pieces. If the financing package consists of a first mortgage and a second mortgage, for example, or two mortgages plus the require-ment for a substantial down payment and/or other miscellaneous loans and grants, the PHA must evaluate the entire financing package and its conditions. Material provided by the family should include all documents provided to the family by the prospective lender, and information about other resources that the family will use to complete the purchase.

The factors that the PHA will use to review the reasonableness of the financing package must be described in the PHA's Administrative Plan. On the one hand, the PHA should be wary of adopting standards that may unreasonably restrict the financing options available to program families. On the other hand, the PHA will want to ensure that the standards effectively protect families from predatory lending practices and allow families to retain adequate resources for periodic maintenance and necessary repairs.

The Family Choice Financing Model

Under the simplest scenario of voucher homeownership, participant families complete their required homeownership counseling and are pre-approved/pre-qualified for financing, find a unit, secure financing, and return to the PHA with a contract of sale and an approved mortgage loan. In this situation, the PHA now has all the information needed to calculate the family's HAP payment and needs little more. The lender, the agency insuring the loan, and/or the secondary investor who will purchase the loan once settlement has been made, determines how the HAP is figured into the loan. The PHA's responsibility is to review the proposed financing to determine whether the lender meets the PHA requirements regarding lender qualifications, whether the terms of the loan are consistent with PHA requirements, and whether the loan amount is affordable for the family in accordance with any affordability standards adopted in its Administrative Plan. Once this has been established, the PHA will direct the HAP to the lender (or servicing agent), or the participant. However, PHAs are generally more involved in the process than this ideal scenario suggests.

Lender Recruitment

One reason that PHAs have become involved in the financing process is that lenders are unfamiliar with the Housing Choice Voucher program and the homeownership option.

Chapter 2 covered lender recruitment. Remember that if a mortgage loan will be insured by a government agency such as the Federal Housing Administration (FHA), the Department of Veterans Affairs (VA), or the Rural Housing Service, the borrower's qualifications must conform to the underwriting standards of the agency insuring the loan. Similarly, if a lender intends to sell the loan on the secondary mortgage market, the borrower must meet the underwriting standards of the secondary market institutions: Fannie Mae, Freddie Mac, and/or the Government National Mortgage Association (Ginnie Mae). FHA, Rural Housing Service, Fannie Mae, Freddie Mac, and Ginnie Mae have issued underwriting standards for voucher homeownership loans. However, at the local level, lenders may still be unfamiliar or cautious about exploring this new opportunity.

Apart from unfamiliarity, the potential lender sometimes raises the following concerns about the Homeownership Voucher Program to the PHA:

- Participants have lower incomes than the families who are generally approved for mortgage loans. *True. However, the family receives a monthly subsidy, to assist the family in meeting its monthly mortgage payment.*
- Voucher assistance is conditioned upon the families' compliance with program requirements unrelated to their financial obligations under the mortgage loan. *True. However, the family has a vested interest in maintaining compliance with the program and have received extensive pre-counseling.*
- Families whose incomes increase will receive reduced subsidies and may become ineligible for further assistance. *True. However, the increase in income means the family has the financial resources to cover homeownership expenses without the subsidy. Additionally, if the family income decreases, the subsidy will increase, providing the lender with less risk of a default.*
- Voucher assistance for many families will terminate before the end of the loan term. *True. However, even if the family income has not increased to replace the loss of subsidy, the family should be in a position to refinance the remaining debt and afford the new monthly mortgage payment.*

The regulations provide the following conditions should the HAP exceed the amount due. If the homeownership assistance payment exceeds the amount due to the lender, the PHA must send the mortgage payment to the lender and send the excess directly to the family.[42]

Financing Models

How does the lender take the subsidy into account when underwriting the loan or preapproving/pre-qualifying a family for a mortgage amount? The following are descriptions of models that have evolved based on experiences at a number of program sites. It is important to note that the secondary market (FHA, Fannie Mae, Freddie Mac, and Ginnie Mae) have specific underwriting guidelines outlined in Exhibit A.

There are several models used in the HCV Homeownership Program.

The four basic models described in this chapter reflect FHA's, Fannie Mae's, Freddie Mac's or other secondary markets' criteria:

- Single Mortgage Model - HAP as Income (Gross-up Income Model)
- Single Mortgage Model - HAP as Offset
- Two Mortgage Model
- Home Choice for the Disabled

For an individual loan, it is the lender, not the PHA that will ultimately decide what standards to use in evaluating the family's loan application. It is not necessary for all lenders in a community to use the same underwriting standards, or for any lender to use

[42] 24 CFR § 982.635(d)

the same standard for all families. Rigidly restricting the agency or lender to only one of these models can effectively disqualify program participants from taking advantage of opportunities afforded to them by the multiplicity of lenders and lending products in any market.

Flexibility on the part of PHAs on treatment of the subsidy will open the program to more lenders and stimulate competition in the market. This in turn will make financing easier and more affordable to many more future program families.

Model 1 Single Mortgage Model – HAP as Income (Gross-up Model)

In this model, underwriters consider the Housing Assistance Payment (HAP) as an additional source of income when determining how much an HCV Homeownership Program participant can borrow.

Since the HAP, unlike other income sources, is not taxable, underwriters inflate (or "gross up") the HAP by 25 percent and add it to other income sources to derive total gross income. Underwriters then use qualifying ratios, usually in the range of 28 to 30 percent of gross monthly income, to determine the monthly principal, interest, taxes, and insurance (PITI) payments that the participant can afford, and thus the total loan amount that the participant can borrow given the interest rate and other terms of the lending products being used.

The HAP as income model can be used in single - or multiple - mortgage transactions. In some multiple-mortgage transactions using the HAP as income model, the subordinate mortgages are smaller, short-term, low-interest, deferred loans. In other cases, the second mortgages are sizable; lower-interest loans amortized over 30 years, or zero-interest forgivable loans.

Under the HAP as income model, the participant's contribution toward the mortgage is usually capped at 28 to 30 percent of income plus the grossed-up HAP. The participant's contribution toward the PITI payment will therefore be less than the 28 to 30 percent cap. Thus, under this model, participants should generally face lower payment burdens than under other models. Payment burdens will increase slightly with increases in income, but because payment burdens start out relatively low in the HAP as income model, these increases in burden would generally not be a problem for the borrower.

A related advantage of this model is that lenders may view this approach as less risky than the other two models because there is less reliance on the HAP for paying the mortgage. Lenders are using this model in working with various non-taxable income sources, and so it may be relatively easy for them to consider the grossed-up HAP as another income source.

The major drawback to the HAP as income model is that it has the least buying power of the three models.

The HAP as income model results in the lowest borrowing power. Note that the payment burden will be the same for both the HAP as offset and the two-mortgage model and is equal to the underwriting ratio. The HAP as income model is clearly a trade-off between lower costs for the borrower (and therefore lower risk of default) and less purchasing power.

PHAs that are using the HAP as income financing model have done so at the preference of the lenders in their communities. Local lenders will need to be reeducated by PHAs on this matter.

Some PHAs' decision not to treat the HAP as an income source when determining participants' qualifying ratios may be driven partly by lenders, who did not view the HAP as a guaranteed source of income and were reluctant to develop new loan products (that they might not be able to resell on the secondary market) to serve program participants. In addition, staff at some PHAs and partner organizations have not wanted to encourage dependency on the HAP by making it part of the monthly mortgage payment. One of the reasons for this decision is because participants may be able to qualify for mortgages without the assistance of the HAP in some areas where the cost of owned housing is low and there is ample stock available. They do not need the more aggressive models that put the participant at a higher level of risk.

Let's examine the "gross-up" model by applying some numbers. If the up-front housing cost to income ratio is 28 percent (typically, ratios range from 28- 31 percent), only 28 percent of the HAP payment will effectively increase the amount of the loan for which the family is qualified. A $200 HAP payment, for example, will increase the family's monthly payment by $56 a month, and — for a 7.5 percent loan — will increase the family's buying power by $8,009 over the life of a 30-year loan. The balance of the HAP payment will offset the family's other costs — insurance and taxes, utility payments, and reserves for maintenance and/or major repairs, and other non-housing debt — which may be as high as 36-50 percent of the family's gross income at the "back end."

Again, the family has an annual gross income of $22,000 and an adjusted annual income of $20,640. Their monthly HAP payment is $284.

Since the lending institution considers the HAP as additional income, the $284 is added to the family's monthly gross income for use in calculating the family's allow able monthly payment. Because the family pays no tax on its HAP "income," the actual amount of the HAP is "grossed up" to make the treatment of the HAP income comparable to the treatment of earned income. In this example, this gives the family a total monthly income of $2,188 for underwriting purposes.

Model 2: Single Mortgage – HAP as Additional Mortgage Payment (Offset)

In the HAP as offset model, underwriters use the full HAP to offset PITI payments. In this model, underwriters first qualify clients for a monthly PITI payment using qualifying ratios that depend on the underwriting criteria, usually in the range of 28 to 30 percent of gross monthly income, to determine the clients' portion of monthly payments. Then, underwriters add the full amount of the monthly HAP to the clients' monthly cash portion to get the total monthly resources available to pay the PITI. This total is then used to determine the loan amount the clients can borrow, given the interest rate and other terms of the lending products being used.

As with the HAP as income model, the HAP as offset model is being used in financing transactions that include just one mortgage as well in transactions that include multiple mortgages. In the multiple-mortgage transactions using the HAP as an offset model, the subordinate mortgages are usually low-interest deferred loans or zero-interest forgivable loans, and other down payment assistance is used.

The main benefit of the HAP as offset model is that it maximizes buying power by using 100 percent of the HAP to offset PITI costs. The HAP as offset model results in largest loan of the three models. The increase in buying power that the HAP as offset model offers over the two-mortgage model results from the fact that the HAP is typically devoted to a 10-15-year term mortgage in the two-mortgage model rather than a mortgage with a term of 30 years in the offset case.

Payment burdens are higher in the HAP as offset model than in the HAP as income model, but they are still constrained by the lender's qualifying ratio (*usually between 28 to 30 percent of gross monthly income*). A minor drawback to this model is that lenders are less familiar with financing mortgages in this fashion. Most lenders consider this model somewhat aggressive, as it maximizes buying power and provides little additional cushion for covering housing and other costs beyond that implied by standard payment burdens. However, this model is being used in high-cost areas with rapidly increasing housing prices. FHA now recognizes the offset model under certain conditions.

Payments Directly to Homebuyer

Because many banks and mortgage companies do not accept double payments on a single mortgage, a PHA can choose to send its portion of the housing assistance payment directly to the homebuyer family. The family is responsible for making the mortgage payment.

PHAs that have closings have had participants purchase houses using the HAP as offset model. In most cases, the model was chosen based on the preference of the lending institutions. Generally, the choice of the model is driven explicitly by housing market conditions, lender's requirements, and PHA's policies. PHAs using the model are sometimes adding affordability caps to the Administrative Plan. In certain areas of the country, the cost of owned housing — relative to the voucher payment standard and the incomes of voucher program participants — is such that many participants simply would not have been able to purchase without using the full HAP as a direct off set to the monthly mortgage payment. In these areas, HUD's guidance on treating the HAP as income for FHA-insured mortgages is no longer an obstacle.

Under this option using FHA insurance, 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. When this option is used, it is must be coupled with (*1*) ratios of 28/36 for all HCV Homeownership mortgages using PITI reduction, regardless of the mortgage product chosen by the borrower, and (*2*) direct deposit of the monthly HAP payment into a dedicated, limited access account established by the lender and/or mortgage servicer.

Let's look at some numbers using the offset model. A $200 HAP payment applied directly to the loan can — over the course of a 30-year, 7.5 percent loan — increase the family's buying power by $28,604. However, the risk is that the termination of the additional payment at the end of the term of the family's voucher assistance — 15 years before the end of the loan term — may leave the family without the necessary resources to keep up their monthly mortgage payments.

This risk can be lowered to some extent by reducing the term of the loan. If, for example, the loan term is reduced to 20 years, the family is still eligible to receive up to 15 years of HAP payments and is required to pay the full amount of the loan without assistance for five years only. If the term of the loan without HAP payments in the following example were reduced by 10 years, however, the maximum amount that the increase in the family's buying power would be reduced to $12,691. Alternatively, the family might consider re-financing at the conclusion of the term of the voucher assistance to lower their monthly payment, taking advantage of more favorable interest rates and/or the possibility of a longer term for repayment.

As previously indicated, under this model, the HAP payment can be made directly to the lender, or — more commonly — be placed in a restricted account along with the participant's payment to be "swept" as a single (*usually electronic*) payment to the lender.

Model 3: The Two Mortgage Model

The two-mortgage model is a variant of the HAP as offset model in that the two-mortgage model also applies 100% of the HAP towards paying down the mortgage. However, in the two-mortgage model, the HAP is used to determine and pay towards the second mortgage while the borrower's income is used to determine and pay towards the first mortgage. In programs using the two-mortgage model, under writers first qualify the borrower for a first mortgage by basing monthly PITI payments on participant's income alone, using typical qualifying ratios, usually in the range of 28 to 30% of gross monthly income. Program staff then underwrites the second mortgage by using the HAP as the resource for monthly payments. A non-profit, such as Neighbor Works organization, or a state housing finance agency usually holds the second mortgage for a term no longer than the term of the HAP (*usually 10 to 15 years*). Because the HAP is being used to pay off a loan amortized over a shorter time period than the 30-year terms of typical first mortgages, the two-mortgage model has somewhat less buying power than the HAP as offset model.

The two-mortgage model has both benefits and drawbacks. Perhaps the main benefit is that it lowers the risk associated with the possibility that the HAP may expire before income has increased enough to eliminate the need for the HAP. Because the term of the second mortgage is never longer than the term of the HAP, when the HAP is terminated after 15 years, the second mortgage has already been paid off. It also reduces the risk for the first mortgage lender, who is making a loan based solely on the participant's own income, and thus should encourage private market lenders to participate in the program. Another benefit from the perspective of the non-profit organization staff is that servicing the second mortgage keeps them involved in the purchase and in touch with program purchasers over time. The principal drawback of this model is that by limiting the HAP payment to a 15-year mortgage, it does not maximize the amount of financing that the borrower can obtain. However, it does support more financing than the HAP as income model (*as does the HAP as offset model*).

PHAs around the country are currently using the two-mortgage model. At these PHAs, the choice of model was driven primarily by the availability of second mortgage financing through the PHAs' partnership with local nonprofit organizations. These nonprofit organizations may have received funding from Neighbor Works America or some other source for the second mortgage loans and have the possibility of reselling the loans to their parent organization. The PHAs not partnering with nonprofit financial lending organizations have not found lenders willing to make second mortgage loans below market rates based on the full amount of the HAP.

In this model, the primary lender uses conventional underwriting standards, and has no greater than average exposure because the amount of the loan is by definition no more than the family can afford to repay. In fact, the first lender's risk is lower than in many conventional mortgage transactions because the loan-to-value ratio of this loan is reduced.

The second loan typically requires a lender sympathetic to the program because:

- It at least initially relies entirely on payments from an unconventional source — the family's HAP; and
- The second lender is agreeing to place himself in a second or subordinate position.

The model only works; however, when the second lender is willing to assume all or most of the risk and has a source of funds for direct loans to program participants under this model, the HAP payment is generally made directly to the second lender. Over time, the line between the income sources supporting the two loans will blur. If the family's income increases, the HAP will decrease, and the family will pay part of the second mortgage from its own funds. If the family's income decreases, the HAP will increase and can be used to pay a portion of the first mortgage.

In this situation, the amount of the HAP that exceeds the monthly mortgage payment is paid to the family or to the mortgage lender.

28% of the participant's monthly gross income ($513) is available for a first mortgage. For a fixed rate 30-year mortgage at 7.5%, this will support a loan of up to $55,490.

In this example, this payment has been structured to include principal, interest, and the full amount required for taxes and insurance (*PITI*).

At an interest rate of 7% (lower than the first mortgage because the term of the loan is shorter) over a 15-year term, the monthly HAP payment of $284 will support a second loan of $31,597. The $284 HAP payment is made directly to the second mortgage lender.

The two loans combined allow the family to borrow a total of $87,087.

Additional Models

There are a few variations of the three basic models for disabled families, and the new down payment assistance model. The down payment assistance model cannot be implemented until funds are made available for the implementation.

PITI Deduction Option for HomeChoice Borrowers (Disabled Families)

For HomeChoice borrowers (for disabled families) who use the HAP deduction from PITI, the qualifying rations are 28/50. HomeChoice qualified voucher assistance borrowers are limited to 28% of their non-HAP income for PITI and may go up to 50% for their total debt ratio. Borrowers receiving SSI (non-taxable income) may gross up their earned income by 25%. The 50% total debt ratio must be used in conjunction with a budget-based worksheet.

Down-payment Assistance Model

As of this time, PHAs cannot implement the down payment assistance portion of the HCV homeownership program. When authorized to implement, a PHA may provide a single down payment assistance grant for a participant who has received tenant-based or project-based rental assistance in the Housing Choice Voucher Program. The down payment assistance grant must be applied toward the down payment required in connection with the purchase of the home and/or reasonable and customary closing costs in connection with the purchase of the home. If the PHA permits the down-payment grant to be applied to the closing costs, the PHA must define what fees and charges constitute reasonable and customary closing costs. However, if the purchase of a home is financed with FHA mortgage insurance, such financing is subject to FHA mortgage insurance requirements, including any requirements concerning closing costs.

There is a maximum down payment grant allowable with the regulations. A down payment assistance grant may not exceed twelve times the difference between the payment standard and the total tenant payment. The down payment assistance grant shall be paid at the closing of the family's purchase of the home. For each down payment assistance grant made by the PHA, HUD will pay the PHA a one-time administrative fee in accordance with the regulations.

Should the family wish to return to the rental assistance program, a family that has received a down payment assistance grant may apply for and receive tenant-based rental assistance, in accordance with program requirements and PHA policies. However, the PHA may not commence tenant-based rental assistance for occupancy of the new unit so long as any member of the family owns any title or other interest in the house purchased with homeownership assistance. Further, 18 months must have passed since the family's receipt of the down payment assistance grant.

A PHA may not offer down payment assistance under the regulations until HUD has published a notice in the Federal Register that funding is authorized and the PHA can begin implementation.

Additional Factors Affecting Amount Borrowed

In the interest of focusing on the differences between these underwriting models, we have eliminated from our calculations certain items that will routinely be considered by lenders in their processing of mortgage loan applications. These items include the limits on the back-end debt (ratio), down-payment, mortgage insurance, and settlement cost.

The PHA should also take this into consideration when calculating affordability: In determining loans and affordability, the PHA should also consider the following:

Limits on Back-end Debt of Back-end Ratio

The models above are all based on analysis of the family's front-end housing debt, the amount that the family will be required to pay monthly for principal, interest, taxes, and property insurance. The qualifying front-end ratio is generally 28% of the family's gross income, as shown in the examples. However, keep in mind lenders also look at the family's total debt — including installment loans (auto loans, college loans, and any other fixed payment loans) and revolving debt (primarily outstanding balances on credit cards) in determining how much the family can afford to borrow. This debt will be used in the lender's calculation of the back-end debt limit, the total monthly housing and non-housing debt that a family can afford to carry. The qualifying back-end ratio is typically limited to 36-50% of the family's monthly gross income.

Down Payment

The examples above are intended to show the amounts that families can borrow under various scenarios. A cash down payment will increase the amount that the family can afford to pay for their home. Simply stated, if the family can borrow $70,000, and can make a cash down payment of $5,000, the family can purchase a home valued at $75,000. Many mortgage loans require a down payment, generally at least 3% of the purchase price of the home. Some loans further require that the family contribute a portion of the down payment from their own resources.

Mortgage Insurance

Mortgage insurance is generally required by lenders for loans with an LTV ratio of more than 80%. Although the family pays for mortgage insurance, the insurance actually protects the lender in the event that the family defaults on the mortgage loan. If the FHA is insuring the loan, the cost of the mortgage insurance is 1.5% of the loan amount at closing, plus a monthly fee at 0.5% on a 30-year mortgage. The VA and Rural Housing Service also have mortgage insurance programs, as do private insurers. If the family is required to secure private mortgage insurance, more stringent underwriting requirements may be used and/or a larger down payment may be required. In these cases, the mortgage insurance premiums may be sometimes lower than with government insurance. Annual premiums for mortgage insurance vary, but 0.5% of the amount borrowed is not atypical. For a $75,000 loan, this would add $31 a month to the purchaser's housing expense.

If the family can make a down payment of at least 20% of the purchase price of the home, the requirement for mortgage insurance may be waived. When the family has paid the loan balance (principal) down to 80% or less of the appraised value of the home, many lenders will permit the family to cancel the mortgage insurance.

Settlement Costs

All home purchases are subject to settlement costs, which include financing and other fees, escrows, and reserves that the buyer is required to pay at settlement. Settlement costs can easily increase the buyer's costs to acquire the home by $1,000-$2,000. These amounts effectively reduce the amount that a family is able to pay for a home. Under the HCV Homeownership Program, settlement costs are considered a pre-purchase cost and may not be subsidized by the monthly assistance payments. Accordingly, settlement costs may not be amortized and rolled into the mortgage, and therefore the loan amount may not exceed the purchase price in a purchase using voucher home-ownership funds.

Additional Resources for Participant Families

So far, our financial models have looked at financing packages involving only the family's resources and the HAP payment. As discussed in Chapter 2, in some localities these two resources alone are insufficient for the purchase of a home in the area. To transition low-income families into homeownership in high-cost areas, additional funding is needed.

Many HCV Homeownership Programs work because the PHAs and/or their partners are able to obtain additional funding to fill the gaps between the purchase price and loans after the family's income and HAP payments were exhausted.

If the calculations for the home sale in your area exceed the amounts that assisted families can afford, networking with other local government agencies, nonprofit housing service organizations, and lenders is critical in the development of a workable and successful program.

Brushing up on the Mortgage Loan Process

PHA staff may benefit from a refresher on the mortgage lending process so they can respond to participant queries. If reading thus far has reminded you how much you do not know or have forgotten about obtaining a mortgage, there are some excellent Internet resources that provide comprehensive information on mortgage lending.

One of the better sources can be found on HUD's website, this is a veritable smorgasbord of links to information on the aspects of buying and financing a home.

Sub-prime Lending

Sometimes the term "predatory lender" is erroneously used interchangeably with "subprime lender," although the two are not necessarily the same. Subprime lenders are lenders who make loans to higher risk borrowers, typically those with impaired credit, at higher than prevailing mortgage interest rates. The ranks of so-called sub-prime lenders do include reputable financial institutions that adjust for risk, many of which also make "prime" loans to qualified borrowers. Unfortunately, subprime lenders also include some unscrupulous lenders.

Families in the homeownership program should have completed a credit cleansing process with a qualified housing counselor prior to beginning their housing search. In general, they should not find it necessary to resort to using subprime lenders to obtain a mortgage loan. The HUD/Treasury study of predatory lending found that minority and low-income homebuyers were more likely to use subprime lenders even if they qualified for prime rate loans. The PHA should ensure that voucher families are aware of the differences and have access to prime lenders.

The PHA is permitted to set policies regarding the amount of debt families can afford. The PHA should recognize that lenders also have policies that will generally not allow families to borrow more than they are (or should be) able to repay. The PHA's assessment of what families can pay should consider the anticipated cost of utilities and provision for a reserve for maintenance and replacement. The lender's assessment usually does not consider these amounts in their affordability calculation. However, the lender's affordability assessment includes the family's other, non-housing debts, while the PHA's assessment may or may not. As a result, in most instances the lender's assessment of what the family can afford to pay will be slightly different from, but not totally inconsistent with, the PHA's assessment.

If the PHA finds a large discrepancy between the amounts of the proposed loan and what the PHA calculates the family can afford, the PHA should not overlook the possibility that the family may have provided more "complete" information to the lender than to the PHA. PHAs have found that usually early sharing of information between the PHA, lender, and counseling agency works best. All parties have consistent and complete information on the family profile. PHAs have developed the necessary release forms with the potential homeowners to avoid conflicts with sharing information among partners and lenders. If incomplete, the PHA may reasonably ask the family for copies of the application form and/or verification documents submitted to the lender. Avoiding this kind of early discussion or deciding after the fact what actions to take in the case where a family has violated family obligations may damage communication between the partners. Early communication on reporting income before a pending contract of sale is a strong argument for encouraging or requiring families to get pre-approval or pre-qualification for their mortgage loan.

The PHA's review of the proposed financing should be conducted as soon as possible after receipt of the loan documents, so that the family is able to meet required deadlines.

The PHA may wish to develop a checklist for its review, to ensure quality control on all items requiring review, and to document the reviewer's findings. If the PHA is unable to approve any part of the financing package, this should be noted on the review checklist, and communicated to the family in writing. The notice to the family should be specific as to why the proposed financing was rejected and the issues that need to be addressed.

Predatory Lending

Predatory lending generally refers to imposing unfair and abusive loan terms on borrowers, using aggressive sales tactics, and/or taking advantage of inexperienced borrowers' lack of understanding of complicated transactions.

The following table provides a summary of the most common practices associated with predatory lending and the actions the PHA and/or the prospective borrower can take to avoid them:

Predatory Lending Practice	Can be Avoided by
Lending to borrowers who lack the ability to repay	**Working with a HUD-certified housing counselor to determine how much loan the borrower can afford**. Some predatory lenders make loans based on the borrower's equity in the home, even when they know the borrower cannot afford the monthly payments.
Charging excessive interest rates and fees that are not commensurate with the risk involved	**Knowing the borrower's credit history.** Never accept a lender's statement about the borrower's credit history without reviewing the credit history for mistakes and inaccuracies.
Including additional products such as credit insurance in loans	**Being wary of lenders pushing single premium credit insurance.** Credit insurance pays off a specific debt when the borrower is unable to do so. Some predatory lenders mislead borrowers into believing that credit insurance is *required* to approve the loan, or that the insurance is in effect for the entire term of the mortgage when it typically covers only the first 5-7 years.
Misrepresenting the terms and conditions of loans	**Having a housing counselor or lawyer look over the loan documents before closing on a loan.** Predatory lenders may misrepresent loan terms and conditions which may lead to higher costs for the borrower in the long run. Here are some examples: *Prepayment penalties* may prevent a borrower from refinancing the loan at a lower rate. *Adjustable rates* often look attractive because of low "teaser" rates however the interest rate can increase along with the borrower's monthly payments. *Balloon payments* allow the borrower to make interest-only payments for a fixed period of time (typically 5-7 years), and then require the borrower to pay off the loan in its entirety. *Mandatory arbitration clause* requires the borrower to waive the right to sue the lender if they are the victim of unscrupulous lending practices. The borrower should never be asked or required to sign blank documents or documents with blank spaces.

Chapter 7 Housing Choices

Housing Choices[43]

While the single-family detached house on a fenced lot may at one time have been the American dream, families today have different options and different dreams. Families in urban centers may be looking for compact row homes convenient to transportation, or high-rise co-op units with sweeping views of the skyline. Rural families are finding that newer manufactured homes offer all the amenities of traditional construction at affordable prices. The HCV Homeownership Program provides an opportunity to the family to choose the type of housing that best meets their needs.

This chapter is intended help you understand the differences between the various types of units available to program families, and to prepare you to help families through the process of purchasing a home.

The types of housing that families participating in an HCV Homeownership Program may choose include:

- Single-family houses
- Condominium units
- Cooperative (*co-op*) units
- Site-installed manufactured housing
- Units currently under a lease-purchase agreement
- PHA-owned or substantially controlled units[44], if certain conditions are met

Under the HCV Homeownership Program, all the above are eligible housing types. A PHA that has offered families the homeownership option cannot refuse homeownership assistance for any of these housing types.

Common Elements

Regardless of the type of housing the family selects, the following conditions apply:

- The unit must be purchased for occupancy by the owner or by persons with an ownership interest in the unit. In a co-op unit, for example, the homeowner does not own the unit outright, but has an ownership interest in the unit;
- The unit must be a single-family unit or a one-unit property that provides housing for only one family. This includes semi-detached homes, row homes, or one-family units in condominium or co-op buildings or developments, as long as they provide housing for only one family. It does not include, for example,

[43] 24 CFR § 982.628
[44] 24 CFR § 982.4

duplex or triplex properties in which the owner occupies one unit and rents the other available space to help pay the mortgage or earn additional income;

- The unit must meet HUD's housing quality standards (*HQS*) at the time the unit is purchased. This precludes the purchase of a "fixer-upper" that does not meet the HQS, even if the family is able to obtain a mortgage covering the cost of acquisition and rehabilitation; and
- The seller of the property may not have been debarred, suspended or subject to a limited denial of participation.

Homeownership Expenses

Homeownership expenses

May only include amounts allowed by the PHA to cover[45]:

- Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home
- Real estate taxes and public assessments on the home
- Home insurance
- The PHA allowance for maintenance expenses
- The PHA allowance for costs of major repairs and replacements
- The PHA utility allowance for the home
- Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements, or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA 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, in accordance with part 8 of this title
- Land lease payments (where a family does not own fee title to the real property on which the home is located; see § 982.628(b))

Homeownership expenses for a cooperative member

May only include amounts allowed by the PHA to cover:[46]

- 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 of such debt
- Home insurance

[45] 24 CFR § 982.635(c)(2)
[46] 24 CFR 982.635(c)(3)

- The PHA allowance for maintenance expenses
- The PHA allowance for costs of major repairs and replacements
- The PHA utility allowance for the home
- 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 debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA 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, in accordance with part 8 of this title

Single Family Homes

A one-unit property within the context of the program regulations, provides living space for one family, and is built on land owned by the family (or the family has the right to occupy the land for at least 40 years). The unit may be a detached unit, a semi-detached unit, a townhouse, or a row home. The characteristic that distinguishes this unit from a co-op or a condominium is that the family is purchasing the unit and the land on which the unit is built. These units are commonly owned in fee simple, a legal term for the form of homeownership in which the house and property (land) are owned by a single person or family. Buying a single-family Home

Single-family units are generally sold on the open market. The seller is typically represented by a real estate agent that advertises the property, shows the home, and handles the sales transaction for the seller. The seller's agent may list the home with a Multiple Listing Service, so that other real estate agents can access information about the home and pass it along to prospective buyers.

The seller, with the help of the agent, establishes the asking price for the unit. The asking price is generally based on the prices for recent sales in the same area, and/or what the seller thinks they can get for the unit. Sales prices are negotiable between the seller and the prospective buyer until the contract of sale is executed.

Financing

In a fee simple purchase, the purchase price includes the cost of the real property and improvements (i.e., the land and the home). The title to the property is transferred to the purchaser at settlement, subject to liens placed by the mortgage lender(s) who provide the funds used to purchase the unit.

Housing Expenses[47]

After purchasing the unit, the buyer is responsible for all expenses associated with the purchase, use, maintenance, and repair of the unit.

[47] 24 CFR § 982.635(c)

Condominium Units (or Planned Unit Developments)

Condominiums are single-family units held under a form of homeownership in which the purchaser buys a one-family unit in a multi-family building or development. The “unit” that the buyer purchases actually consists of the living space enclosed by the exterior walls of the units, including interior partitions, cabinets, appliances and fixtures. The exterior walls of the unit — including the roof, plumbing, and wiring — and the common areas and grounds, are owned and maintained collectively by the condominium owners through a condominium association. The owner of a condominium unit pays a monthly fee to an association to cover the cost of exterior and common area maintenance and repairs.

Buying a Condominium

During construction and initial occupancy, condominium units are generally offered for sale by the developer. Existing condominium units are generally sold on the open market, in much the same way as single-family homes. The seller determines the asking price for the property, usually with the assistance of a real estate broker. However, the condominium association must generally approve the buyer.

The contract of sale for a condominium unit is similar to the contract typically used for the sale of single-family units. However, by agreeing to purchase the condominium unit, the purchaser is also agreeing to be a party to the master deed for the building or development, and subject to the bylaws of the condominium association and the association’s “house rules.” The contract of sale should include a contingency clause allowing the family and the PHA to review these documents, and to cancel the contract of sale if the terms of the document are unacceptable.

Financing

Financing the purchase of a condominium is also similar to financing the purchase of a single-family home. The family takes out an individual mortgage loan for the purchase of the unit. Most lenders will make inquiries into the financial condition of the condominium association before they approve a loan. Many lenders provide prospective condominium purchasers with a questionnaire for the condominium association to complete. Some lenders require families purchasing condominium units to make higher down payments than families purchasing single-family units, particularly for condominium units in buildings or developments in which more than 60 percent of the units are occupied by renters, rather than homeowners.

The lender will typically include the monthly condominium fee in the borrower’s monthly mortgage payment, along with the principal, interest, taxes, and insurance.

Cooperative Units

Cooperative units are single-family units in multifamily buildings or developments owned by a co-op association. Families who reside in the units have an equity interest in the property in the form of shares in the co-op association.

Residents pay a monthly fee to the association that is used to pay expenses for the building or development including:

- Monthly mortgage payments
- Utility, maintenance, and repair costs
- Taxes and insurance
- Management expenses

Renting a Co-op Unit

PHAs are authorized[48] to provide rental assistance to families who live in, and own shares in, co-op housing. (Co-op housing is considered to be a "special housing type," in the rental voucher program and its use is optional for the PHA.) The rental voucher assistance is paid on behalf of the co-op shareholder under a HAP contract between the co-op association and the PHA. The amount of the rental assistance is based on the monthly co-op fee and any utilities paid by the co-op shareholder. The rental assistance does not make any allowance for the family's costs to purchase co-op shares, or to repay loans made to purchase co-op shares.

PHAs that do not elect to offer the homeownership option may still provide rental assistance to co-op shareholders, and PHAs that do offer homeownership assistance may provide rental assistance to co-op shareholders who are not homeownership program participants. The rules for calculating the HAP subsidies for families who occupy co-op housing under the rental section of the program regulations remain the same, and the PHA is still required to inspect the units annually for HQS.

Buying a Co-op Unit

A family moving into a co-op unit purchases membership shares in the association or corporation. By owning membership shares, the family has the right to live in the unit and to participate in the management of the co-op. This is known as a proprietary lease, or a co-op occupancy agreement. The cost of a share, and the amount of the monthly fee, is generally proportional to the size of the unit. The association holds title to the co-op development, and there is no title transfer of the unit to the family.

When the family moves out of a co-op unit, its shares are sold, and the family's equity in the co-op is returned to the family. As sellers, they may realize some appreciation in the value of their membership share, subject to the terms of the association's corporate charter. The co-op association sells their shares in the co-op, and the association sets the share price.

There is no contract of sale for a co-op unit, but, like a condominium unit, there are documents that the family and the PHA should review. These include the proprietary lease document and the bylaws of the co-op association.

Financing

[48] 24 CFR § 982.619

At one time, families purchasing shares in co-op buildings or developments were required to pay cash or take out personal loans. Now they are able to get co-op loans with terms and conditions similar to mortgage loans, although the interest rates are often somewhat higher. Co-op loans are available through traditional lenders. They can be sold on the secondary mortgage market and/or insured by FHA.

If a family does take out a loan to purchase co-op shares, the lender will typically include the monthly co-op fee in the borrower's monthly payment, along with the principal and interest.

Site-installed Manufactured Housing

Site-installed manufactured housing refers in the regulation to manufactured housing installed on a permanent foundation. The land on which the manufactured unit is permanently installed may be owned, purchased by the family, or may be land that the family has the right to occupy for a period of at least 40 years. If owned, the land can be held in fee simple, or the family can have an ownership interest in the land as a member of a manufactured home pad co-op. These co-ops are becoming increasingly popular in some areas as a way for manufactured home owners to combat skyrocketing pad rental costs. If the family does not own the land, land lease payments can be included in the family's homeownership expenses.

Buying a Site-installed Manufactured Home

In some areas of the country, developers are using manufactured housing in the same way they use prefabricated housing, as a lower-cost alternative to traditional "stick" construction. The developer purchases and subdivides the land, installs the infrastructure, and installs the homes. The manufactured home and the property (land) are sold and resold in fee simple.

However, in some cases, a homebuyer separately purchases the land and the manufactured home. If the necessary infrastructure — water and sewer (or well and septic tank), and electricity — is not already in place, the homebuyer also pays for site improvements, which is an additional cost of the home.

Financing

In the past, mortgage financing was not available for the purchase of manufactured housing, and families purchasing manufactured homes were required to pay cash or take out short-term personal loans. FHA-insured loans under Title I are still available for the purchase of mobile manufactured homes (i.e., "mobile stock" built on a chassis and not permanently sited). (These do not qualify for voucher homeownership assistance.) However, lenders are now willing to provide mortgage loans to families purchasing site-installed manufactured homes on permanent foundations, although many limit these loans to "double-wide" units that are comparable in size and amenities to site-built homes. FHA Title II insurance is available for the purchase of these units, the land, and the cost of site improvements up to the applicable appraisal limits. The Rural Housing Service also provides mortgage loans at extremely favorable terms for site-installed manufactured housing in rural areas.

Units Where Homeowner will not own the Real Property (Land)[49]

As discussed in the context of manufactured homes, families may purchase units where the family will not own fee title to the real property on which the home is located. These can include units in land trust networks if certain conditions are met. In such a case, the homeowner must have the right to occupy the site for a period of at least 40 years, and the home must be on a permanent foundation. Under these types of purchases, any land lease payments must be considered as a monthly homeownership expense for purposes of determining the homeownership assistance payment.

Lease-Purchase Agreements

A lease-purchase agreement is a purchase option under which the family leases a unit from an owner prior to purchase. The family initially pays rent for the unit, and typically some sort of homeownership premium — an additional amount for the value of the lease-purchase right, and/or extra monthly payments to accumulate a down-payment or reduce the purchase price of the unit.

An assisted family living in a rental unit under a lease-purchase agreement is eligible to receive rental assistance for the unit under the voucher program. The amount of the homeownership premium is excluded from the contract rent for the purposes of determining the reasonableness of the rent and calculating the family's HAP. The lease-purchase agreement itself is not considered a "present homeownership interest" in the property and does not preclude the family's future participation in the voucher homeownership program.

In order to convert rental voucher assistance into homeownership assistance, the family must meet the eligibility criteria for homeownership assistance at the time they are ready to assume title to the property, not when they enter into the lease-purchase agreement. A family could, for example, enter into a lease-purchase agreement, later qualify for homeownership, sign up for homeownership counseling while they still receive rental assistance, and then move forward with the purchase of the unit.

Buying a Lease-Purchase Unit

When a family living in a rental unit under a lease-purchase agreement is determined eligible for participation in the homeownership program, the family enters into a contract for sale with the owner. If the unit and the financing are approved, the family's rental assistance is terminated, the unit is purchased, and homeownership assistance begins.

Sale of PHA-owned (or Substantially Controlled) Units[50]

[49] 24 CFR § 982.628(b)
[50] 24 CFR § 982.628 (d)

A family may purchase a unit owned by the PHA[51]. Such units could include former public housing units that are now for sale, homeownership units in a HOPE VI development, or units independently developed or acquired by the PHA. For instance, in the case where a family wishes to purchase a unit that needs rehabilitation and would be otherwise ineligible for the program, the PHA could choose to purchase the property, make the necessary repairs, and then sell it to the family. For a PHA-owned unit to be eligible, however, certain conditions must be met.

First, since the HCV Homeownership Program is a tenant-based program, the PHA may not limit a family's choice of eligible units or steer families to units, the PHA must inform the family, both orally and in writing, that the family has the right to purchase any eligible unit. The PHA must ensure that the family, without PHA pressure or steering, has freely selected the PHA-owned unit.

Secondly, to avoid real or perceived conflict-of-interest issues, the PHA must obtain the services of an independent agency[52] (just as it would do in the case where a family wishes to rent a PHA-owned unit).

The independent entity must perform the following homeownership administrative functions instead of the PHA:

- Conduct the HQS inspection and any follow-up inspections;
- Review the independent inspection report;
- Review the contract of sale; and
- Determine the reasonableness of the sales price and any PHA provided financing.

PHA's must submit a joint certification regarding the independent nature of the entity performing these functions. The PHA should keep in mind that all requirements of the HCV Homeownership Program apply to the sale of PHA-owned units, including unit eligibility and the fact that the unit must be existing or under construction at the time the family enters into the contract of sale.

Units not yet under construction

Families may enter into contracts of sale for units not yet under construction. However, homeownership assistance cannot begin until:

- HUD either performed or approved the environmental review and notified the PHA before construction started;
- Construction of the unit has been completed; and
- The unit has passed the required HQS inspection and independent inspection.

[51] [FR-6092-P-01]
[52] 24 CFR § 982.352(b)(1)(iv)

Chapter 8 Inspections

Physical Standards Required for Homeownership Units[53]

The HCV Homeownership Program requires two inspections of a home a family wishes to purchase:

1. A Housing Quality Standards (HQS) inspection conducted by the PHA; and
2. An independent professional home inspection conducted by an inspector that is selected and paid for by the prospective homebuyer

Housing Quality Standards (HQS) Inspection[54]

An HQS inspection focuses on the current condition of the unit, whether the unit in its present condition provides decent, safe, and sanitary housing for the family. For example, under the HQS criteria, the home is required to have hot and cold running water in the bathroom and the kitchen. The HQS inspector will turn on the faucets, and if hot water comes out of the hot water spigots and cold water out of the cold-water spigots, the unit satisfies the HQS.

A unit to be assisted under the HCV Homeownership Program is required to be in compliance with the HQS at the time the assistance begins. If the HQS inspector identifies deficiencies in the unit, the family and the PHA must work with the seller to ensure that necessary HQS repairs are completed before the unit is sold.

Independent Professional Home Inspection[55]

An independent professional inspection takes a longer view of systems and life spans. The job of the independent inspector is not only to report on the current condition of the unit, but also to evaluate the adequacy and remaining life span of major systems, appliances, and other structures. This information will help the family to understand what the long-term costs of owning the unit will be and decide whether the purchase price makes sense in the context of such information; it also provides a basis for determining whether the family's resources will be sufficient to maintain the units in good condition as necessary repairs on systems are needed. For example, an independent housing inspector will not only determine whether the unit has hot and cold running water but will also look at the age and condition of the plumbing and the hot water heater. If the independent inspector finds that the unit's hot water heater is outdated, they will evaluate its condition and give the family some indication as to how long it will be before the water heater has to be replaced.

The PHA (or the family) may turn down a unit based on conditions identified by the independent inspector.

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[53] 24 CFR § 982.631
[54] 24 CFR § 982.631(a)
[55] 24 CFR § 982.631(b)

The Contract of Sale[56]

HCV Homeownership Program regulations require that the contract of sale between the seller and the prospective buyer provide for pre-purchase inspection of the proposed unit by an independent housing inspector.

This provision, commonly referred to as a contingency clause, must stipulate that:

- The buyer will arrange for a pre-purchase inspection by an independent inspector selected by the buyer;
- The buyer is not obligated to buy the unit, if the results of the independent inspection are unsatisfactory to the buyer; and
- The buyer is not required to pay for any necessary repairs

Although program regulations do not require that the contract of sale contain language regarding the HQS inspection, the PHA must inspect the unit to satisfy program requirements. Some PHAs have developed an addendum or rider to the standard Contract of Sale explicitly providing for an inspection by the PHA, and the unit to be HQS compliant as a condition of sale.

Scheduling the Two Inspections

A physical inspection by a professional housing inspector can cost more than $400. The cost is the same whether or not the family ultimately purchases the unit. For this reason, many PHAs have adopted the practice of conducting the HQS inspection before the family hires the independent inspector. The HQS inspection is free for the participant and can identify conditions that will cause the PHA and/or the family to reject the unit. If the PHA or the family decides based on the HQS inspection that the repairs needed are too extensive or too costly, the family need not go forward with a professional inspection. In some markets, the HQS inspection can be conducted before the family has even submitted an offer on the property. In cases where the home is still occupied, an initial inspection may be conducted to identify any observable HQS deficiencies, however, the unit must pass a full HQS inspection after the prior owner has vacated the unit. The family should be advised of any risks if this approach is taken.

The Contract of Sale usually establishes the time period in which the required inspection by an independent inspector must be scheduled. In order to complete both inspections within the time allowed, the PHA should try to schedule its inspection prior to the signing of the contract of sale, or as soon as possible after the contract of sale has been signed. Remember, in many cases, the seller will want the process to move very smoothly and quickly. If, after the HQS inspection, the family decides to go forward with the purchase,

[56] 24 CFR § 982.631(c)

this will allow sufficient time to schedule the second, independent inspection, and allow adequate time to review and act on the inspector's findings.

Since most homebuyers lack additional funds for major repairs, these are handled three primary ways:

- Seller agrees to make repairs prior to settlement;
- Seller agrees to pay the cost of repairs at settlement and repairs are made immediately thereafter; or
- Cost of repairs is added into the mortgage via special mortgage financing.

The HQS Inspection[57]

The HQS inspection will include both the federal housing quality standards, and any additional local standards that are used in the administration of the rental assistance program. These additional provisions must be incorporated into the agency's voucher Administrative Plan.

If no deficiencies are found the family can schedule the independent inspection. If deficiencies are found, the PHA notifies the family. The seller must then be contacted to see if the seller will correct the HQS deficiencies prior to settlement. If the seller is unwilling or unable to make the necessary repairs, the family will need to look for another unit.

Flipping

House flipping is the practice of purchasing a home with the sole intention of reselling it shortly thereafter for a profit. The practice usually involves doing some level of home improvements to make the house ready for a quick sale. While this can be an ethical business practice, it is important to watch out for cosmetic improvements that may mask major problems which only become evident to the homebuyer once they move into the home.

Warning signs of unethical flipping include:

- The seller trying to rush the buyer through the home purchase process;
- The seller offering to provide financing, or to finance any amounts the mortgage company will not cover; and
- The seller offering to make repairs after the house is sold.

To avoid being the victim of this type of flipping, the homebuyer should:

- Find an independent home inspector for the required inspection, rather than using one recommended by the seller;
- Use his/her own real estate agent, and avoid dealing directly with the seller's agent; and
- Be sure that any promised repairs are completed before the loan closing.

[57] 24 CFR § 982.401

Environmental Requirements[58]

In addition to the HQS requirements described above, homeownership program regulations require that the PHA conduct a limited environmental review to determine whether the unit is located in:

- A special flood hazard area identified by the Federal Emergency Management Agency (FEMA). If the unit is located in such an area, the PHA cannot approve the purchase of the unit unless the family can demonstrate prior to settlement that it has obtained flood insurance for the property. If a unit is purchased in a special flood hazard area, maintaining flood insurance is a required condition for continuing assistance to the family. Flood maps for your community can be ordered through FEMA's Flood Map Service Center;
- The coastal barriers resource system. The PHA cannot approve the purchase of a unit located in the coastal barriers resource system with voucher homeownership assistance. Coastal Barrier Resource Systems maps can be found on the U.S. Fish & Wildlife service webpage; and
- A civil airport runway clear zone and/or a military airfield clear zone. The PHA may approve such a purchase, but must provide written notification to the buyer that the unit is located in an airport runway clear zone or an airfield clear zone. The notification must advise the buyer: 1) what the implications of such locations are; and 2) that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information[58]. Information on airport runway clear zones can be found on the HUD exchange

Your local planning agency, Community Development Block Grant agency, or your State Department of Community Affairs may also be able to provide the information you need about hazard areas in your jurisdiction.

The Independent Professional Housing Inspection[59]

Program regulations require that units proposed for purchase under the HCV Homeownership Program be inspected by an independent professional inspector selected and paid for by the participant family.

[58] 24 CFR § 58.6
[59] 24 CFR § 982.631(b)

The independent inspection must cover major building systems and components, including:

- Foundation and structure
- Housing interior and exterior
- Roofing
- Plumbing and electrical
- Heating system

The inspector is required to visually inspect all systems and components. If unable to complete the inspection on the first visit — because of inclement weather, for example — the inspector may make a return trip to complete the inspection. It is not uncommon for an inspector to charge a fee for a repeat visit.

The inspector is required to prepare a written report on the condition of the property, and of all major building systems and components. Copies of the inspection report must be provided to the family and to the PHA.

Selecting an Independent Inspector[60]

The PHA may not select the independent inspector for the family, and the inspector may not be a PHA employee, a PHA contractor, or any other person whose decisions might be influenced by the PHA. The PHA may not pay for the inspection or provide assistance to the family in paying for the inspection. Although such assistance might appear at first glance to be a help to the family, it might compromise the independence required for the long-term interests of the family. An FSS family may use their escrow funds to pay for the independent inspection. This is not considered a conflict of interest with the above provisions.

The PHA may, however, establish its own qualification standards for inspectors select ed by participating families. In some states, professional housing inspectors are licensed or certified, and PHAs in those states should strongly consider requiring that families' use licensed or certified housing inspectors. In other states, home inspectors may be required to register with the state and/or the state may have laws governing their trade practices. Some states have no requirements at all for home inspectors.

In all states, inspectors who are affiliated with nationally recognized professional organizations are required to meet the organizations' minimum standards for training and housing inspection experience and are generally required to participate in continuing education to stay abreast of changes in the industry. The Web sites for these organizations are a good source for the names of qualified inspectors in your area.

Two of the largest organizations are:

- American Society of Home Inspectors
- International Association of Certified Home Inspectors

[60] 24 CFR § 982.631(b)(3)

A list of local qualified inspectors can sometimes be obtained from local reputable lenders. If local lenders also require a home inspection report, this may save the family money by using the same inspection report to satisfy the lender's and the PHA's requirements.

The Independent Inspection Report

After the independent inspector has completed the inspection, he/she will submit copies of the report to the family and the PHA.

The PHA will review the report with the family and will determine whether to approve the home for purchase by the family. Even if the unit otherwise complies with the HQS and may qualify for assistance under the rental voucher program, the PHA has the discretion to disapprove the unit for homeownership assistance based on the information in the inspection report. Reasons for the disapproval of a unit that was otherwise in compliance with the HQS might include:

- Conditions that were required to be, but were not, disclosed to the buyer by the seller;
- Conditions that normally require disclosure, of which the owner may not have been aware;
- Conditions that threaten the health and/or safety of the family;
- Conditions that will require expenditures for repairs and/or replacement that exceed the family's resources; or
- Conditions that can be expected to interfere with the family's use and enjoyment of the property.

If the family is still interested in purchasing the house, the PHA may allow the family to negotiate, or may assist the family in negotiating with the seller to make necessary repairs. The information in the independent inspector's report may also be used as a basis for re-negotiating the sales price for the house.

Chapter 9 Post Purchase Administration

Post-Purchase Program Administration

Up to this point, we have been considering activities that occur up to the point of a home purchasing under the HCV Homeownership Program. Now we will consider what happens after the purchase is complete.

This chapter will focus on post-purchase activities that are required in order for the family to continue receiving voucher assistance, and program guidelines on how to manage the situations unique to homeownership that will inevitably arise.

Family Obligations[61]

A family participating in the homeownership program is required to sign a statement of family homeowner obligations. The statement marks the family's agreement to comply with the homeownership program requirements such as:

- Comply with the terms of any mortgage for debt incurred to purchase or re-finance the home;
- Use the assisted unit as the family's only residence, and to promptly notify the PHA of any absence from the unit. The family may not lease any portion of the home or grounds;
- Supply any information, certification, release or other documentation required by the PHA. For homeownership families, this specifically includes information about any mortgages and/or defaults, any sale or transfer of the home, and the family's homeownership expenses;
- Notify the PHA before the family moves out of the home;
- Notify the PHA if the family defaults on the mortgage;
- Notify the PHA of any sale or transfer of any interest in the home;
- Notify the PHA of changes to the family's homeownership expenses;
- Have no ownership interest in any other residential property;
- Comply with any other requirements by the PHA, such as any requirements to attend and complete ongoing homeownership and housing counseling;
- Comply with the housing choice voucher family obligations[62], as applicable (certain provisions are inapplicable to homeownership families, as noted);
- Comply with conditions related to crime or alcohol abuse by family members[63]; and
- Comply with other local PHA optional requirements.

[61] 24 CFR § 982.633
[62] 24 CFR § 982.551
[63] 24 CFR § 982.553

The PHA may deny or terminate homeownership assistance to families who do not comply with their homeownership obligations that are detailed in the statement of homeowner obligations.

Post-Purchase Counseling[64]

A PHA may require families to attend post-purchase counseling or may make counseling available for families who encounter problems after they have purchased a unit. Like the pre-purchase counseling, post-purchase counseling may be provided by the PHA, or by a designated HUD-approved housing counseling agency. HUD strongly encourages PHAs to offer post-purchase counseling if feasible. If PHAs have partnered with local HUD-funded counseling agencies, many times the service can be obtained for no charge.

Ongoing Eligibility

Families receiving voucher homeownership assistance are required to comply with the PHA's policies on reexaminations. All families are required to complete regularly scheduled reexaminations in accordance with PHA policy which may be annually, biennially, or triennially. If the PHA requires interim reexaminations when the family's circumstances or income change, homeownership families must comply.

During the regularly scheduled reexamination, the PHA must be sure to apply the proper homeownership payment standard criteria, which is different than the rental program payment standard criteria. The payment standard that is used to calculate the family's TTP at any reexamination is the higher of the current payment standard that would otherwise apply to the family or the payment standard used for the family at the commencement of its homeownership assistance; this provision is necessary so lenders can be assured that the level of subsidy will not be reduced, unless there is a corresponding increase in the family's ability to pay.

At some point, the PHA may determine that the family's income has increased to the point where the family is no longer eligible for a HAP payment (*$0 subsidy*). Under rental and HCV Homeownership Program regulations, the family's participation is to be terminated after 180 days with no subsidy payment. However, the PHA may allow the family to remain on the homeownership program, if it determines that termination of the family's participation will result in extreme hardship for the family. This hardship provision is at the discretion of the PHA and applies only to the homeownership program.

Post-Purchase HQS Inspections

HCV Homeownership Program regulations do not require annual HQS inspections for units receiving homeownership assistance. However, PHAs may adopt their own program policies regarding unit inspections.

[64] 24 CFR § 982.633(b)(1)

The PHA may require:

- Annual (or periodic) post-purchase inspections of the assisted unit;
- An inspection for a specified period after the home purchase; or
- Complaint inspections only.

Some PHAs feel that periodic inspections are important to ensure that the unit is maintained in good condition. Other PHAs are more concerned about how the PHA would respond if deficiencies identified during the inspection were not corrected by the family. For example, would the PHA terminate assistance or just counsel the family if the family were in noncompliance with HQS? Some PHAs have decided to leave the enforcement of maintenance of the unit up to the family, lender, and/ or local code enforcement authorities.

Participant Moves[65]

The family may purchase another home and receive homeownership assistance or may move to a rental unit and receive rental assistance, provided that no member of the family still has any homeownership interest in the old unit. Tenant-based assistance may not commence in the new unit until the family has sold the previous unit. For both the rental and HCV Homeownership Programs, the PHA may place a limitation on the number of moves a family can make during any 12-month period. However, when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, as provided in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), and the move is needed to protect the health or safety of the family or family member (or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move), such family or family member may be assisted with continued tenant-based assistance even if such family or family member owns any title or other interest in the prior home.

If the PHA finds that the family has moved out of the unit, it must terminate homeownership assistance at the end of the month in which the family moved.

In order for the family to be approved to purchase a new unit with homeownership voucher assistance, the PHA must determine that the family still meets the initial eligibility requirements at the time the family will purchase the new unit (with the exception of first-time homeowner requirement).

Portability[66]

The voucher portability procedures for regarding the respective roles of the initial PHA and the receiving PHA in the tenant-based HCV Program apply to families using portability in the HCV Homeownership Program. If the family is eligible for homeownership assistance and has not yet purchased a home, or has sold its ownership

[65] 24 CFR § 982.637
[66] 24 CFR § 982.353, 24 CFR § 982.355

interest in an assisted unit, the family may port its homeownership assistance to the jurisdiction of a PHA that:

- Has implemented a voucher homeownership program;
- Is accepting new families into the homeownership program; and
- Determines the family meets any PHA requirements for eligibility established by the receiving PHA.

As in the rental voucher program, the receiving PHA's policies dictate the family's eligibility, and if accepted, the family must comply with the receiving PHA's program policies. Other portability provisions or restrictions (i.e., budget limitations) allowed under the regulation also apply to the homeownership program.

Loans for Repairs and Improvements

The PHA provides allowances to families in the homeownership program that consider the homeowner's responsibility for routine maintenance of the unit, and the need to save money for major repairs and replacements. Whether the family establish es a reserve fund or not, the unit may, at some point, require repairs that exceed the amount that the family has available for that purpose. If the family finds it necessary to take out a loan secured by the home (a home-equity loan) to cover the cost of repairs or for improvements to the home, the PHA must include the cost of debt service on the loan in the family's monthly homeownership expenses. This will, however, only benefit a family whose monthly housing expense prior to the loan is below the payment standard. This is because the HAP is capped at the payment standard or the homeownership expense; whichever is the less er of the two, minus TTP.

Refinancing

The PHA may require that the family obtain the PHA's approval for any loans that are secured by the assisted property, including any refinancing or home equity loans.

In reviewing the proposed loan, the PHA may use the same criteria that it uses to review the initial mortgage loan.

HUD strongly encourages PHAs to establish requirements for the qualifications of lenders and loan terms with respect to refinancing and to require PHA review and approval of any proposed refinancing or loans secured by the home. PHAs implementing the program find that it is useful to include these conditions in the Statement of Homeowner Obligations, Administrative Plan and the closing documents. By including them in the closing documents, the PHA also reduces the ability of predatory lenders from refinancing the home (home equity loans), without their knowledge.

Mortgage Default and Foreclosure

The PHA is required to terminate homeownership voucher assistance for a family that defaults on a mortgage loan and is dispossessed from the home under a judgment or order of foreclosure. If the mortgage loan is not insured by the FHA, the PHA may — or may not, in accordance with its policies — allow the family to move to a new unit with rental assistance.

If the family defaults on a mortgage insured by FHA, the PHA may not approve rental assistance for the family unless the family has both:

- Conveyed title to the home, as required by HUD, to HUD or HUD's designee; and
- Moved from the home within the period established or approved by HUD.

The PHA may not allow the family to purchase another unit with homeownership assistance if the family defaults on any mortgage loan and is dispossessed from the home under a judgment of foreclosure.

The family will need to be informed as to whether they will be able to receive rental assistance or if its participation in the housing voucher program is being terminated.

Death of the Homeowner[67]

If a family member(s) who holds title to the home or ownership of cooperative membership shares for the home dies, the PHA may continue making homeownership assistance payments on behalf of the remaining family members until the estate is settled. If payments were previously made directly to the now deceased family member, they should be sent to the decedent's executor or legal representative. Payments can only continue as long as the unit is solely occupied by remaining family members.

Term Limits on Homeownership Assistance[68]

The maximum term during which a family can receive voucher homeownership assistance is 15 years if the term of the family's initial financing for the purchase of a home first mortgage is 20 years or more, and 10 years if the initial mortgage term is shorter.

This is a lifetime limit on homeownership voucher assistance for any member of the family who has an ownership interest in the property, and for the spouse of any family member who has such an interest. If, for example, a mother and son jointly own an assisted housing unit, and the son is married, the time limit applies to the mother, the son, and the son's wife.

The maximum term applies to all homeownership voucher assistance received by members of the family, whether the family has remained in one unit or moved from one homeownership unit to another.

No matter how many units the family has purchased:

- The term limit applies to the total time period during which assistance was received; and
- The term limit is based on term of the family's initial mortgage.

[67] 24 CFR § 982.633(b)(3)(iii)
[68] 24 CFR § 982.634

By way of example, assume a non-elderly/non-disabled family purchases its first home with a 30–year mortgage. The maximum term for them to receive assistance is 15 years. After 5 years, the family sells the first house and moves to another unit. This time their mortgage loan is for 15 years. Notwithstanding, the family's maximum term limit on housing assistance is still 15 years. Since the family received 5 years of housing assistance in the first unit, they can receive up to 10 years in the second unit.

The term limits for homeownership assistance do not affect the family's eligibility for voucher rental assistance. A family that has reached the end of its maximum term for homeownership assistance can, if it chooses, sell the owned unit, and apply to the PHA for voucher assistance in a rental unit. The family cannot, however, re-apply for participation in the homeownership program.

Term limits do not apply to elderly or disabled families (head of household or spouse is elderly or disabled). In the case of an elderly family, the exception only applies if the family meets the definition of an elderly family at the start of home-ownership assistance. In the case of a disabled family, the exception applies if, at any time during receipt of homeownership assistance, the family now qualifies as a disabled family.

In either case, should the family no longer qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, the family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable.

For example, a family consisting of a disabled man, his non-disabled spouse, and their newborn baby purchased a home through the program. After 16 years, the marriage ends in divorce and the disabled husband moves out of the house and, as part of the divorce settlement, no longer has any ownership interest in the home. The wife retains ownership of the house and has custody of the minor child. The PHA administrative policy provides that the voucher remains with the residual homeowners occupying the unit (wife and child). The maximum term of homeownership assistance is now applicable. The family has already exceeded the maximum time limit, but in such a case would continue to receive 6 months of monthly homeownership assistance payments.

Chapter 10 Policy Development and Reporting Requirements

Policy Development

HUD's regulatory framework for the HCV Homeownership Program provides broad administrative flexibility for the PHA to adapt the program to local conditions. Chapter 2 discussed the need for an initial assessment of local conditions, and suggested approaches to assessing the potential demand for the program, local housing market conditions, the lending climate, and the PHA's capacity to undertake a home-ownership program. The PHA's management capacity included the planning, policy development, and program reporting requirements.

This chapter discusses the development of the plans and policies necessary to implement an HCV Homeownership Program and the reporting requirements.

The PHA Plan

The PHA Plan is a comprehensive guide to PHA policies, programs, operations and strategies for meeting local housing needs and goals. There are two parts to the PHA Plan:

- A Five-Year Plan that describes the mission and the long-term goals of the agency;a nd
- An Annual Plan that provides details about the agency's needs, resources, programs, and services for the year ahead.

PHAs under the Moving to Work (MTW) Demonstration Program who operate block grants are exempt from the requirement to submit a PHA Plan and are directed to submit an Annual MTW Plan and an Annual MTW Report. MTW PHAs that do not operate block grants are not exempt from the requirement to submit a PHA Plan.

The PHA's analysis of local conditions during the planning stages of the Housing Choice Voucher (HCV) Homeownership Program will overlap, to some extent, with planning activities that are required as part of the PHA Plan process. The PHA Plan process requires the PHA to develop its plans and programs in consultation with both voucher program participants and public housing residents, and to offer the broader community the opportunity for review and comment. PHAs are required to establish resident/participant advisory boards to participate in the plan's development. The draft plan document and supporting documentation must be made available for review at one or more locations accessible to the public. Public hearings must be held, and the comments must be considered before the Plan is finalized and submitted to the PHA Board for approval.

Plans for the HCV Homeownership Program must be included in the broader PHA planning process. When the time comes for the preparation of the Annual PHA Plan document, the PHA should be sure to include the following items that relate directly to the agency's planning and implementation of the HCV Homeownership option:

Statement of Housing Needs

The PHA is required to collect and provide data on the housing needs of families in its jurisdiction (affordability, supply, quality, accessibility, size, and location). The data is generally based on the information contained in the Consolidated Plan applicable to the jurisdiction(*s*) in which the PHA operates. The Consolidated Plan is prepared by the local CDBG agency or, in rural areas, by the State Department of Community Affairs. This information, which the PHA might not otherwise have occasioned to review, will be helpful in developing a homeownership strategy that addresses untapped resources and/or unmet needs in the community. The statement of housing needs also requires information about the demographics of families on the PHA's waiting list(*s*).

The PHA is required to summarize its strategies for addressing the needs of these families in the coming year including, if appropriate, the use of the voucher homeownership option. The HCV Homeownership Program can be seen as a strategy to "maximize the number of affordable units available to the PHA within its current resources" (Strategy 1 in the plan template). If the PHA expects very large families, families with disabilities, or other special needs families to use the program to address currently unmet needs; this should be included as a strategy for meeting the needs of specific family types. If the PHA plans to use the program, at least in part, as a de-concentration strategy to broaden the neighborhood choices available to voucher holders, this information should be included in the statement of the agency's "... activities to affirmatively further fair housing."

Statement of the PHA's Policies that Govern Eligibility, Selection, and Admission

The plan requires the PHA to answer a series of questions about eligibility, waiting list organization, search time, and admissions preferences in the PHA's tenant-based programs. This section relates to admissions to the Housing Choice Voucher Program, not to the HCV Homeownership Program.

PHA's Rent Determination Policies

The plan includes a series of questions about the PHA's payment standards and minimum rent. Remember that the payment standard and the (*unit size*) subsidy standard must be the same for the homeownership program as it is for the rental assistance program.

Operations and Management

The plan requires the PHA to list by program the number of families served at the beginning of the year, and the expected turnover. HCV Homeownership participants are to be included in the count for housing choice vouchers.

Homeownership Programs Administered by the PHA

The plan asks the PHA to indicate whether it plans to administer a voucher homeownership program in the coming year. If so, the PHA must report whether it intends to limit the number of families participating and to state any additional criteria (beyond the mandatory HUD criteria) that will be used.

Keep in mind that a PHA that wishes to offer families the homeownership option is required to demonstrate the capacity to operate a successful homeownership program[69]. This can be done by any of the following:

- Establishing a minimum down-payment requirement of at least 3 percent;
- Requiring that the financing used for home purchase comply with industry standards; or
- Demonstrating in the Annual Plan that the PHA has or will acquire the capacity to successfully operate a voucher homeownership program.

The PHA Administrative Plan[70]

PHA policy decisions regarding the implementation of the HCV Homeownership Program must be incorporated into the PHA's Administrative Plan (Admin Plan). Typically, a PHA implementing a targeted housing program, or allowing the use of a new housing type, adds a chapter to its existing Administrative Plan. The new chapter describes any special policies or provisions applicable to the new program, and states that, unless otherwise noted, the PHA's other voucher program policies will apply to the new program.

Additions or changes to the Administrative Plan must be formally adopted by the PHA Board or other governing body before they are considered the official policies of the PHA. (HUD's formal approval of the PHA Administrative Plan is not required in order for the policy to take effect.) HCV Homeownership Program regulations specify several policy areas in which the PHA must, or may, establish policies. If the PHA has established local or optional policies in any of the areas listed below, they must be addressed in the PHA's Administrative Plan.

Limitations on the Number of Families[71]

The PHA is not required to permit families to use their voucher assistance for homeownership, and a PHA that does allow families to use their assistance to purchase a home may limit the number of families who are able to do so. Alternatively, PHAs may effectively limit participation in the homeownership program by imposing additional requirements for program participation[72].

For example, if the PHA intends to limit the number of families participating in the homeownership program, the Administrative Plan should state what the limit will be, and

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[69] 24 CFR § 982.625(g)
[70] 24 CFR § 982.54
[71] 24 CFR § 982.601(b)(2)
[72] 24 CFR § 982.626(b)

how the PHA will make its selection among eligible families. Possible methods include taking applicants in first-come, first-served order; selecting eligible participants by lottery; or giving preference to certain families (such as FSS participants, families with lengthy employment histories, etc.).

Any limitations imposed by the PHA can be applied equally to families currently residing within the PHA's jurisdiction, and to families moving into the jurisdiction under portability procedures.

PHA Requirements for Participation[73]

The minimum eligibility standards for participation in the HCV Homeownership Program, including minimum standards for income and employment, are established by HUD, and are not required to be reiterated in the PHA's Plan. The PHA does, however, have discretion to establish a higher minimum income limit and in how it will apply the HUD requirement for continuous employment that is, whether (and to what extent) an interruption in the applicant's employment will be permitted. If, for example, the family member held a job for eight months, then quit to move to a higher-paying or more convenient job, and took a two-week vacation in between, the PHA could determine that the applicant's employment had not be interrupted.

Program regulations allow PHA discretion in limiting homeownership assistance to families or purposes defined by the PHA.[74]

For example, this allows PHAs to limit eligibility to:

- Current program participants or program participants that have been receiving rental assistance and have been in good standing for an established length of time;
- Family Self-Sufficiency participants. FSS participants are often good candidates a for a homeownership program because they are generally highly motivated families who have some employment history and some savings that can be used to cover the down-payment and settlement costs associated with buying a home; or
- Other groups designated by the PHA. This could include targeting the program for special needs families, such as elderly/disabled families.

Maximum Times to Locate and Purchase a Home[75]

Under the HCV Homeownership Program, no voucher is issued to the prospective homebuyer, and HUD prescribes no time limits on the search period. The PHA may adopt local policies regarding the maximum time it will allow a family to find and to complete the purchase of a home. A PHA may also make a distinction (with separate time limits) for locating and closing on a home.

[73] 24 CFR § 982.627
[74] 24 CFR § 982.626(b)
[75] 24 CFR § 982.629

Many PHAs establish an initial period of 120-180 days as the basic homeownership search period. If the PHA is willing to extend this period under certain conditions, the Admin Plan should state the conditions.

Issuing Non-purchasing Families a Rental Voucher[76]

HCV Homeownership Program regulations allow a PHA the option of issuing a rental voucher to unsuccessful applicant (non-participant) families at the conclusion of the search period, requiring them to re-apply for housing voucher assistance, or returning the families to the housing voucher waiting list (at either the top or bottom of the waiting list). The Administrative Plan should state whether, and under what conditions, the PHA will issue rental vouchers to unsuccessful applicant families.

Counseling Requirements[77]

HCV Homeownership Program regulations require that participant families attend and satisfactorily complete a pre-assistance housing counseling program identified by the PHA. The regulations suggest, but do not require, which topics are to be covered. The Administrative Plan should include the counseling topics that are required by the PHA. If the PHA permits some modification in the topics covered based on the needs of individual families, the Administrative Plan should state what modifications are permitted and how the decision will be made. If the PHA also requires post-purchase counseling, it should include it in the Administrative Plan.

Minimum Down Payment or Equity Requirements[78]

Program regulations require a PHA to demonstrate its capacity to operate a homeownership program by meeting one of three criteria. The first is to establish a minimum down payment requirement of at least three percent of the purchase price and require that at least one percent come from a family's personal resources. This does not mean that the PHA is required to establish down payment or equity requirements for families who wish to participate in the HCV Homeownership Program. If a PHA elects to adopt any minimum down payment or equity requirements, the requirements then should be spelled out in the Administrative Plan.

Requirements for Financing the Purchase[79]

A PHA may also demonstrate its capacity to operate a homeownership program by requiring that the loan used to finance the purchase of 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.

Comply with Generally Accepted Underwriting Standards

[76] 24 CFR § 982.629(c)
[77] 24 CFR § 982.630
[78] 24 CFR § 982.625(g)(1)
[79] 24 CFR § 982.625(g)(2)

Again, the PHA is not required to impose these requirements, but if it chooses to do so, this policy should be stated in the Administrative Plan.

The Administrative Plan should state any other standards the PHA will use to review the families' proposed financing, refinancing, or other debt secured by the home. These include standards relating to qualifications of lenders or the terms of the proposed financing, such as:

Qualifications of Lenders: The PHA may adopt policies relating to the qualifications of lenders. For example, prohibiting the use of seller financing, or requiring case-by-case approval of lender financing arrangements.

Balloon mortgages allow payment of interest only during the term of the loan, and the full amount (the "balloon") of the principal at the end of the term. Generally, the use of balloon financing is not recommended unless the borrower knows that he/she will sell the home before the balloon payment is due or will be able to refinance when the balloon payment is due.

Adjustable-rate mortgages have interest rates that are subject to increase during the term of the loan. Adjustable-rate mortgages, that frequently have lower initial interest rates than fixed rate loans, are generally more attractive when interest rates are especially high. They are less attractive when interest rates are low, because borrowers risk negative amortization if interest rates rise substantially and a larger portion of the monthly payment is consumed by interest charges.

Restrictive provisions: The PHA may also disallow certain overly restrictive provisions in the financing agreement, such as a prohibition on prepayment of the mortgage, high prepayment penalties, predatory loans, or other abusive lending practices.

Affordability Restrictions on Debt Secured by the Home[80]

The PHA may adopt policies regarding the affordability. The affordability can be placed on loans taken out to finance the purchase of the home, or loans proposed subsequent to the purchase that are secured by the family's equity in the home, such as cash out refinancing and/or home equity loans that provide cash for home repairs, improvements, or non-housing consumer spending. PHAs may require families to secure PHA approval for any loans secured by the value of the family's home and develop standards for the affordability of these loans. These standards must be included in the PHA's Admin Plan.

Financing Affordability[81]

Unlike the rental assistance program, voucher homeownership regulations do not impose an affordability cap on the homeownership expense of participant families. Nevertheless, PHAs have the option to disapprove proposed financing, re-financing, or other debt secured by the home (such as a home equity loan) if they determine that the debt is not

[80] 24 CFR § 982.632
[81] 24 CFR § 982.632

affordable. The PHA's standards for determining affordability must be included in the Administrative Plan.

Mortgage lenders generally impose limits of 36-50 percent of gross monthly income on the amount of "back-end" debt — the total housing and non-housing debt —borrowers can assume. The PHA may wish to apply this or a similar standard when financing is provided by other than a traditional lender (e.g., seller financing).

Requirements for Continuation of Homeownership Assistance[82]

HCV Homeownership Program regulations require that participating families comply with certain family obligations in order to qualify for continued assistance. These family obligations are regulatory, and it is not required that they be reiterated in the PHA's Administrative Plan. The regulations allow the PHA to establish additional requirements for continuation of homeownership assistance. Any PHA-established requirements for continued participation must be included in the PHA's Administrative Plan. The PHA may, for example, require families to participate in post-purchase counseling.

The PHA may also require annual or periodic post-purchase inspections of the assisted unit. Some PHAs feel strongly that periodic inspections are important to ensure that the unit is maintained in good condition and believe that this additional level of oversight can be used to encourage participation of the program to lenders. Other PHAs have looked ahead at what might happen if deficiencies identified during the inspection were not corrected by the family and have decided to leave enforcement on the maintenance of the unit up to the family, lender, and/or local code enforcement authorities.

Determining Homeownership Expenses[83]

The PHA is required to adopt policies for determining the amount of homeownership expenses it will allow. Most elements of the homeownership expense are based on the family's actual expenses, or allowances that the PHA has already established. See Chapter 7 for more information on Homeownership Expenses

Limitations on Moves by Families[84]

A PHA may establish policies limiting the number of moves that a family in the homeownership program may make in any one-year period. These moves would include both moves from one homeownership unit to another and moves from a homeownership unit to rental unit.

82 24 CFR § 982.633
83 24 CFR § 982.635(c)
84 24 CFR § 982.637

PHAs may not impose other PHA restrictions on homeownership families' right to move, unless the family is subject to termination or denial of assistance because of either:

- Noncompliance with Housing Choice Voucher Program requirements;
- Failure to comply with family obligations under the HCV Homeownership Program; or
- Mortgage default.

If the family defaults on the original mortgage loan, or any subsequent refinancing of the loan used to purchase the assisted unit, the PHA may allow the family to move to a new unit with rental assistance. (However, this is not an option if the family has defaulted on an FHA-insured loan, and has not conveyed the title to HUD, and moved out of the home within the required period.)

The PHA's policies, if any, on moves by homeownership families, and on the provision of rental assistance to families in default on their mortgage loans, must be included in the Administrative Plan.

PHA Reporting Requirements

PHAs are reminded that information on families assisted under the HCV Homeownership Program is reported on Section 15 of form HUD-50058 or on Section 22 of form HUD-50058 MTW. It is extremely important that the PHA correctly identify homeownership participants in reporting program participant data to HUD.