



Montana Department of Commerce
Section 8 Programs
Administrative Plan

Effective Date – 07/01/2018



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ORGANIZATION AND STRUCTURE OF MDOC

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by the **Montana Department of Commerce** for the jurisdiction of the **State of Montana**.

The Housing Assistance Bureau, Housing Division, Montana Department of Commerce (MDOC) is the Montana State Public Housing Agency (PHA), administering the HUD Section 8 Housing Assistance Program (Moderate Rehabilitation, and tenant based Housing Choice Vouchers Program) to provide affordable, and safe sanitary housing to low income families residing in Montana.

THE HCV PARTNERSHIPS

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

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

MDOC requires contracted field agencies to operate the Section 8 Program in accordance with their MDOC contract, HUD regulations (CFRs and Federal Registers), HUD Notices, HUD Memos, this MDOC Administrative Plan, MDOC Policy Memos, and guidance provided by MDOC program personnel. MDOC provides local field agents with copies of relevant CFRs and Federal Registers, HUD Notices and HUD Memos per request and also available at the MDOC website at <http://housing.mt.gov>. As changes are made to this Administrative Plan, they are distributed to field agents to replace outdated sections. When MDOC adopts or changes minor policies not included in the Administrative Plan, the policies will be distributed to field agents in memo format or by e-mail.

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

2030 North Merrill Avenue
P.O. Box 1309
Glendive, MT 59330
Phone (800) 227-0703 or (406) 377-3564
Fax (406) 377-3570

- b. **District 4 HRDC** serves sub-state planning district 4, including Blaine, Hill, and Liberty counties.

2229 5th Avenue
Havre, MT 59501
Phone (800) 640-6743 or (406) 265-6743
Fax (406) 265-1312

- c. **Opportunities Inc. serves** sub-state planning district 5, including Cascade, Chouteau, Glacier, Pondera, Teton, and Toole counties.
 905 1st Ave. N.
 P.O. Box 2289
 Great Falls, MT 59403
 Phone (800) 927-2270 or (406) 761-0310
 Fax (406) 761-0363

- d. **District 6 HRDC** serves sub-state planning district 6, including Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum, and Wheatland counties.
 300 First Avenue North, Suite 203
 Centennial Plaza
 Lewistown, MT 59457
 Phone (800) 766-3018 or (406) 535-7488
 Fax (406) 535-2843.

- e. **District 7 HRDC** serves sub-state planning district 7, (except for that portion of the district lying within 10 miles of the City of Billings), including Big Horn, Carbon, Stillwater, Sweet Grass, and Yellowstone counties.
 7 N. 31st St
 P.O. Box 2016
 Billings, MT 59103
 Phone (800) 443-1411 or (406) 247-4710
 Fax (406) 248-2943.

- f. **District 9 HRDC** Serves sub-state planning district 9, including Gallatin, Meagher, and Park counties.
 32 South Tracy Avenue
 Bozeman, MT 59715
 Phone (800) 332-2796 or (406) 587-4486
 Fax (406) 585-3538.

- g. **Community Action Partnership of Northwestern Montana** serves sub-state planning district 10, including Flathead, Lake, Lincoln, and Sanders counties.
 214 Main Street
 P.O. Box 8300
 Kalispell, MT 59904
 Phone (800) 344-5979 or (406) 758-5477
 Fax (406) 752-6582 or (406) 257-7283.

- h. **District 11 HRDC** Serves sub-state planning district 11, including Mineral, Missoula, and Ravalli counties.
 1801 South Higgins
 Missoula, MT 59801
 Phone (406) 728-3710
 Fax (406) 728-7680.

- i. **Action, Inc.** serves sub-state planning district 12, including Beaverhead, Deer Lodge, Granite, Madison, Powell, and Silver Bow counties.
 25 W. Silver St.
 P.O. Box 3486
 Butte, MT 59701
 Phone (406) 533-6855
 Fax (406) 533-6885

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

- k. **Housing Authority of Billings** serves the area within 10 miles of the city limits of Billings, Montana.
 2415 First Ave. North
 Billings, MT 59101
 Phone (406) 245-6391
 Fax (406) 245-0387

PHA Administrative Plan

HUD requires that PHAs adopt a written administrative plan that establishes local policies for program administration. The plan must conform with HUD regulations and state MDOC 's policy in those areas where MDOC has discretion to establish local policy. The plan is a formal document which communicates to all interested parties the policy choices the local agency has made where federal regulations or law does not direct MDOC 's actions or decisions. MDOC is responsible to ensure that the plan is kept up to date and that staff operate under the policies spelled out in the plan.

UPDATING AND REVISING THE PLAN

MDOC will review this administrative plan at least once a year and update as necessary to comply with changes in HUD regulations. Any changes to the MDOC administrative plan must be approved by the Housing Division Administrator prior to implementation.

REASONABLE ACCOMMODATIONS -

https://www.hud.gov/program_offices/fair_housing_equal_opp/ReasonableAccommodations15 and <https://www.hud.gov/sites/dfiles/FHEO/documents/huddojstatement.pdf>

MDOC will make reasonable accommodations in rules, policies, practices, or services when such accommodations are necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling.

A reasonable accommodation is necessary when there is an identifiable relationship, or nexus, between the requested accommodation and the individual's disability.

An applicant or participant is not entitled to receive a reasonable accommodation unless he/she requests one. A person with a disability need not personally make the reasonable accommodation request; the request can be made by a family member or someone else who is acting on his/her behalf. The requester need not mention the Fair Housing Act or use the words "reasonable accommodation". However, the requester must make the request in a manner that a reasonable person would understand to be a request for an exception, change, or adjustment to a rule, policy, practice or service because of a disability.

The reasonable accommodation request can be made orally or in writing, however it is helpful for both the applicant/participant and MDOC if the request is made in writing. This will help prevent misunderstandings regarding what is being requested or whether the request was made. MDOC utilizes a reasonable accommodation form as allowed by HUD for aiding the individual and MDOC in assessing the requests so that there are no misunderstandings as to the nature of the request and, in the event of later disputes, provide records to show that the requests received proper consideration. MDOC will give appropriate consideration to oral reasonable accommodation requests.

MDOC may review a participant's approved reasonable accommodation annually to determine if the request is still valid.

CALENDAR DAYS

All references to "days" contained in the administrative plan mean calendar days.

Chapter 1

APPLICATIONS, WAITING LIST AND TENANT SELECTION – [24 CFR 982.202](#)

THE APPLICATION PROCESS

MDOC PHA Policy

To be placed on the waiting list, an interested family must complete and submit an application form either electronically or by mail. Information on how to apply can be found at MDOC's website located at: <http://housing.mt.gov/S8Apply>

The applicant must specify the jurisdiction (agency) he/she wishes to apply to at the time the application is submitted to MDOC. Applicants are not required to select the jurisdiction they reside in. The applicant will be required to conduct all transactions (i.e. briefing; interviews, paperwork etc.) with the agency listed on their wait list application. The jurisdiction can only be changed in writing prior to being contacted by the contracted field agency for briefing.

PLACEMENT ON THE WAITING LIST

MDOC PHA Policy

MDOC will send written notification of receiving a complete application. Applicants will also be provided the form HUD-92006, Supplement to Application for Federally Assisted Housing, to complete and submit back to MDOC.

Placement on the waiting list does **not** indicate that the family is eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list.

Applicants will be placed on the waiting list for which they qualify, according to the date and time their complete application is received by MDOC.

VERIFICATION OF PREFERENCE STATUS

MDOC PHA Policy

MDOC does not utilize preferences, only time and date of application.

MANAGING THE WAITING LIST

MDOC PHA Policy

A separate waiting list for all eligible families wishing to participate in the Section 8 program will be maintained by sub-allocation area in the state (Local Contract Field Agent area). No applicant will appear on the overall list for more than one sub-allocation area. All qualifying applications will be processed in the order received, and listed in order of date of receipt, and time of computer entry.

Mod Rehab units are project based with specific unit sizes at specific locations in the state. Applicants will not be penalized for refusing a Mod Rehab unit if they desire to wait for a Voucher subsidy. Families will be removed from the list only if they refuse both forms of assistance.

Mod Rehab participant families are not participants in the Vouchers program. Mod Rehab families must be chosen from the wait list the same as any other family to be issued a Voucher. For a Mod Rehab participant family to be assisted in the Voucher program, all of the following conditions must be met:

- a. The family's application date must place the family at the top of the wait list;
- b. The family has satisfied the initial one year term of their Mod Rehab lease or the term of the HAP contract, whichever is shorter;
- c. The family must request, in writing, transfer to the Voucher Program;
- d. The family must give the landlord a proper 30 day notice, or be released from the lease; and
- e. The family must not have adverse program actions pending against them and must not owe any money to any PHA including MDOC.

A family's decision to apply for, receive, or refuse other housing assistance must not affect the family's placement on the HCV waiting list.

OPENING AND CLOSING THE WAITING LIST - [24 CFR 982.206](#)

MDOC PHA Policy

If MDOC has closed the waiting list pursuant to federal regulatory requirements, MDOC will announce the reopening of the waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

If MDOC determines that the existing waiting list contains an adequate pool for use of available program funding, MDOC may stop accepting new applications. MDOC will give public notice by publishing the relevant information in suitable media.

REPORTING CHANGES IN FAMILY CIRCUMSTANCES

MDOC PHA Policy

While the family is on the waiting list, the family must make any applicable changes to update current residence or mailing address, contact information, phone number, etc. either through allowable electronic or writing methods. Any changes must be reported or made within 30 calendar days of the change.

If the family does not report a change which causes the local contracted agent to be unable to reach them by their preferred contact method first (i.e., mail, electronically) within one documented contact attempt, the local contracted agent will request that MDOC remove the family from the wait list through the disposition process. MDOC will determine final eligibility in these cases.

UPDATING THE WAITING LIST - [24 CFR 982.204](#)

MDOC PHA Policy

At least once a year (annually), MDOC will attempt to contact wait list applicants by whatever means is available to reach them including but not limited to electronic, phone,

or mail to confirm family information including address, dependents and eligibility information and to determine if the family is still interested in or continues to qualify for the housing choice voucher or mod rehab programs.

The family must respond to request made by MDOC or a contracted field agency by the deadline specified. Failure to respond within the specified deadline will result in the applicant's name being removed from the waiting list.

If the family contacts MDOC within 60 days after being removed from the waitlist, the family may be reinstated to their former position on the wait list if MDOC determines that the family's failure to respond was due to MDOC or contracted field agency error, or to circumstances beyond the family's control.

SELECTION FOR HCV ASSISTANCE

Order of Selection

MDOC PHA Policy

Families will be selected from the waiting list on a first-come, first-served basis according to the date and time their complete application was received by MDOC.

Families that qualify for targeted funding may be selected from the waiting list ahead of families that are higher on the waiting list and don't qualify for the targeted funding. Those applicants will be selected on a first-come, first-served basis according to the date and time their complete application is received.

MDOC will fully document which families qualify for and are interested in targeted funding and which families don't qualify or aren't interested in targeted funding.

MDOC PHA Policy

The contracted field agency will notify the applicant when they have reached the top of the wait list and are eligible for possible selection from the wait list. The notice will inform the family of the following:

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview
- Who is required to attend the interview
- All documents that must be provided at the interview, including information about what constitutes acceptable documentation

Chapter 2

VOUCHER ISSUANCE

Voucher Term - [24 CFR 982.303](#)

MDOC PHA Policy

The initial voucher term will be 60 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 60-day period unless MDOC grants an extension.

The initial voucher term for VASH applicants will be 120 days.

Extensions of Voucher Term - [24 CFR 982.303\(b\)](#)

MDOC PHA Policy

Voucher holders are required to provide the local field agent with a request for lease approval or request an extension of the voucher term in writing, prior to expiration of the initial voucher term. If approved, extensions will be granted for 30 days at a time. MDOC will notify the family of the term of the extension.

MDOC will approve additional extensions only in the following circumstances:

- It is necessary as a reasonable accommodation for a person with disabilities.
- It is necessary due to reasons beyond the family's control, as determined by MDOC. Following is a list of extenuating circumstances that MDOC may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:
 - Serious illness or death in the family
 - Whether the family has already submitted requests for tenancy approval that were not approved by MDOC
 - Landlord decides against participation in the program
 - Whether family size or other special circumstances, such as the limited availability or rentals in the locale, make it difficult to find a suitable unit
 - Any request for an additional extension must include the reason(s) an additional extension is necessary. The contracted field agency and/or MDOC may require the family to provide documentation to support the request in writing.

Suspensions of Voucher Term - [24 CFR 982.303\(c\)](#)

MDOC PHA Policy

When a Request for Tenancy Approval (RTA) and proposed lease is received by the contracted field agency, the term of the voucher, including any extended term, will be suspended from the date the contracted field agency receives a Request for Tenancy Approval until the date MDOC notifies the family in writing whether the request is approved or denied. For example, a family has been issued a voucher that starts on March 1, 2018 and expires April 29, 2018 (60 days). They submit a RTA on March 25th. The RTA is **not approved** on March 28th. The voucher will be extended by 3 days (March 28 minus March 25 = 3 days). Add 3 days to April 29. The voucher will now expire on May 2, 2018.

The voucher term will not be suspended if the RTA is incomplete or inaccurate.

Expiration of Voucher Term

MDOC PHA Policy

If an applicant family's voucher term or extension expires before the family has submitted a complete and accurate Request for Tenancy Approval (RTA), MDOC will require the family to reapply for assistance.

After the expiration of the voucher term or any extension, MDOC will notify the family in writing that the voucher term has expired and that the family must reapply in order to be placed on the waiting list.

MDOC VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH) ACTION PLAN

Initial Term of the HCV

MDOC PHA Policy

Recognizing the challenges that HUD-VASH participants may face with their housing search, HUD-VASH vouchers must have an initial search term of at least 120 days. Any extensions, suspensions, and progress reports will remain under the policies in MDOC 's administrative plan but will apply after the minimum 120-day initial search term.

Initial Lease Term

MDOC PHA Policy

To provide a greater range of housing opportunities for HUD-VASH voucher holders, initial leases may be less than 12 months.

Chapter 3

FAMILY AND HOUSEHOLD - [24 CFR 982.201\(c\)](#)

MDOC PHA Policy

A family is a single person, a group of persons residing together, or two or more individuals who are not related by blood, marriage, adoption, or other operation of law but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.

Each family must identify the individuals to be included in the family at the time of application. Once a family reaches the top of the waiting list to receive a housing choice voucher, the family will update its composition with any pertinent changes that have occurred since application was made or since last change submitted. Once the family becomes a participant in the housing choice voucher program, the family must notify MDOC of any changes in the family's composition within 30 calendar days.

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

Marriage

MDOC PHA Policy

Certification by the head of household is generally sufficient verification; however, MDOC may require additional forms of verification on a case by case basis.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married, which can be evidenced by, but not limited to, telling the

community they are married, calling each other husband and wife, using the same last name, and/or filing joint income tax returns.

Separation or Divorce

MDOC PHA Policy

Certification by the head of household is generally sufficient verification; however, MDOC may require additional forms of verification on a case by case basis.

Emancipation

MDOC PHA Policy

Pursuant to HUD regulations at [24 CFR 982.308\(a\)](#) which stipulate a tenant must have legal capacity to enter a lease under state law, MDOC requires that a minor be emancipated and granted the right to legally contract for housing *before* they can be offered housing under Mod Rehab or HCV Programs.

CONTINUOUSLY ASSISTED

MDOC PHA Policy

MDOC will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were issued a voucher by MDOC.

Continuously assisted families include:

- A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173.
- A low-income or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101.

Chapter 4

ASSETS

MDOC PHA Policy

MDOC will obtain third-party verification of all family assets upon admitting a family and then at least every three years thereafter. During the intervening annual reexaminations or interim reexaminations, a family may self-declare assets under \$5,000 without MDOC having to take additional steps to verify the declaration.

PASSBOOK SAVINGS RATE

MDOC PHA Policy

MDOC will establish its own passbook savings rate and review it annually to determine if it is within the safe harbor range (75 basis points, plus or minus, of the Savings National Rate). The rate will be effective July 1st each year.

MEDICAL ALLOWANCES – [24 CFR 5.603\(b\)](#)

MDOC PHA Policy

MDOC will use [IRS Publication 502, Medical and Dental Expenses](#), for determining allowable medical expenses.

MDOC will also allow, as medical expenses, the costs for food, grooming and veterinary care of assistance animals.

Chapter 5

APPLICANTS

DENIAL OF ASSISTANCE - [24 CFR 982.552](#) and [24 CFR 982.553](#)

MDOC PHA Policy

If any household member is currently engaged in or has engaged in any of the following criminal activities, **within the past three** years, the family may be denied assistance. Eligibility will be determined by MDOC on a case by case basis.

- Drug-related criminal activity, defined as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.
- Violent criminal activity, defined as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.
- Any household member appearing on the violent offender registry may be denied assistance.
- Any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.
- Any criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity.
- Any criminal activity that may threaten the health or safety of the property owner(s), property management staff, or persons performing contract administration functions or other responsibilities on behalf of MDOC (including a PHA employee or a PHA contractor, subcontractor, or agent).

MDOC will prohibit admission to the program if:

- Any member of the household is subject to a lifetime registration requirement under a State sex offender registration program.
- Any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

PARTICIPANTS

TERMINATION OF ASSISTANCE AND TENANCY - [24 CFR 982.552](#) and [24 CFR 982.553](#)

MDOC PHA Policy

MDOC will terminate a family's assistance if any member of the family has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamines on the premises of the federal assisted housing. MDOC may terminate a family's assistance if any household member is currently engaged in any illegal use of a drug or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents. Currently engaged in is defined as any use of illegal drugs during the previous six months.

MDOC may terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

MDOC may terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

MDOC may terminate a family's assistance if:

- The family has failed to comply with any family obligations under the program.
- Any family member has been evicted from federally-assisted housing in the last three years for drug-related criminal activity.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- The family has breached the terms of a repayment agreement entered into with MDOC.
- A participant appears on the violent offenders' registry.
- A family member has engaged in or threatened violent or abusive behavior toward PHA personnel.

Abusive or violent behavior toward contracted field agency and/or MDOC personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

MDOC will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the **use** of illegal drugs or **abuse** of alcohol.

MDOC will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent

criminal activity. In making its decision to terminate assistance, MDOC may consider alternatives and other factors such as whether the culpable family member no longer resides in the unit and will not be permitted to visit or to stay as a guest in the assisted unit. Upon consideration of such alternatives and factors, MDOC may, on a case-by-case basis, choose not to terminate assistance.

MDOC will not terminate assistance based solely upon a household member's arrest record.

Chapter 6

Owner Participation

MDOC PHA Policy

MDOC encourages owners of suitable units throughout the state to participate in the housing choice voucher program including areas that are outside any designated low income or minority concentrated areas. Printed program information is available in each field agency throughout the state for distribution to owners of rental properties. In addition, MDOC also has a page on the Housing Division's website regarding the Tenant Based Section 8 Program located at: <http://housing.mt.gov/>.

Chapter 7

Family Claiming Illegal discrimination – [24 CFR 982.304](#)

MDOC PHA Policy

Families that claim illegal discrimination that has prevented them from leasing a suitable unit will be given information on fair housing, including but not limited to HUD Form 903, Fair Housing Complaint form, and local fair housing enforcement agencies.

Chapter 8

Providing Tenant Information to Owners – [24 CFR 982.307\(b\)\(i\) and \(ii\)](#)

MDOC PHA Policy

MDOC and field agents will provide the following information about tenants to prospective landlords:

- Current and prior address of family
- Name, address, and phone number of landlords at the family's current and prior addresses.

Chapter 9

DISAPPROVAL OF OWNERS IN THE HCV PROGRAM – [24 CFR 982.306](#)

MDOC PHA Policy

MDOC may not approve a request for tenancy if MDOC and/or the contracted field agency become aware that any of the following are true:

- The owner has violated obligations under a HAP contract under Section 8 of the 1337 Act (42 U.S.C. 1437F);
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in any drug-related criminal activity or any violent criminal activity;
- The owner is subject to a lifetime registration requirement under a State sex offender registration program;
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents, or employees of MDOC or field agencies, or of owner employees or other persons engaged in management of the housing; (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity;
- The owner has a history or practice of renting units that fail to meet state or local housing codes; or
- The owner has not paid state or local real estate taxes, fines, or assessment.

In considering whether to disapprove owners for any of the discretionary reasons listed above, MDOC will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, and the health and safety of participating families.

Upon consideration of such circumstances, on a case-by-case basis, MDOC may choose to approve an owner.

MDOC also has the right to terminate the Housing Assistance Payment (HAP) contract with an owner for breach of the contract as stipulated in Part B of the contract, HUD Form 52641.

Chapter 10

SUBSIDY STANDARDS – [24 CFR 982.402](#)

MDOC PHA Policy

MDOC will assign one bedroom for each two persons within the household. This subsidy standard will apply to all new program participants, any program participants that wish to change units, and any program participants that have a change in family composition that affects the subsidy standards. Efficiency units (zero bedroom) will not be assigned.

MDOC will consider granting an exception per a reasonable accommodation request for handicap or disability.

Chapter 11

Absent Family – [24 CFR 982.312](#)

MDOC PHA Policy

A family may be absent from a unit for brief periods. If a family is going to be absent for more than 30 days, the family is required to notify the local field agent in advance of the absence, in writing, of the duration of time the family will be absent and justification for the absence. MDOC will determine if the absence is justified and notify the field agent, who will in turn notify the family that the absence is approved. Absence means that no member of the family is residing in the unit.

If the family fails to contact the contracted field agency and/or MDOC that they are going to be absent for more than 30 days, assistance may be terminated for the family.

If the family is absent from the unit for more than 180 consecutive calendar days, the family's assistance will automatically be terminated.

A family's absence from a unit does not excuse family failure to notify MDOC of income or family composition changes or respond to MDOC or field agent requests for information on income, family composition changes, or reexamination requests.

Chapter 12

FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY - [24 CFR 982.315](#)

Family Break-up

MDOC PHA Policy

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open.

If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted.

In the absence of a judicial decision, or an agreement among the original family members, MDOC will determine which family retains their placement on the waiting list, or will continue to receive assistance. In making its determination, MDOC will take into consideration the following factors: (1) the interest of any minor children, including custody arrangements, (2) the interest of any ill, elderly, or disabled family members, (3) any possible risks to family members as a result of domestic violence, sexual assault, or stalking, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse; (4) any possible risks to family members as a result of criminal activity; and (5) the recommendations of social service professionals .

Joint Custody of Dependents

MDOC PHA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family. Please note that a child cannot be assisted in more than one household without a waiver from HUD.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, MDOC will make the determination based on supporting documents such as court orders.

Caretakers for a Child

MDOC PHA Policy

The approval of a caretaker is at the owner and PHA's discretion and subject to the owner and PHA's screening criteria. If neither a parent nor a designated guardian remains in a household receiving HCV assistance, MDOC will take the following actions.

- (1) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
- (2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases MDOC will extend the caretaker's status as an eligible visitor.
- (3) At any time custody or guardianship has been legally awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.
- (4) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

Chapter 13

INFORMAL REVIEWS FOR APPLICANTS – [24 CFR 982.554](#)

MDOC PHA Policy

MDOC will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes:

- Denying placement on MDOC's waiting list;
- Denying or withdrawing a voucher;
- Refusing to enter into a HAP contract or approve a lease; and
- Refusing to process or provide assistance under portability procedures.

MDOC will not offer an informal review to applicants for any of the following:

- **Discretionary administrative determinations by MDOC**
- General policy issues or class grievances
- A determination of the family unit size
- A determination not to approve an extension or suspension of a voucher term
- A determination that a unit selected by the applicant is not in compliance with HQS
- A determination that the unit is not in accordance with HQS because of the family size or composition

NOTE: An applicant may request an informal **hearing** as it relates to ineligible immigration status - see 24 CFR 5.514. See MDOC policies regarding hearings.

Informal Review Procedures

A request for an informal review must be made in writing and submitted to MDOC by the close of the business day, no later than 20 days from the date of notice of MDOC's denial of assistance.

MDOC will schedule and send written notice of the informal review.

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

The applicant must be provided an opportunity to present written or oral objections to the decision made by MDOC.

The person conducting the review will make a recommendation to MDOC, but MDOC is responsible for making the final decision as to whether assistance should be granted or denied.

MDOC will notify the applicant of the final decision and a brief statement of the reasons for the decision after informal review.

Notice of Eligibility or Denial

MDOC PHA Policy

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

- Whether or not the grounds for denial were stated factually in the Notice.
- The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.
- The validity of the evidence. MDOC will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, MDOC will uphold the decision to deny assistance.

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

MDOC will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed to the applicant and his or her representative.

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

The family will be notified in writing within 20 days of a decision to deny assistance.

If, based on a conviction or sex offender registration information, the applicant family appears to be ineligible; MDOC will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 20 days to dispute the accuracy and relevance of the information. If the family does not contact MDOC to dispute the information within that 20-day period, MDOC will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal review process.

Criteria for Deciding to Deny Assistance

Evidence - [24 CFR 982.553](#)

MDOC PHA Policy

Evidence of criminal activity includes, but is not limited to:

- Any conviction for drug-related or violent criminal activity within the past 3 years.
- Any record of eviction from public or privately-owned housing as a result of criminal activity within the past 3 years.
- A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity.

MDOC will use the preponderance of the evidence standard for making all admission decisions. Any determination will be made on a case by case basis.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Consideration of Circumstances - [24 CFR 982.552](#)

MDOC PHA Policy

MDOC may consider all relevant circumstances prior to making its decision, including but not limited to:

- The seriousness of the case, especially with respect to how it would affect other residents
- The effects that denial of assistance may have on other members of the family who were not involved in the action or failure

- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or a victim of domestic violence, dating violence, sexual assault, or stalking
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

MDOC will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to reside in the assisted unit.

After admission to the program, the family must present evidence of the former family member's current address upon PHA request.

Chapter 14

INFORMAL HEARINGS FOR PARTICIPANTS – [24 CFR 982.555](#)

MDOC PHA Policy

MDOC will only offer participants the opportunity for an informal hearing when required according to regulations.

Informal Hearing Procedures

MDOC PHA Policy

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

- The proposed action or decision of MDOC.
- A brief statement of the reasons for the decision including the regulatory reference.
- The date the proposed action will take place.
- A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.
- A deadline for the family to request the informal hearing.
- A copy of MDOC's hearing procedures.

A request for an informal hearing must be made in writing and delivered to MDOC either in person or by first class mail, by the close of the business day, no later than 20 days from the date of MDOC's termination letter decision or notice to terminate assistance.

MDOC must schedule and send written notice of the informal hearing to the family.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an

unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made in writing prior to the hearing date. At its discretion, MDOC may request documentation of the “good cause” prior to rescheduling the hearing.

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

MDOC PHA Policy

The family will be allowed to copy any documents related to the hearing at a cost of \$.25 per page. The family must request discovery of MDOC’s documents no later than 10 days prior to the scheduled hearing date.

MDOC must be given an opportunity before the hearing to examine any family documents that are directly relevant to the hearing at the Helena, Montana office. Whenever a participant requests an informal hearing, MDOC will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. Both parties must make the documents available no later than 10 days prior to the scheduled hearing date. Extensions to the 10-day timeframe may be granted if both parties agree to the extension. If the document(s) are not made available for examination, neither party may rely on the document(s) at the hearing.

Attendance at the Informal Hearing

MDOC PHA Policy

Hearings may be attended by a hearing officer and the following applicable persons:

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

MDOC will reimburse the requesting participant for only the participant's mileage or transportation expenses (at applicable state rates for state employees) to and from the hearing location. All other costs incurred by the participant requesting the hearing, such as lodging, meals, legal representation, are to be borne by the requesting participant.

Participants may request, in writing, the opportunity to appear for the hearing via other means, such as by telephone, video conferencing, etc. 5 days prior to the scheduled hearing date. Appropriate arrangements will be made prior to the scheduled hearing date to accommodate the request.

Conduct at Hearings

MDOC PHA Policy

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

Informal hearings will be conducted by a hearing officer appointed by MDOC. The hearing officer will regulate the hearing and ensure that all proceedings are recorded.

Structure of the Hearing:

- 1) The hearing officer will call the hearing to order. At any time during the hearing, the hearing officer may interrupt testimony to ask pertinent questions or clarify testimony.
- 2) All persons present will be identified, and the purpose for their presence verified.
- 3) Evidence will be presented in the following order:
 - A. MDOC staff will provide an overview of the reasons for the hearing, and copies of pertinent documents relating to the MDOC decision, as well as any other testimony MDOC wishes to introduce.
 - B. The participant will provide testimony and documentation for consideration at the hearing and rebut MDOC testimony or documents.
 - C. MDOC may question the participant about testimony and documentation presented by the participant and rebut participant testimony or documents.
 - D. The hearing officer may summarize his/her understanding of the position of both sides to ensure that all information from the hearing is complete and clear.
 - E. When the hearing officer is satisfied that both sides have presented sufficient evidence to render a finding, the hearing officer will close the hearing.

Evidence - [24 CFR 982.555](#)

MDOC PHA Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. Categories of evidence include:

- Oral evidence: the testimony of witnesses
- Documentary evidence: a writing which is relevant to the case, for example, a letter written to MDOC. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.
- Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.
- Real evidence: A tangible item relating directly to the case.
- Hearsay Evidence: evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

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

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

Hearing Officer's Decision - [24 CFR 982.555](#)

MDOC PHA Policy

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

- PHA Notice to the Family: The hearing officer will determine if the reasons for MDOC's decision are factually stated in the Notice.
- Discovery: The hearing officer will determine if MDOC and the family were given the opportunity to examine any relevant documents in accordance with MDOC PHA Policy.
- MDOC's Evidence to Support MDOC Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the MDOC's conclusion.
- Validity of Grounds for Termination of Assistance (when applicable): The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and PHA policies. If the grounds for termination are not specified in the regulations or in compliance with MDOC policies, then the decision of MDOC will be overturned.

The hearing officer will issue a written decision to the family and MDOC within 45 days after the hearing. The report will contain the following information:

Hearing information:

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

If the family fails to appear for the hearing, no written decision will be required of the hearing officer.

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

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

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

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

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

Procedures for Rehearing or Further Hearing

MDOC PHA Policy

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

It shall be within the sole discretion of the MDOC to grant or deny the request for further hearing or rehearing. A further hearing may be limited to written submissions by the parties, in the manner specified by the hearing officer.

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

MDOC PHA Policy

MDOC will mail a "Notice of Final Decision" including the hearing officer's report (if the hearing officer did not mail their report to the participant or their representative), to the participant and their representative. This Notice will be sent by first-class mail, postage pre-paid with a certificate of mailing enclosed. The participant will be mailed the original "Notice of Final Decision". A copy of the "Notice of Final Decision", along with the original certificate of mailing, will be maintained in the MDOC's file.

MDOC PHA Policy

MDOC will not provide a transcript of a recorded hearing.

Chapter 15

PAYMENT STANDARDS - [24 CFR 982.503](#)

MDOC PHA Policy

MDOC will review the appropriateness of the payment standards on an annual basis when the new FMRs are published and at other times as determined necessary. In addition to ensuring the payment standards are always within the "basic range" MDOC will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

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

Rent Burden of Participating Families: Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, MDOC will consider

increasing the payment standard. In evaluating rent burdens, MDOC will not include families renting a larger unit than their family unit size.

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

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

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

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

Changes to payment standard amounts will be effective January 1st of every year unless the FMRs are reduced for a given year that would cause the current payment standards to be outside HUD's basic range of 90 to 110% of the FMR. Then the payment standards must be adjusted to be within the basic range and the effective date will be October 1st of that year.

MDOC will apply a reduction in payment standard to a family's subsidy calculation during the HAP contract term at the second regular reexamination following the effective date of the decrease in the payment standard amount.

If MDOC has already processed reexaminations that will be effective on or after the effective date of the payment standards, MDOC will make retroactive adjustments to any such reexaminations previously processed unless otherwise instructed by HUD.

Unit-by-Unit Exceptions - [24 CFR 982.503\(c\)\(2\)\(ii\)](#)

MDOC PHA Policy

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

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

Chapter 16

RENT REASONABLENESS - [24 CFR 982.507](#)

METHODOLOGY

MDOC PHA Policy

Contracted field agencies are required to use the rental comparison software GoSection8 to determine if the rent of a unit is comparable to units in the same jurisdiction. GoSection8 contains data on market rents by bedroom size, market areas, utility structure, amenities, etc.

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for HCV assistance, MDOC may make adjustments to the range of prices to account for these differences

The adjustment must reflect the local market. Variances in units may not require adjustments to rents. (e.g. the presence or absence of a garbage disposal, dishwasher).

Adjustments may vary by unit type (e.g. a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

The adjustment must reflect the rental value of the difference – not its construction costs (e.g. it might cost \$20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rental units are presumed to have functioning roofs).

When a comparable project offers rent concessions (e.g. first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of \$500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $\$500 \times 11 \text{ months} = 5500 / 12 \text{ months} = \text{actual monthly rent of } \488 .

The contracted field agency will notify the owner of the approved rent, based upon its analysis of comparable rents.

If the owner disputes the proposed rent, they may submit information about other comparable units in the market area. The contracted field agency will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within 5 business days of the contracted field agency's request for information or the owner's request to submit information.

Chapter 17

SPECIAL HOUSING TYPES - [24 CFR 982 Subpart M](#)

MDOC PHA Policy

ALLOWABLE SPECIAL HOUSING TYPES:

To ensure maximum tenant choice in selection of rental units in the MDOC tenant-based vouchers program, tenants will be allowed to choose among the following types of special housing:

- Manufactured Home (including rental space) Housing, but not a manufactured home the family owns and only wants rental assistance for lot rent

- Homeownership

In addition to the above types of housing, MDOC will consider acceptance of the following types of housing on a case by case basis:

- Congregate Housing
- Shared Housing
- Cooperative Housing
- Group Home Residence

DISALLOWED SPECIAL HOUSING TYPES:

SRO (Single Room Occupancy) housing is not allowed, as it requires HUD, local government and MDOC approval, as well as documentation of need for the units, and certification that the local government has inspected the properties and they meet local health and safety codes, which are more stringent than HQS. It is not in the best interest of the program to have competing inspection requirements. There are no HUD approved SRO facilities in the state at this time.

HOMEOWNERSHIP - [24 CFR 982.625 through 982.643](#)

MDOC PHA Policy

MDOC will determine if homeownership is an option on a case by case basis due to the limited capacity of each contracted field agency to provide this service.

MDOC provides monthly homeownership assistance payments to eligible families.

MDOC requires the following:

- A minimum homeowner down payment of at least 3% of the purchase price for participation in the homeownership option. Of this 3%, at least 1% of the purchase price must come from the families' personal resources. Purchase price includes closing costs, so amounts put toward closing costs by the family are included in the 1% and 3% calculations;
- The family must have successfully completed an approved homeownership counseling course;
- A participant family in the MDOC Voucher program must have completed at least 1 year of participation in good standing;
- Voucher participants are not eligible for participation in the MDOC Homeownership Program, if any debt is owed to MDOC, or any other PHA or housing agency. Voucher participants who have owed MDOC or another PHA or housing agency money and have fully repaid the debt prior to entering any portion of the homeownership program are eligible, if they meet all other eligibility requirements for homeownership.
- Participants porting in from another PHA interested in participating in homeownership must have completed at least 1 year in good standing in the other PHA jurisdiction. The participant family porting in does not have to meet another 1-year MDOC period.

SELECTION OF FAMILIES - [24 CFR 982.626](#)

MDOC PHA Policy

In selecting participant families for the MDOC Homeownership Program, the contracted field agency will select according to their homeownership plan document, as approved by MDOC, who have successfully completed the homeownership counseling program.

In selecting participant families for the limited slots in the contracted field agency's homeownership counseling program, preference will be given to elderly and handicapped families, as well as to those families participating in the Family Self-Sufficiency program or the Individual Development Account program, all other factors being equal.

ADDITIONAL PHA REQUIREMENTS FOR SEARCH AND PURCHASE - [24 CFR 982.629](#)

MDOC PHA Policy

The family must submit a sales agreement containing specific components to the contracted field agency for approval within **one year** of their acceptance into the homeownership program (acceptance occurs after successful completion of homeownership counseling). The contracted field agency will require that the family provide quarterly reports to monitor the family's progress in finding and purchasing a home.

HOMEOWNERSHIP COUNSELING - [24 CFR 982.630](#)

MDOC PHA Policy

MDOC requires that the counseling agency providing the contracted field agency's counseling program shall either be approved by HUD or the program shall be consistent with the home ownership counseling provided under HUD's Housing Counseling program. The program must contain the suggested topics listed in 982.630(b). The contracted field agency may require additional topics according to their approved homeownership plan.

Families may be required to participate in approved homeownership counseling programs on a continuing basis after acceptance into the Homeownership Program at the discretion of the contracted field agency and/or MDOC, based on the performance of the homeownership participant.

FINANCING - [24 CFR 982.632](#)

MDOC PHA Policy

Financing options are limited to mortgage type financing that comply with secondary mortgage market underwriting requirements, or generally accepted private sector underwriting standards.

CONTINUED ASSISTANCE REQUIREMENTS; FAMILY OBLIGATIONS - [24 CFR 982.633](#)

MDOC PHA Policy

The contracted field agency will determine if the family meets all requirements of this section. The family must notify the contracted field agency within 10 days of missing a

mortgage payment. The family must attend foreclosure counseling within 30 days of missing a mortgage payment or homeownership assistance may terminate. [24 CFR 982.633](#)

The family must notify the contracted field agency in writing at least 30 days prior to any proposal to refinance the original purchase mortgage or of any proposal to encumber the property with secondary financing and obtain the contracted field agency's written approval of such financing prior to executing any loan documents.

A family may not rent or lease any part of the premises without prior MDOC written consent.

HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES - [24 CFR 982.635](#)

MDOC PHA Policy

A monthly allowance for maintenance expenses and for costs of major repairs and replacement is calculated based on the contracted field agency's approved homeownership plan.

MOVING WITH CONTINUED ASSISTANCE - [24 CFR 982.637](#)

MDOC PHA Policy

A family may not transfer, sell or assign an interest in the property without prior written consent from MDOC and the contracted field agency.

A family must notify the MDOC and/or the contracted field agency in writing at least 30 days prior to moving out of the house for a period of 30 days or longer or prior to any sale, transfer, assignment, lease or other form of alienation of the assisted property.

DENIAL OR TERMINATION OF ASSISTANCE - [24 CFR 982.638](#)

MDOC PHA Policy

MDOC may deny or terminate homeownership assistance in accordance with [24 CFR 982.638](#).

Chapter 18

Family Debts and Repayment of Family Debts to MDOC – [24 CFR 792](#) and [PIH Notice 2017-12](#)

MDOC PHA Policy

Tenants are always required to report changes in family composition and income, in writing, within 30 days of the date of change using the required MDOC forms provided to all participants. Failure to report these changes is a violation of family obligations under 24 CFR 982.551 and MDOC may exercise its authority to terminate assistance if there is more than one occurrence of failure to report changes in family composition and income.

Pursuant to HUD's PIH Notice 2017-12 MDOC requires that field agencies obtain an EIV Income Report for each family any time an annual or interim reexamination of family

income and composition is conducted. If the report reveals an income source that was not reported by the tenant or a substantial difference in the reported income information, the field agency is required to carry out additional activities as stipulated in the notices. HUD defines a substantial difference as an amount equal to or greater than \$2,400 annually (of income, not the calculated amount that is owed to MDOC).

If it is determined that the tenant did underreport or fail to report income, they will be required to reimburse MDOC if they were charged less rent than required by HUD's rent formula due to the tenant's under reporting or failure to report income. The tenant will be required to reimburse MDOC for the difference between the tenant rent that should have been paid and the tenant rent that was charged (also known as retroactive rent). If the tenant fails to repay the retroactive rent in full to MDOC, the tenant will be required to enter into a repayment agreement. If the tenant refuses to enter into a repayment agreement when offered or fails to make payments on an existing repayment agreement, MDOC must terminate the family's assistance. HUD does not authorize any amnesty or debt forgiveness programs.

Retroactive rent will be calculated as far back as the existence of complete file documentation (form HUD-50058 and supporting documentation) to support such retroactive rent determinations. This calculation will be performed using MDOC's current software application.

The monthly repayment agreement amount plus the amount of rent the tenant is paying at the time the repayment agreement is executed should be affordable and not exceed 40 percent of the family's monthly adjusted income.

Tenants have the option to repay the retroactive rent amount in a lump sum payment, in a monthly installment, or a combination of both. *For example, a tenant may owe \$1,000 and decide to make a \$300 lump sum payment, leaving a balance due of \$700 that he/she will enter into a repayment agreement to make monthly installments on.*

Repayment agreements will be sent out with the notification of the amount owed. The agreements must be executed and returned to MDOC within 15 days of receipt. Failure to return the signed repayment agreement will result in termination.

The above repayment agreement procedures will also be applied to any tenant that MDOC paid out rental assistance on which may have been erroneous due to incorrect reporting of family members in the household or other incorrect or incomplete information that resulted in erroneous subsidy payments.

REPAYMENT POLICY

Owner Debts and Repayments of Debts to MDOC

MDOC PHA Policy

Any amount owed to MDOC by an owner must be repaid by the owner within 30 days of the MDOC's determination of the debt.

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

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

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

Due Dates

MDOC PHA Policy

All payments are due pursuant to the terms specified in the repayment agreement.

Late or Missed Payments

MDOC PHA Policy

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by MDOC, a delinquency letter will be sent to the family to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the MDOC will terminate assistance in accordance with the policies in this administrative manual and/or submit the tenant or owner to the collection agency.

Chapter 19

INTERIM REEXAMINATIONS - [24 CFR 982.516](#)

MDOC PHA Policy

Increases in Income

Families are required to report all changes of income/assets and change in family composition electronically or in writing within thirty (30) days of the change.

MDOC will conduct interim reexaminations of increase in income in the following instances as directed by HUD.

At the start of the first 100 percent period or the second 50 percent phase-in period of a family's Earned Income Disallowance.

If the family had previously reported zero income.

If it had been determined that a calculation or regulatory error had occurred or the calculation or regulatory error was based on incorrect or incomplete information. This includes a family that had a welfare sanction for which the rent was initially reduced but should not have been

There is evidence or a pattern that the family is manipulating the program by a pattern of reducing income just prior to the annual recertification and increasing its income right after.

To admit a family to the Family Self Sufficiency Program.

When a FSS family requests an interim reexamination because the family has had a change in income that results in an increase to the escrow account.

When the family's total household income increases over 80 percent of the HUD-published Area Median Income (AMI).

Decreases in income

Participants may request an interim determination of family income or composition because of changes since the last determination at any time. Participants must submit the request for review electronically or as a written request. MDOC will process the interim reexamination once the request and necessary documentation of the changes have been submitted.

Effective Dates

For interim reexaminations that will result in an increase of the family's income, MDOC will make the interim determination effective for the first of the month following the reported change ensuring that the effective date allows MDOC to provide at least a 30-day notice of the change.

For interim reexaminations that result in a decrease of the family's income, MDOC will make the interim determination within a reasonable time after the request. The timeframe must allow for MDOC to secure the information necessary to make the change and meet payment processing timeframes.

Chapter 20

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

RESTRICTIONS ON MOVES – [24 CFR 982.353](#), [24 CFR 982.354](#) & [24 CFR 982.355](#)

MDOC PHA Policy

MDOC may deny a family permission to move due to insufficient funding if the move is to a higher cost jurisdiction that results in a higher subsidy or payment standard or MDOC would be unable to avoid terminating current participants during the calendar year to remain within the budget allocation, including available HAP reserves or the receiving housing authority will absorb (administer) the voucher. MDOC must contact the receiving housing authority and document the agreement of the receiving housing authority to absorb. This policy applies to moves within MDOC's jurisdiction as well as to moves outside it under portability.

MDOC will create a list of families whose moves have been denied due to insufficient funding. When funds become available, the families on this list will take precedence over families on the waiting list. MDOC will use the same procedures for notifying families with open requests to move when funds become available as it uses for notifying families on the waiting list.

MDOC will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

MDOC will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within MDOC's jurisdiction or outside it under portability.

MDOC will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, and witness protection programs), to accommodate a change in family circumstances (e.g., new

employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.

In addition, MDOC will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities.

Chapter 21

ADMINISTRATIVE FEE RESERVE – [24 CFR 982.54\(d\)\(21\)](#)

MDOC PHA Policy

MDOC will not use administrative fee reserve funds from Montana Section 8 projects for a particular housing purpose without prior written approval of the Director, Montana Department of Commerce, Management Services Accounting and Fiscal Manager, and Housing Division Administrator.

Chapter 22

HOUSING QUALITY STANDARDS - [24 CFR 982.401 and PIH Notice 2017-20](#)

MDOC PHA Policy

MDOC will follow HUD’s regulatory guidelines and performance standards for conducting required HQS inspections and will not adopt additional requirements beyond HUD’s HQS standards.

MDOC will also follow HUD’s definitions of life-threatening conditions as listed in PIH Notice 2017-20 and not adopt additional conditions beyond HUD’s defined conditions.

If MDOC determines that a unit is overcrowded because of an increase in family size or a change in family composition, MDOC must issue the family a new voucher, and the family must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, MDOC must terminate the existing HAP contract in accordance with its terms.

Chapter 23

SCREENING OF APPLICANTS – [24 CFR 982.307](#)

MDOC PHA Policy

MDOC will not conduct additional screening to determine an applicant family’s suitability for tenancy.

MDOC will provide prospective owners only the information about the tenant that is required under federal regulation. MDOC will not provide information about the tenancy history of family members or about drug-trafficking by family members.

Chapter 24

Minimum Rent and Financial Hardship Exemption - [24 CFR 5.630](#)

MDOC PHA Policy

The minimum rent for this locality is \$50 for HCV and MOD Rehab programs. The minimum rent for the VASH Program is \$0.

MDOC will grant a financial hardship exemption from payment of minimum rent if the family meets the criteria pursuant to 24 CFR 5.630.

Chapter 25

Utility Reimbursement - [24 CFR 982.514\(b\)](#)

MDOC PHA Policy

MDOC will make utility reimbursements to the eligible family.

Chapter 26

FAMILY SELF SUFFICIENCY - [24 CFR 984](#)

SELECTION OF FSS FAMILIES - [24 CFR 984.203](#)

MDOC PHA Policy

The following are not eligible to participate in the MDOC FSS program:

- Families who were prior FSS program participants and were terminated from the FSS program for non-compliance with the FSS contract of participation;
- Families who were prior FSS program participants and were terminated from the Section 8 rental assistance program for non-compliance with the Section 8 program rules and policies or for violating any family obligations under the program;
- Families who were prior FSS program participants that withdrew from the FSS Program;
- Families who were prior FSS program participants that graduated from the FSS Program;
- Families who owe any PHA money in connection with Section 8 or public housing assistance.

Families will be selected for participation by the MDOC field agents in the following priority order, based on local needs and services to be provided:

- Participating families from the voucher program who are enrolled in local JOBS, JTPA, Employed Parent, Displaced Homemaker, or similar programs in which the MDOC field agent is actively involved, for a maximum of 50% of the allocated program slots, then other MDOC Section 8 program participant families showing interest in FSS from the field agent service area on a first-come, first-served basis.

INCENTIVES TO ENCOURAGE PARTICIPATION - [24 CFR 984.201\(5\)](#)

MDOC PHA Policy

MDOC offers the following incentives to encourage participation in the FSS program.

- Detailed information on agent supplied education, employment and training, and home ownership programs.
- Referral to support services like child-care, transportation and work/education related costs while enrolled in this program.
- An escrow account (like a savings account) for the duration of the program. The FSS escrow account funds are available when self-sufficiency is achieved.
- Detailed information about education and employment programs in Montana with easier and smoother access.

OUTREACH EFFORTS - [24 CFR 984.201\(6\)](#)

MDOC PHA Policy

Each MDOC field agency will schedule periodic public FSS orientation meetings for prospective participants and service providers. The purpose of the meetings will be to explain the FSS program and how it operates, responsibilities of the participants, and provide other information concerning the FSS program, as well as to collect the names of participating Section 8 families interested in participating in the FSS program.

The MDOC field agents will mail meeting invitations to voucher participants from their jurisdictional service area.

A list will be maintained at each field agent location naming voucher participant families interested in becoming FSS participants. Those not responding to the meeting invitation will be considered to have been contacted, and are not interested in the FSS program.

As participating Section 8 families enter local JOBS, Unemployed Parent, Displaced Homemaker, or similar programs in which the MDOC field agency is actively involved, they will be advised about the FSS program, and the field agent will add them to the list, if the family is interested.

The MDOC Family Self-Sufficiency information sheet will be presented to all minority and non-minority participants by local field agents at all reexaminations (if vacancies exist and services are available) to further encourage participation in the FSS program.

ACTIVITIES AND SUPPORT SERVICES - [24 CFR 984.201\(7\)](#)

MDOC PHA Policy

Complete lists of anticipated services and service providers were included in the 1992 MDOC FSS application. Actual services provided may not be similar to the initial needs in 1992, depending on local conditions and participant needs at the time the FSS Contract of Participation is signed.

The MDOC contracted field agencies administering the FSS program are required to update FSS Pro of the supportive services they provide FSS participants. In addition, continual update of the participant's individual training and service plan in FSS Pro will provide documentation therefore eliminating the necessity of the agency to provide an annual report to MDOC.

METHOD FOR IDENTIFICATION OF FAMILY SUPPORTED SERVICES - [24 CFR 984.201\(8\)](#)

MDOC PHA Policy

Needs for services vary by locality and participant. Supportive services provided throughout the state will not be similar, due to limited availability to provide various types of supportive services at individual locations. Since individual needs of participating FSS families are of primary importance to success of the families (and the program), individual FSS programs will be developed for each participating family by the MDOC local field agency. The services provided each family will be based on individual family needs, and the local availability of support resources for the area where each unit is administered.

PROGRAM TERMINATION; WITHHOLDING OF SERVICES; AND AVAILABLE GRIEVANCE PROCEDURES - [24 CFR 984.201\(9\)](#)

MDOC PHA Policy

The termination of families participating in the FSS program will be governed by the provisions of the MDOC Administrative Plan and the FSS Contract of Participation.

A family enrolled in the FSS program may be terminated from the FSS Contract of Participation if they fail to satisfactorily perform the requirements under their individual FSS contract. The individual must report to the local FSS coordinator at least quarterly to update activities, progress on goals and individual training plan. If the participant has not contacted the coordinator for two consecutive quarters MDOC in coordination with the local FSS coordinator will notify the participant in writing of their termination from the FSS program.

MDOC will consider reasons for the family not being able to fulfill their obligations under the FSS contract, prior to determining whether to terminate the FSS contract.

A family terminated from participation in the FSS program may request an informal hearing within 20 days of being notified by MDOC of their termination. If the family voluntarily terminates their participation in the FSS program, they may not request a hearing for termination of the Contract of Participation, or for the right to access any funds in their escrow account.

ASSURANCES OF NON-INTERFERENCE WITH RIGHTS OF NON-PARTICIPATING FAMILIES - [24 CFR 984.201\(10\)](#)

MDOC PHA Policy

A family's election to not participate in the MDOC FSS program will not affect the family's admission to the Sec. 8 housing programs or the family's right to occupancy in accordance with its lease.

CERTIFICATION OF COORDINATION - [24 CFR 984.201\(12\)](#)

MDOC PHA Policy

The MDOC certifies that development of the services and activities under the FSS program has been coordinated with the JOBS Program, the programs provided under the JTPA, and any other relevant employment, child care, transportation, training, and education programs (e.g. Job Training for the Homeless Demonstration Program) by the MDOC contracted field agency in the applicable area, and that implementation will continue to be coordinated, in order to avoid duplication of services and activities.

FSS ACCOUNT - [24 CFR 984.305](#)

MDOC PHA Policy

The MDOC may, at its sole option, make an interim disbursement of a portion of the funds from the family's escrow account during the contract period for contract-related expenses if the family has successfully progressed in meeting interim contract goals, and needs a portion of the FSS account funds for purposes consistent with the contract, such as:

School tuition or other school costs

- a) Job training expenses
- b) Business start-up expenses
- c) A car, when public transportation is unavailable or inaccessible to the family, or for major car repairs, the later which will be determined on a case by case basis
- d) Emergency medical expenses.

INDIVIDUAL TRAINING AND SERVICE PLANS - [24 CFR 984.303](#)

MDOC PHA Policy

All individual training and services plans must be reviewed and updated at least annually for the head of the FSS family, and each adult member of the FSS family who elects to participate in the FSS program. The plans must include both interim and final goals. All goals (both interim and final) must include specific activities under each goal, timeframes, and the party responsible for each goal identified, to provide a clear understanding of the participant's goals and objectives. Plans must be written with enough detail to allow evaluation of performance by MDOC. All plans must include the mandatory interim and final goals. If receiving cash maintenance payments assistance, plans must include the mandatory interim goal of all family members becoming independent from all forms of state and federal cash maintenance payment assistance for at least one year prior to the expiration of the FSS Contract of Participation. All final goals must include obtaining and maintaining employment.

INFORMAL HEARINGS

MDOC PHA Policy

Informal Hearings will be conducted in accordance with the MDOC Admin Plan.

Chapter 27

MDOC PROJECT-BASED VASH (PBVASH)

INTRODUCTION

Since Fiscal Year (FY) 2008, Housing Choice Voucher program funding has provided rental assistance under a supportive housing program for homeless veterans authorized by Title 42, Chapter 8, Subchapter I, § 1437f(o)(19) of the United States Housing Act of 1937. The initiative, known as the HUD-VASH program, was initially authorized by the Consolidated Appropriations Act, 2008. Each annual HUD appropriation since 2008 has continued to authorize this program.

In addition, HUD has periodically made set-aside funding available for project-based HUD VASH vouchers (PBVASH). Applications for HUD's PBVASH set-aside funding are released to the public as federal appropriations allow.

The MDOC PBVASH program will result in a de-concentration of poverty and an expansion of housing and economic opportunities. The standards comply with the policy goals, civil rights requirements, and housing quality standards found in 24 CFR § 983.57(b) and other provisions of the Code of Federal Regulations, as well as other guidance from the Department of Housing and Urban Development. The MDOC PHA will not select a site until it "has determined that PBVASH assistance for housing at the selected site is consistent with the goal of de-concentrating poverty and expanding housing and economic opportunities

The MDOC Project-Based VASH program is subject to all applicable requirements of the most current MDOC PHA Administrative Plan, including the requirements detailed below.

PBVASH Proposal Selection

Current HUD guidance provides two methods for PBVASH proposal selections: (1) issue a request for proposals, or (2) select a proposal based on a previous competition under a federal, state, or local government housing assistance, community development, or supportive services program [24 CFR 983.51].

If MDOC utilizes method 1, MDOC will provide broad public notice of the opportunity to offer PBVASH proposals for consideration by MDOC. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of the request for PBVASH proposals must specify the submission deadline. Detailed application and selection information will be provided at the request of interested parties [24 CFR 983.51].

If MDOC utilizes method 2, MDOC will select an eligible proposal for housing assisted under a federal, state, or local government housing assistance, community development, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBVASH proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBVASH assistance [24 CFR 983.51(b)].

MDOC may directly contact specific owners that have already been selected for federal, state or local housing assistance based on a previously held competition, to inform them of available PBVASH assistance.

PBVASH SITE SELECTION

MDOC will select sites according to guidance contained within 24 CFR 983.57. Any PBVASH proposal will only be considered by MDOC if the proposed site is consistent with the goal of de-concentrating poverty and expanding housing and economic opportunities. Any PBVASH proposal and associated project site must be consistent with 24 CFR 903 and this administrative plan.

MDOC will assess the viability of a PBVASH proposal/site selection according to:

- Owner experience and capability to build or rehabilitate housing as identified in the proposal;

- Extent to which the project furthers MDOC’s goal of de-concentrating poverty and expanding housing and economic opportunities;
- The extent to which services are provided on-site or in the immediate area for occupants of the property.

25 PERCENT CAP ON NUMBER OF PBVASH UNITS PER BUILDING

Exceptions to the 25 percent cap will be granted only if the units are excepted units in a multifamily building specifically made available for elderly or disabled families.

PBVASH WAIT LIST

Applicants who will occupy units with PBVASH assistance must be selected from either the MDOC VASH (voucher) list, or the PBVASH (project-based voucher) list. MDOC will work closely with the PBVASH owner to ensure applicants are placed on the appropriate wait list (or both wait lists).

OWNER SELECTION (SCREENING) OF TENANTS

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing conditions for very low-income families and reasonably related to program eligibility and an applicant’s ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection.

WRONG-SIZE OR ACCESSIBLE UNITS

The owner will notify the family of the family’s need to move based on the occupancy of a wrong-size or accessible unit within 15 days of the owner’s determination. MDOC will offer the family an appropriate tenant-based voucher, based on availability of assistance.

VACANCY CLAIMS

MDOC will make vacancy claims if:

- The owner provides prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner’s knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken very reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by MDOC to verify that the owner is entitled to the vacancy payment.

Vacancy payments will be subject to the requirements as defined under 24 CFR 983.352.

ANNUAL PLAN AMENDMENT CERTIFICATION

This amendment is in compliance with 24 CFR 903.7(r)(2)(ii) and 24 CFR 903.21. The inclusion of PBVASH in the MDOC Annual Plan does not alter the overall mission of MDOC , nor does it significantly alter the customer base served, as MDOC currently administers a VASH Voucher program.

PROJECTED PBVASH UNITS

MDOC PHA limits PBVASH units to 75 per property/owner. Locations include Helena and any other location in the State where significant need is demonstrated.

Chapter 28

PROJECT BASING MDOC'S HOUSING CHOICE VOUCHERS (PBV)

INTRODUCTION

The MDOC Project-Based Housing Choice Voucher Program (PBV) is subject to all applicable requirements of the most current MDOC PHA Administrative Plan, including the requirements detailed below. In addition, the MDOC PBV Program is subject to all applicable HUD directives and guidance, including 24 CFR Part 983. Under the PBV Program, MDOC is allowed to project-base up to 20 percent of annual budget authority, as determined by HUD. Housing projects are subject to a 25 percent cap on the number of PBV assisted units (of the total number of dwelling units).

PBV Proposal Selection

Current HUD guidance provides two methods for PBV proposal selections: (1) issue a request for proposals, or (2) select a proposal based on a previous competition under a federal, state, or local government housing assistance, community development, or supportive services program [24 CFR 983.51]. The proposal must have been selected in accordance with such program's competitive selection requirements within 3 years of the PBV proposal selection date, and the earlier competitively selected housing assistance proposal did not involve any consideration that the project would receive PBV assistance.

MDOC will utilize method 2 (24 CFR 983.51(b)). MDOC will select eligible proposals for housing assisted under a federal, state, or local government housing assistance, community development, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance [24 CFR 983.51(b)].

MDOC may directly contact specific owners that have already been selected for federal, state or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

PBV BUDGET AUTHORITY

Up to 20 percent of the MDOC HCV annual budget authority, as determined by HUD, may be utilized for PBV purposes. MDOC contracts with 11 "Field Agents" to perform required HUD HCV activities. Budget authority and associated vouchers for each PBV property will be included in the maximum voucher amount specified in the MDOC/Field Agent contract in effect at the time the PBV contract is completed.

MDOC will consider PBV applications starting July 1, 2018. Applications will be reviewed and considered on a first-come, first-served basis. All proposal selection procedures and

notifications will comply with 24 CFR 983.51. Additionally, MDOC will take into consideration the geographic location of where the project-based vouchers would be available ensuring that the distribution of project-based vouchers is equitable throughout the state. And, at MDOC's discretion, MDOC may reject certain applications based on budgetary and/or other management factors outlined in 24 CFR 983.

PBV SITE SELECTION

MDOC will select sites according to guidance contained within 24 CFR 983.57. Any PBV proposal will only be considered by MDOC if the proposed site is consistent with the goal of de-concentrating poverty and expanding housing and economic opportunities. Any PBV proposal and associated project site must be consistent with 24 CFR 903 and this administrative plan.

MDOC will assess the viability of a PBV proposal/site selection according to:

- Owner experience and capability to build or rehabilitate housing as identified in the proposal;
- Extent to which the project furthers MDOC's goal of de-concentrating poverty and expanding housing and economic opportunities;
- The extent to which services are provided on-site or in the immediate area for occupants of the property.

25 PERCENT CAP ON NUMBER OF PBV UNITS PER BUILDING

Exceptions to the 25 percent cap will be granted only if the units are excepted units in a multifamily building specifically made available for elderly or disabled families

SUBSIDY LAYERING

Subsidy layering will be completed in accordance with the requirements of CFR 983.55.

ENVIRONMENTAL REVIEW

MDOC Section 8 Program will require that all PBV applications (related to existing housing only) include a certification of "categorical exclusion", as determined by a recognized "responsible entity" or RE (CFR 983.58).

UNIT INSPECTIONS

Unit inspections will be completed in accordance with the applicable requirements of CFR 983.103.

PBV WAIT LIST

Applicants who will occupy units with PBV assistance must be selected from the MDOC HCV wait list for the geographic area the PBV project is located in. Wait list selection will be in accordance with requirements specified in CFR 983.251.

OWNER SELECTION (SCREENING) OF TENANTS

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing conditions for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection (CFR 983.255).

WRONG-SIZE OR ACCESSIBLE UNITS

The owner will notify the family of the family's need to move based on the occupancy of a wrong-size or accessible unit within 15 days of the owner's determination. MDOC will offer the family an appropriate tenant-based voucher, based on availability of assistance.

VACANCY CLAIMS

MDOC will make vacancy claims if:

- The owner provides prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken very reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by MDOC to verify that the owner is entitled to the vacancy payment.

Vacancy payments will be subject to the requirements as defined under 24 CFR 983.352.

HOUSING ASSISTANCE PAYMENT (HAP) CONTRACT

The PBV HAP contract is between MDOC and the property owner. MDOC Section 8 Program makes payments to PBV owners. Each PBV HAP contract will be in accordance with requirements specified in CFR 983, Subpart E. MDOC Section 8 Program will enter into PBV HAP contracts for 5, 10 or 15 year terms.

Chapter 29

VAWA EMERGENCY TRANSFER PLAN

MDOC has adopted HUD's model VAWA emergency transfer plan which is published as a separate document and available on its website at housing.mt.gov.