Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

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

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

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

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

Part IV: Owner or Family Debts to DMMHA. This part describes policies for recovery of monies that DMMHA has overpaid on behalf of families or to owners.

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

Part VI: Reporting and Record Keeping for Children with Elevated Blood Lead Level. This part describes DMMHA’s responsibilities for reporting, data collection, and record keeping relative to children with elevated blood lead levels that are less than six years of age, and are receiving HCV assistance.

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

Part VIII: Notification Regarding Applicable Provisions of the Violence Against Women Reauthorization Act of 2013 (VAWA): This part describes the steps that the DMMHA will take to ensure that all actual and potential beneficiaries of its housing choice voucher program are notified about their rights and that owners and managers are notified of their obligations under VAWA.
PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

DMMHA will maintain an administrative fee reserve for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a DMMHA fiscal year. If funds in the administrative fee reserve are not needed to cover DMMHA administrative expenses, DMMHA may use these funds for other housing purposes permitted by Federal, State and local law.

HUD requires the DMMHA Governing Board or other authorized officials to establish the maximum amount that may be charged against the administrative fee reserve without specific approval.

Expenditures from the administrative fee reserve will be made in accordance with all applicable Federal requirements. Expenditures will not exceed $25,000 per occurrence without the prior approval of DMMHA’s Governing Board.
PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

16-II.A. OVERVIEW

This part discusses how the DMMHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- **Payment Standards**, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and

- **Utility Allowances**, which specify how a family’s payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

Copies of the payment standard and utility allowance schedules are available for review in the DMMHA’s offices during normal business hours.

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

Establishing and updating the DMMHA passbook rate, which is used to calculate imputed income from assets, is covered in Chapter 6.

16-II.B. PAYMENT STANDARDS [24 CFR 982.503]

The payment standard sets the maximum subsidy payment a family can receive from the DMMHA each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD.

The DMMHA will establish a payment standard schedule that establishes payment standard amounts for our jurisdiction.

**Updating Payment Standards**

The DMMHA will review the appropriateness of the payment standards on an annual basis when the new Fair Market Rent (FMR) is published. Implementation of the new payment standards will take effect upon approval by the Municipal Housing Governing Board and, at the DMMHA discretion, for all new participants and relocations either the first of the month after Board approval or three (3) months after Governing Board approval. For all regular reexaminations the first of the month three (3) months after Governing Board approval, unless otherwise directed by HUD.

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

A DMMHA-established utility allowance schedule is used in determining family share and DMMHA subsidy. The DMMHA will maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.
The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services may not be included in the utility allowance schedule.

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

The cost of each utility and housing service will be stated separately by unit size and type.

**Air Conditioning**

The DMMHA has included an allowance for air-conditioning in its schedule.

**Utility Allowance Revisions**

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

The DMMHA will maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.
PART III: INFORMAL REVIEWS AND HEARINGS

16-III.A. OVERVIEW

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

The process for applicant appeals of DMMHA decisions is called the “informal review”. For participants (or applicants denied admission because of citizenship issues), the appeal process is called an “informal hearing”.

Regulatory provisions provide for a differentiation between the status of an applicant and that of a participant.

Applicants:

1. Neither the statute (1937 Act) nor the regulations create any property right to assistance under the 1937 Act, or to action by DMMHA which may lead to participation in the program.

2. A determination that a family is eligible, and to list a family on the DMMHA waiting list, means only that a family may stand in line for assistance.

3. Being determined eligible or placed on the program waiting list is no guarantee that the applicant family will ever be issued a Housing Choice Voucher, or that if a Housing Choice Voucher is issued, the applicant family will find a landlord who will accept the family as a tenant.

The regulations provide that an applicant family becomes a program participant at the time DMMHA executes a Housing Assistance Payments Contract with a landlord or owner on behalf of the family.

Because of the difference in the status of applicants and participants DMMHA will administer separate and distinct opportunities for either an applicant or participant to present objections to certain and specific DMMHA actions and/or decisions affecting program status and assistance.

16-III.B. INFORMAL REVIEWS

Informal reviews are provided for program applicants, other than non-citizen applicants as addressed in Section 16-III.B.1. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a “minimum hearing requirement” [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements. (Federal Register Volume 60, No. 127, p 36490).
Decisions Subject to Informal Review

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

- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures
- Denial of assistance based on an unfavorable history that may be the result of domestic violence, dating violence, sexual assault or stalking. (See Section 3-III.G.)

Informal reviews are not required for the following reasons, therefore the DMMHA will not give an applicant an opportunity for an informal review for the following [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the DMMHA
- General policy issues or class grievances
- A determination of the family unit size under the DMMHA subsidy standards
- A DMMHA determination not to grant approval of the tenancy
- A DMMHA determination that the unit is not in compliance with the HQS
- A DMMHA determination that the unit is not in accordance with the HQS due to family size or composition
- A DMMHA determination not to approve a request by a Housing Choice Voucher holder for an extension or suspension of the Housing Choice Voucher.
- A DMMHA determination to retire/withdraw an application from the waiting list.

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

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

When denying eligibility for admission, the DMMHA must provide the family a notice of VAWA rights (form HUD-5380) as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with the Violence against Women Reauthorization Act of 2013. The notice and self-certification form must accompany the written notification of the denial of eligibility determination.

Scheduling an Informal Review

The applicant must submit a written request for an Informal Review within 10 business days after DMMHA mails the notification of the decision denying assistance. An applicant will only
be afforded the opportunity to request an informal review to be rescheduled (2) times. Requests to reschedule must be requested prior to the date and time of the informal review.

In the event that a reschedule request is received within 24 hours after the initial scheduled informal review date and time, the DMMHA will consider extenuating circumstances (such as car accident, hospitalization, death in family) and will require verification of the documented emergency.

A delay in requesting a file review or copies of file documents will not be grounds for a continuance or reschedule of an informal review.

**Applicant Requests to Review files**

Applicants will be permitted to review the contents of their file maintained by DMMHA upon written request.

Applicants will be given the opportunity to examine before the informal review any DMMHA documents that are directly relevant to the informal review. The family will be allowed to copy any such document at the family’s expense. If the DMMHA does not make the document available for examination on request of the family, the DMMHA may not rely on the document at the informal review.

**DMMHA right to examine family documents:**

The DMMHA must be given the opportunity to examine at DMMHA offices before the hearing any family documents that are directly relevant to the review, within a reasonable timeframe (at least 24 hours). The DMMHA must be allowed to copy any such document at the DMMHA’s expense. If the family does not make the document available for examination on the request of the DMMHA, the family may not rely on the document at the review.

i. The term “documents” includes records and regulations.

A delay in requesting a file review or copies of file documents will not be grounds for a continuance or reschedule of the review.

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

The informal review will 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 will be provided an opportunity to present written or oral objections to the decision of the DMMHA.

The applicant may be, at its own expense, represented by a lawyer or other representative.

If the applicant/tenant family is represented by an attorney, they shall provide notice to DMMHA at least three business days prior to the informal review/informal hearing. If an attorney comes to the informal review/informal hearing to represent the applicant/tenant family without prior notice to DMMHA, then DMMHA shall be afforded the opportunity for a continuance so DMMHA may also obtain legal representation.
If the applicant family is more than 15 minutes late the Review Officer will declare that the applicant has waived their right to the review. The DMMHA may make exceptions to the 15 minute rule for extenuating circumstances. Extenuating circumstances are reviewed on a case-by-case basis.

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

The DMMHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision, within a reasonable period of time. The notice will be mailed to the applicant and his or her representative, if any, along with proof of mailing.

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

**Effects of Decision**

In accordance with federal regulations, the DMMHA will not be bound by an informal review decision in the following circumstances:

a. Concerning a matter for which the DMMHA is not required to provide an opportunity for an informal review in accordance with applicable regulations.

b. A decision in excess of the authority of the Review Officer, or

c. A decision contrary to Department of Housing and Urban Development regulations or requirements, or otherwise contrary to Federal, State or Local law.

If the DMMHA determines that it is not bound by an informal review decision, the DMMHA will promptly notify the participant individual or family of the determination and the reason(s) for the determination.

**Privacy of Informal Review Proceedings:**

Unless specifically invited to hearing proceedings by DMMHA or participant/applicant, no outside persons will be allowed to attend the informal review proceedings. No third party audio or video recording of an informal review will be allowed without a specific court order presented to the DMMHA at least 24 hours prior to the informal review. The DMMHA’s recording is the only recording permitted. A copy of the recording will be provided free of charge from the Agency upon written request from the participant/applicant.

**Records:**

1. A separate record and file of Informal Reviews conducted will be maintained for a period of five years.

2. A designated DMMHA staff person will be responsible for the scheduling, notification and record keeping activities associated with the applicant Informal Review process.

**16-III.B.1. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]**

In accordance with federal regulations, denial or termination of assistance based on immigration status is subject to separate hearing and notice rules. Such hearings are referred to in the federal
regulations as “informal hearings”, but the requirements for such hearings are different from the informal hearings used to deny applicants or terminate for participants for reasons other than immigration status.

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

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

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

As discussed in Chapters 3 and 13 of this Plan, the notice of denial or termination of assistance for noncitizens must advise the family of any of the following that apply:

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

When the DMMHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the DMMHA must notify the family of the results of the USCIS verification in writing within 10 business days of receiving said results. The family will have 30 calendar days from the date of the DMMHA’s notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the DMMHA with a copy of the written request for appeal and proof of mailing.

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

The USCIS will notify the family, with a copy to the DMMHA, of its decision. When the USCIS notifies the DMMHA of the decision, the DMMHA must notify the family of its right to request an informal hearing, which written notice will be sent by DMMHA within 10 business days of receiving notice of the USCIS decision.
Informal Hearing Procedures [24 CFR 5.514(f)]

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

The informal hearing procedures for applicant and participant families are described below.

Informal Hearing Officer

The DMMHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

Evidence

The family must be provided the opportunity to examine and copy at the family’s expense, at a reasonable time in advance of the hearing, any documents, including but not limited to records and regulations, in the possession of the DMMHA pertaining to the family’s eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

Applicants/tenants will be permitted to review the contents of their file maintained by DMMHA upon written request.

Any document not made available by DMMHA for examination on request of the family may not be relied upon by DMMHA during the informal review.

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

The DMMHA must be given the opportunity to examine at DMMHA offices before the hearing any family documents that are directly relevant to the hearing, within a reasonable timeframe (at least 24 hours). The DMMHA must be allowed to copy any such document at the DMMHA’s expense. If the family does not make the document available for examination on the request of the DMMHA, the family may not rely on the document at the hearing.

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

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family’s expense, and to have such person make statements on the family’s behalf. If the applicant/tenant family is represented by an attorney, they shall provide notice to DMMHA at least three business days prior to the informal review/informal hearing. If an attorney comes to the informal review/informal hearing to represent the applicant/tenant family without prior notice to DMMHA, then DMMHA shall be afforded the opportunity for a continuance so DMMHA may also obtain legal representation.
If the family is in need of an interpreter and does not arrange for their own interpreter, the DMMHA is obligated to provide oral translation services in accordance with its LEP Plan at the DMMHA’s expense.

**Recording of the Hearing**

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

No third party audio or video recording of an informal review will be allowed without a specific court order presented to the DMMHA at least 24 hours prior to the informal review. The DMMHA’s recording is the only recording permitted. A copy of the recording will be provided free of charge from the Agency upon written request from the participant/applicant.

**Hearing Decision**

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

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

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

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

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

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

The informal hearing procedures for resident families whose tenancy is being terminated based on immigration status is the same as for any grievance under the grievance procedures for resident families found in Part III.C below.
16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]

The DMMHA must offer an informal hearing for certain DMMHA determinations relating to the individual circumstances of a participant family, other than non-citizen participant families as addressed in Section 16-III.B.1. A participant is defined as a family that has been admitted to the DMMHA’s HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the DMMHA’s decisions related to the family’s circumstances are in accordance with the law, HUD regulations and DMMHA policies.

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

Decisions Subject to Informal Hearing

The DMMHA will provide an opportunity for an informal hearing to consider whether decisions relating to the individual circumstances of a participating individual or family are in accordance with law, Department of Housing and Urban Development regulations and DMMHA policy in the following instances:

a. A determination of the family's annual or adjusted income and the use of such income to compute the housing assistance payment.

b. A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the DMMHA utility allowance schedule.

c. A determination of the family unit size under the DMMHA Subsidy Standards.

d. A determination to deny or terminate assistance on behalf of the participating individual or family because of the family's action or failure to act.

e. A determination that a Housing Choice Voucher program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the DMMHA’s Subsidy Standards Policy, or the DMMHA’s determination to deny the family's request for an exception from the standards.

f. In the instance of an assisted family which wants to move to another dwelling unit with continued participation, a determination of the number of bedrooms entered on the Housing Choice Voucher under the Subsidy Standards Policy.

g. A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted by the DMMHA and HUD rules.

Circumstances for which an informal hearing is not required are as follows:
The DMMHA will not provide a participant family an opportunity for an informal hearing for any of the following:

a. Discretionary administrative determinations by the DMMHA.
b. General policy issues or class grievances.
c. Establishments of the DMMHA schedule of utility allowances for families in the program.
d. A DMMHA determination not to approve an extension or suspension of a Housing Choice Voucher term.
e. A DMMHA determination not to approve a unit or lease.
f. A DMMHA determination that an assisted unit is not in compliance with HQS.
g. A DMMHA determination that the unit is not in accordance with HQS because of family size.
h. A determination by the DMMHA to exercise or not to exercise any right or remedy against the owner under a HAP contract.

Informal Hearing Procedures

Notice to the Family [24 CFR 982.555(c)]

a. The DMMHA will give the participating individual or family prompt, written notice of a decision. The notice will contain a brief statement of reasons for the decision and state that if the family does not agree with the decision, the family may request in writing, within 10 business days after DMMHA mails the notification of the decision terminating the assistance, an informal hearing. All notifications will be sent Certified, return receipt requested and regular mail.

In addition to the regulatory required informal hearings, DMMHA may conduct an informal discussion with the participant individual or family prior to them requesting an informal hearing.

b. In all instances where a hearing is required, the DMMHA will proceed with a hearing in a reasonably expeditious manner upon receipt of a written request from a participant.

c. When notifying a family of termination of assistance, the DMMHA must provide the family a notice of VAWA rights (form HUD-5380) as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with the Violence against Women Reauthorization Act of 2013. The notice and self-certification form must accompany the written notification of the termination of assistance.

Informal Hearing Procedures

1. The participant must submit a written request for an Informal Hearing within 10 business days after DMMHA mails the notification of the decision terminating the assistance.
Upon receipt of a written request for an informal hearing, the staff member receiving the request will date/time stamp the request and complete a Request for Hearing form. The Request for Hearing form will be given to the appropriate staff to complete a Request for Hearing form and schedule the informal hearing. Prior to the date of a scheduled informal hearing, a Participant will only be afforded the opportunity to request an informal hearing be rescheduled (2) times. Requests to reschedule must be requested prior to the date and time of the informal review.

In the event that a reschedule request is received within 24 hours after the initial scheduled informal review date and time, the DMMHA will consider extenuating circumstances (such as car accident, hospitalization, death in family) and will require verification of the documented emergency.

a. The hearing may be conducted by any person or persons designated by the DMMHA, other than a person who made or approved the decision under review or a subordinate of this person.

b. The participating individual or family may be, at its own expense, represented by a lawyer or other representative. If the applicant/participant family is represented by an attorney, they shall provide notice to DMMHA at least three business days prior to the informal review/informal hearing. If an attorney comes to the informal review/informal hearing to represent the applicant/participant family without prior notice to DMMHA, then DMMHA shall be afforded the opportunity for a continuance so DMMHA may also obtain legal representation.

c. The Hearing Officer will regulate the conduct of the hearing. If the participant is more than 15 minutes late the Hearing Officer will declare that the tenant/participant has waived their right to the hearing.

   i. The DMMHA may make exceptions to the 15 minute rule for extenuating circumstances. Extenuating circumstances are reviewed on a case-by-case basis.

d. The DMMHA and the participant individual or family will be given the opportunity to present evidence and may question any witnesses.

e. The family will be given the opportunity to examine before the hearing any DMMHA documents that are directly relevant to the hearing. The family will be allowed to copy any such document at the family’s expense. If the DMMHA does not make the document available for examination on request of the family, the DMMHA may not rely on the document at the hearing.

   i. The term “documents” includes records and regulations.

f. The DMMHA must be given the opportunity to examine at DMMHA offices before the hearing any family documents that are directly relevant to the hearing, within a reasonable timeframe (at least 24 hours). The DMMHA must be allowed to copy any such document at the DMMHA’s expense. If the family does not make the document available for
examination on the request of the DMMHA, the family may not rely on the document at the hearing.

- i. The term “documents” includes records and regulations.

g. A delay in requesting a file review or copies of file documents will not be grounds for a continuance or reschedule of a hearing.

h. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial hearings.

i. The Hearing Officer will issue a written decision, within a reasonable period of time, stating briefly the reasons for the decision.

j. Factual determinations relating to the individual circumstances of the participant individual or family will be based on the evidence presented at the hearing.

k. A copy of the hearing decision will be furnished promptly to the participant individual or family.

5. Effects of Decision

In accordance with federal regulations, the DMMHA will not be bound by a hearing decision in the following circumstances:

a. Concerning a matter for which the DMMHA is not required to provide an opportunity for an informal hearing in accordance with applicable regulations.

b. A decision in excess of the authority of the Hearing Officer, or

c. A decision contrary to Department of Housing and Urban Development regulations or requirements, or otherwise contrary to Federal, State or Local law.

If the DMMHA determines that it is not bound by a hearing decision, the DMMHA will promptly notify the participant individual or family of the determination and the reason(s) for the determination.

Privacy of Hearing Proceedings:

Unless specifically invited to hearing proceedings by DMMHA or participant/applicant, no outside persons will be allowed to attend the hearing proceedings. No third party audio or video recording of a hearing will be allowed without a specific court order presented to the DMMHA at least 24 hours prior to the Hearing. The DMMHA’s recording is the only recording permitted. A copy of the recording will be provided free of charge from the Agency upon written request from the participant/applicant.

Records:

1. A separate record and file of Informal Hearings conducted will be maintained for a period of five years.

2. The applicant or participant individual or family, if dissatisfied with the decision resulting from the Informal Review or Hearing, will be advised of the right to exercise
their rights if they feel the determination was based on discrimination due to race, color, religion, sex, creed, national origin, handicap or age.

PART IV: OWNER OR FAMILY DEBTS TO THE DMMHA

16-IV.A. OVERVIEW

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

When an owner or participant refuses to repay monies owed to DMMHA, DMMHA will utilize other available collection alternatives.

16-IV.B. MONIES OWED TO DMMHA

Owner Debts to DMMHA

Any amount due to DMMHA by an owner must be repaid by the owner within 30 days of DMMHA’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, DMMHA 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 and refuses to repay the debt within the required time frame, DMMHA will ban the owner from future participation in the program until the debt is paid in full. If the debt is not paid, the DMMHA may pursue collection of the debt through the State Tax Offset Program or any other legal remedy.

Family Debts to DMMHA

Current Participants

Any amount due to DMMHA by a participant must be repaid, in full, by the family within 6 months.

Failure to repay DMMHA, in full, within 6 months, without an approved extension, is grounds for termination of benefits. The 6 months time period may only be extended at the sole discretion of the DMMHA. To qualify for an extension the family must either:

A. (1) Have paid at least half of the total debt owed prior to the deadline required; and
   (2) Request the extension in writing and submit the request to the family’s Housing Case Manager; or

B. (1) Attend an informal discussion, in accordance with DMMHA’s termination of assistance and informal discussion procedures, and pay one half of the monies owed by 5:00 p.m. on the date of the informal discussion.
   (2) Request an extension by 5:00 p.m. on the date of the informal discussion.

If the DMMHA grants the requested extension, the remaining amount due must be paid in full by the deadline given in the letter granting the extension. No additional extensions will be granted.
DMMHA will terminate the assistance upon proper notification to the family and pursue collection of the debt through the State Tax Offset Program.

DMMHA may pursue collection of monies owed through a court action or any other available legal remedy.

DMMHA will enter debts owed to DMMHA into the PIH Enterprise Income Verification System which is HUD’s national repository of families that owe a debt to any PHA and were terminated from the Program.

Applicants
In the event that an applicant owes money to DMMHA, the DMMHA will notify the applicant of any outstanding balance owed and allow the applicant 60 days to pay the balance in full. If the applicant fails to repay the balance in full within the 60 day time frame, the applicant will be determined ineligible for assistance and their application for assistance will be denied.
PART V: RECORD KEEPING

16-V.A. OVERVIEW
The DMMHA will maintain complete and accurate accounts and other records for the program in accordance with HUD requirements.

16-V.B. RECORD RETENTION AND RECORDS MANAGEMENT [24 CFR 982.158]
The DMMHA will maintain applicant and participant files and information in accordance with the regulatory requirements, as amended, or as required by State or local law.
DMMHA will keep confidential records of all emergency transfers requested in accordance with DMMHA’s Emergency Transfer Plan.

Criminal Records
The DMMHA will only disclose the criminal conviction records which the DMMHA receives from a law enforcement agency to officers or staff of the DMMHA, or to authorized representatives of the DMMHA who have a job-related need to have access to the information [24 CFR 5.903(e)].
PART VI: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL

16-VI.A. OVERVIEW

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

16-VI.B. REPORTING REQUIREMENT [24 CFR 35.1225(e); Notice PIH 2017-13]

The owner must report the name and address of a child identified as having an elevated blood lead level to the public health department within five business days of being so notified by any other medical health care professional. The owner must also notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child’s address within five business days. The DMMHA may collaborate with the owner on the notification process, such as by agreeing with the owner to provide the required notifications on the owner’s behalf.

Upon notification by the owner, the DMMHA will provide the public health department written notice of the name and address of any child identified as having an elevated blood lead level within five business days.

Upon notification by the owner, the DMMHA will notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child’s address within five business days.

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

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

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

At least quarterly, the DMMHA must also report an updated list of the addresses of units receiving assistance to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.
PART VII: DETERMINATION OF INSUFFICIENT FUNDING

16-VII.A. OVERVIEW

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

16-VII.B. METHODOLOGY

DMMHA will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the DMMHA’s annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, DMMHA will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month’s average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority, or if DMMHA cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, DMMHA will be considered to have insufficient funding.
PART VIII: NOTIFICATION REGARDING APPLICABLE PROVISIONS OF THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013 (VAWA)

16-VIII.A - OVERVIEW

This part describes the steps that the DMMHA will take to ensure that all actual and potential beneficiaries of its housing choice voucher program are notified about their rights and that owners and managers are notified of their obligations under VAWA.

16-VIII.B. VAWA DEFINITIONS (24 CFR 5.2003, FR Notice 8/6/13)

DMMHA VAWA definitions are listed in Chapter 3 (3.III.F) of this Plan.

The DMMHA will make the following information readily available to anyone who requests it.

1. A copy of notice of occupancy rights under VAWA to housing choice voucher program applicants and participants (Form HUD-5380).
2. A copy of the Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking and Alternate Documentation (Form HUD-5382).
4. A copy of HUD’s Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Form HUD-5383).
5. Contact information for the National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).
6. Contact information for local victim advocacy groups or service providers.

16-VIII.C. NOTIFICATION TO APPLICANTS AND PARTICIPANTS (24 CFR 5.2005(a))

The DMMHA will provide all applicants and participants with notification of their protections and rights under VAWA when they are denied assistance, at the time of admission to the program, and when they are notified of termination of housing benefits.

DMMHA will distribute a notice of VAWA rights (form HUD-5380), along with the VAWA self-certification form (HUD-5382) in each of these three instances.

16-VIII.D. NOTIFICATION TO OWNERS AND MANAGERS

The DMMHA will inform property owners and managers of their screening and termination responsibilities related to VAWA. The DMMHA may utilize any or all of the following means to notify owners of their VAWA responsibilities:

As appropriate in day to day interactions with owners and managers.

Inserts in HAP payments, 1099s, owner workshops, classes, orientations, or newsletters.
Signs in the DMMHA lobby and/or mass mailings which include model VAWA certification forms.

16-VIII.D. DOCUMENTATION (24 CFR 5.2007)

When presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or criminal activity related to any of these forms of abuse, DMMHA will request that the individual making the claim document the abuse by providing one of the following:

1. A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim. The form may be filled out and submitted on behalf of the victim.

2. A federal, state, tribal, territorial, or local police report or court record, or an administrative record.

3. Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person’s belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

DMMHA may not require third-party documentation (forms 2 and 3 above) in addition to certification (form 1 above), except as specified below under “Conflicting Documentation,” nor may the DMMHA require certification in addition to third-party documentation [VAWA 2005 final rule].

Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. [24 CFR 5.2007(a)] DMMHA may, in its discretion, extend the deadline for an additional 10 business days. In determining whether to extend the deadline, DMMHA will consider factors that may contribute to the victim’s inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim’s need to address health or safety issues. Any extension granted by the DMMHA will be in writing.

Conflicting Documentation [24 CFR 5.2007(e)]

If presented with conflicting certification documents from members of the same household, the DMMHA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how such determinations should be made. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

If DMMHA does not receive third-party documentation within the required timeframe (and any written DMMHA-approved extensions), DMMHA will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, DMMHA will hold separate hearings for the applicants or tenants.
Failure to Provide Documentation [24 CFR 5.2007(c)]

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

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

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

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law as determined by the DMMHA following consultation with the DMMHA legal counsel, DMMHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.