

## Chapter 1

### OVERVIEW OF THE PROGRAM AND PLAN

#### INTRODUCTION

The Berkeley Housing Authority (BHA) receives its funding for the Housing Choice Voucher (HCV) program from the Department of Housing and Urban Development. The BHA is not a federal department or agency. A public housing agency (PHA) is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. BHA, a Public Housing Authority, enters into an Annual Contributions Contract with HUD to administer the program requirements on behalf of HUD. BHA ensures compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about BHA and its programs with emphasis on the HCV program. It also contains information about the purpose, intent and use of the plan. There are three parts to this chapter:

Part I: The Berkeley Housing Authority (BHA). This part includes a description of BHA, its jurisdiction, its programs, and its mission and intent.

Part II: The HCV Program. This part contains information about the Housing Choice Voucher program operation, roles and responsibilities, and partnerships.

Part III: The HCV Administrative Plan. This part discusses the purpose and organization of the plan and its revision requirements.

#### PART I: THE BERKELEY HOUSING AUTHORITY

##### 1-I.A. OVERVIEW

This part explains the origin of BHA creation and authorization, the general structure of the organization, and the relationship between the BHA Board and staff.

##### 1-I.B. ORGANIZATION AND STRUCTURE OF THE PHA

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by BHA for the jurisdiction of the City of Berkeley, CA.

The officials of a PHA are known as commissioners or, collectively, as the board of commissioners. Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation, establishing policies under which the PHA conducts business, ensuring that policies are followed by PHA staff and ensuring that the PHA is successful in its mission. The board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability.

Formal actions of the BHA are taken through written resolutions, adopted by the board of commissioners and entered into the official records of the BHA.

The principal staff member of the BHA is the Executive Director (ED), hired and appointed by the Board of Commissioners. The Executive Director is directly responsible for carrying out the

policies established by the commissioners and is delegated the responsibility for hiring, training and supervising the remainder of the BHA's staff in order to manage the day-to-day operations of the BHA to ensure compliance with federal and state laws and directives for the programs managed. In addition, the Executive Director's duties include budgeting and financial planning for the agency.

### **1-I.C. BHA MISSION**

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides guiding direction for developing strategy, defining critical success factors, searching out key opportunities, making resource allocation choices, satisfying clients and stakeholders, and making decisions.

#### BHA Policy

BHA's mission is to deliver housing, housing assistance and related services to low-income:

- a. Elderly persons 62 or older;
- b. Families, including those with children, for a limited time as necessary in order to enable them to become self-sufficient and economically independent;
- c. Persons with verifiable disabilities, for a limited time as necessary in order to enable them to become self-sufficient and economically independent; and
- d. Emancipated youth, for a limited time as necessary to become self-sufficient and economically independent;
- e. "Other low-income persons ("other singles") who are not elderly or do not have verifiable disabilities, for as limited a time as necessary in order to enable them to become self-sufficient and economically independent.

During the period of their assistance by BHA, these participants are expected to avail themselves, as necessary, of those supportive family services, education, training and job development activities needed for them to achieve self-sufficiency and economic independence.

### **1-I.D. BHA's PROGRAMS**

The following programs are included under this administrative plan:

#### PHA Policy

BHA's Administrative Plan is applicable to the operation of the Housing Choice Voucher program.

### **1-I.E. THE BHA'S COMMITMENT TO ETHICS AND SERVICE**

As a public service agency, BHA is committed to providing excellent service to HCV program participants – families and owners – in the community. The BHA's standards include:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.

- Provide decent, safe, and sanitary housing – in compliance with program housing quality standards – for very low income families while ensuring that family rents are fair, reasonable, and affordable.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.
- Promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
- Promote a housing program which maintains quality service and integrity while providing an incentive to private property owners to rent to very low-income families.
- Promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.
- Create positive public awareness and expand the level of family, owner, and community support in accomplishing the BHA’s mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the BHA’s support systems and commitment to our employees and their development.

BHA will make every effort to keep program participants informed of HCV program rules and regulations, and to advise participants of how the program rules affect them.

#### **1-1.F. CONFLICT OF INTEREST**

At appointment, and annually each July, every permanent or part-time employee shall be required to certify to potential conflicts due to family relations. For purposes of this Section “family” shall be defined as spouse or partner, mother or father, stepmother or stepfather, sister or brother (including half-brother or half-sister or stepbrother or stepsister), niece or nephew, spouse, child (including adopted and stepchild), grandparents (including step-grandparents), mother-in-law and father-in-law. Each employee shall be asked to certify as to:

- Their placement on any Section 8 or Public Housing wait list with any Public Housing Authority;
- Any Section 8 or Public Housing subsidy they are receiving from any Public Housing Authority;
- Any interest he/she has in any property being subsidized by any Public Housing Authority;
- Any family member receiving Section 8 or Public Housing assistance from any Public Housing Authority;
- Any family member on any Section 8 or Public Housing wait list with any Public Housing Authority; and
- Any family member receiving a Housing Assistance Payment from any Public Housing Authority.

In accordance with 24 CFR 982.161 neither BHA nor any of its contractors or subcontractors may enter into any contract or arrangement in connection with tenant-based or project-based programs in which any of the following classes of persons has any interest, direct or indirect, during his or her tenure with BHA or for one year thereafter:

- Any present or former member of or officer of BHA (except a participant commissioner);
- Any employee of BHA, or any contractor, subcontractor or agent of BHA, who formulates policy or who influences decisions with respect to the programs;
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs; or
- Any member of the Congress of the United States.

The Conflict of Interest prohibition under this Section may be waived by the HUD Field Office upon the request of BHA for good cause.

In accordance with 24 CFR 84.42, no officer, employee or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the officer, employee, or agent, any member of his or her immediate family, his or her spouse or partner, or an organization which employs or is about to employ any of the parties indicated herein has a financial or other interest in the firm selected for an award.

#### **1-1.G. EMPLOYEE APPLICANT/PARTICIPANT**

An employee of BHA or a relative of a BHA employee who is also an applicant or participant is entitled to the same rights and shall be expected to satisfy the same requirements as any other applicant or participant with similar status.

Employee relative is defined as the employee's spouse or partner, mother or father, stepmother or stepfather, sister or brother (including half-brother or half-sister or stepbrother or stepsister), niece or nephew, spouse, child (including adopted and stepchild), grandparents (including step-grandparents), mother-in-law and father-in-law.

No employee shall handle matters related to his/her own case or to the case(s) of member(s) or his/her family. The file of any employee/participant shall be retained by, and all certifications performed by management.

In order to ensure that the Authority is made aware of any potential conflicts, each employee will be asked to certify, in writing, relative to any potential conflict under this provision.

#### **1-1.H. BHA'S STANDARDS OF CONDUCT**

This Code of Conduct establishes standards for employees and agents of the Authority that will assure the highest level of public service. Recognizing that compliance with any ethical standards rests primarily on personal integrity and, specifically, in this instance, with the integrity of the employees and agents of BHA this Section sets forth those acts or omissions of acts that could be deemed injurious to the general mission of the Authority. In addition to the matters stated in this Plan, all employees and officials of the BHA shall comply with all applicable provisions of state and local law, including conflict of interest laws that regulate their conduct as public employees and officials.

This Code of Conduct is not intended, nor should it be construed, as an attempt to unreasonably intrude upon the individual employees' right to privacy and the right to participate freely in a democratic society and economy.

### **1-1.I. EIV SECURITY**

The BHA utilizes three types of practices and controls to secure EIV information: technical safeguard, administrative safeguards, and physical safeguards. Details of the safeguards are spelled out in the EIV System Security Policy, including any subsequent revisions, which is incorporated by reference.

### **1-1.J PRIVACY**

In an effort to protect and safeguard the information contained in BHA files, unsupervised admission to the office shall be granted only to BHA staff and sublessees. All visitors must wear an identification badge, and must be supervised by a BHA staff member.

BHA's practices and procedures are designed to safeguard the privacy of applicants and participants. All applicant and participant files will be stored in a secure location accessible only by authorized BHA staff.

- The Privacy Act of 1974 prohibits BHA from disclosing any record which is contained in a system of records by any means of communication to any person, or other agency, except pursuant to a written request by, or with the prior written consent of the individual to whom the record pertains, except as noted in 5 U.S.C. Section 552a(b).
- Each adult in an applicant or participant household is required to sign HUD's Form 9886, Authorization for Release of Information and Privacy Act Notice. This Form incorporates the Federal Privacy Act Statement and describes the conditions under which family information will be released. BHA will comply with the Privacy Act in the collection, maintenance, use and dissemination of all information obtained pursuant to the Form 9886 release.

### **1-1.K. CORE VALUES**

BHA's core values are:

- To be responsible stewards of the resources available to the Authority;
- To seek ways to respond to the unique needs of our clients, within the constraints of all applicable program rules and regulations; and
- To value the talents and gifts of our customers, prospective customers, and our staff within our respective roles.

### **1-1.L. BHA's GIFT POLICY**

- Neither BHA employees, officers, contractors subcontractors, nor agents may solicit or accept gifts, gratuities, favors or anything of monetary value from program participants, owners, suppliers, contractors, parties to sub-agreements or other persons or companies doing business, or proposing to do business, with BHA.

- If food or beverages, or small gifts with an estimated value under \$40 are left for staff, said gifts are to be placed in a common area and shared by all staff. If gifts with values in excess of \$40 and cash, money orders, checks, etc. in any amount are left with or for staff, said gift shall be donated to a community based organization serving the homeless in the City of Berkeley, including but not limited to the Berkeley Drop-In, Berkeley Food and Housing Project, or the Homeless Action Center.

## **PART II: THE HOUSING CHOICE VOUCHER (HCV) PROGRAM**

### **1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM**

The intent of this section is to provide the public and staff with information related to the overall operation of the program. There have been many changes to the program since its inception in 1974 and a brief history of the program will assist the audience in understanding the program.

The United States Housing Act of 1937 (the “Act”) is responsible for the birth of federal housing program initiatives. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing developments for low-income residents.

The Housing and Community Development (HCD) Act of 1974 created a new federally assisted housing program – the Section 8 Existing program (also known as the Section 8 Certificate program). The HCD Act represented a significant shift in federal housing strategy from locally owned public housing to privately owned rental housing.

Under the Certificate program, federal housing assistance payments were made directly to private owners of rental housing, where this housing was made available to lower-income families. Eligible families were able to select housing in the private rental market. Assuming that the housing met certain basic physical standards of quality (“housing quality standards”) and was within certain HUD-established rent limitations (“fair market rents”), the family would be able to receive rental assistance in the housing unit. Family contribution to rent was generally set at 30 percent of the family’s adjusted income, with the remainder of the rent paid by the program.

Another unique feature of the Certificate program was that the rental assistance remained with the eligible family, if the family chose to move to another privately-owned rental unit that met program requirements (in contrast to the public housing program where the rental assistance remains with the unit, should the family decide to move). Consequently, the Certificate program was characterized as tenant-based assistance, rather than unit-based assistance.

The Housing and Community Development (HCD) Act of 1987 authorized a new version of tenant-based assistance – the Section 8 Voucher program. The Voucher program was very similar to the Certificate program in that eligible families were able to select housing in the private rental market and receive assistance in that housing unit.

However, the Voucher program permitted families more options in housing selection. Rental housing still had to meet the basic housing quality standards, but there was no fair market rent limitation on rent. In addition, family contribution to rent was not set at a limit of 30 percent of adjusted income. Consequently, depending on the actual rental cost of the unit selected, a family might pay more or less than 30 percent of their adjusted income for rent.

From 1987 through 1999, public housing agencies managed both the Certificate and Voucher tenant-based assistance programs, with separate rules and requirements for each. From 1994 through 1998, HUD published a series of new rules, known as “conforming” rules, to more closely combine and align the two similar housing programs, to the extent permitted by the law.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act – was signed into law. QHWRA eliminated all statutory differences between the Certificate and Voucher tenant-based programs and required that the two programs be merged into a single tenant-based assistance program, now known as the Housing Choice Voucher (HCV) program.

The HCV program was modeled closely on the pre-merger Voucher program. However, unlike the pre-merger Voucher program, the HCV program requires an assisted family to pay at least 30 percent of adjusted income for rent.

The transition of assistance from the Certificate and Voucher programs to the new HCV program began in October 1999. By October 2001, all families receiving tenant-based assistance were converted to the HCV program.

### **1-II.B. HCV PROGRAM BASICS**

The purpose of the HCV program is to provide rental assistance to eligible families. The rules and regulations of the HCV program are determined by the U.S. Department of Housing and Urban Development. BHA is afforded choices in the operation of the program which are included in the BHA’s administrative plan, a document approved by the board of commissioners of the PHA.

The HCV program offers mobility to eligible families because they may search for suitable housing anywhere in BHA’s jurisdiction and may also be eligible to move under portability to other PHAs’ jurisdictions.

When a family is determined to be eligible for the program and funding is available, BHA issues the family a housing voucher. When the family finds a suitable housing unit and funding is available, BHA will enter into a contract with the owner and the family will enter into a lease with the owner. Each party makes their respective payment to the owner so that the owner receives full rent.

Even though the family is determined to be eligible for the program, the owner has the responsibility of approving the family as a suitable renter. BHA continues to make payments to the owner as long as the family is eligible and the housing unit continues to qualify under the program.

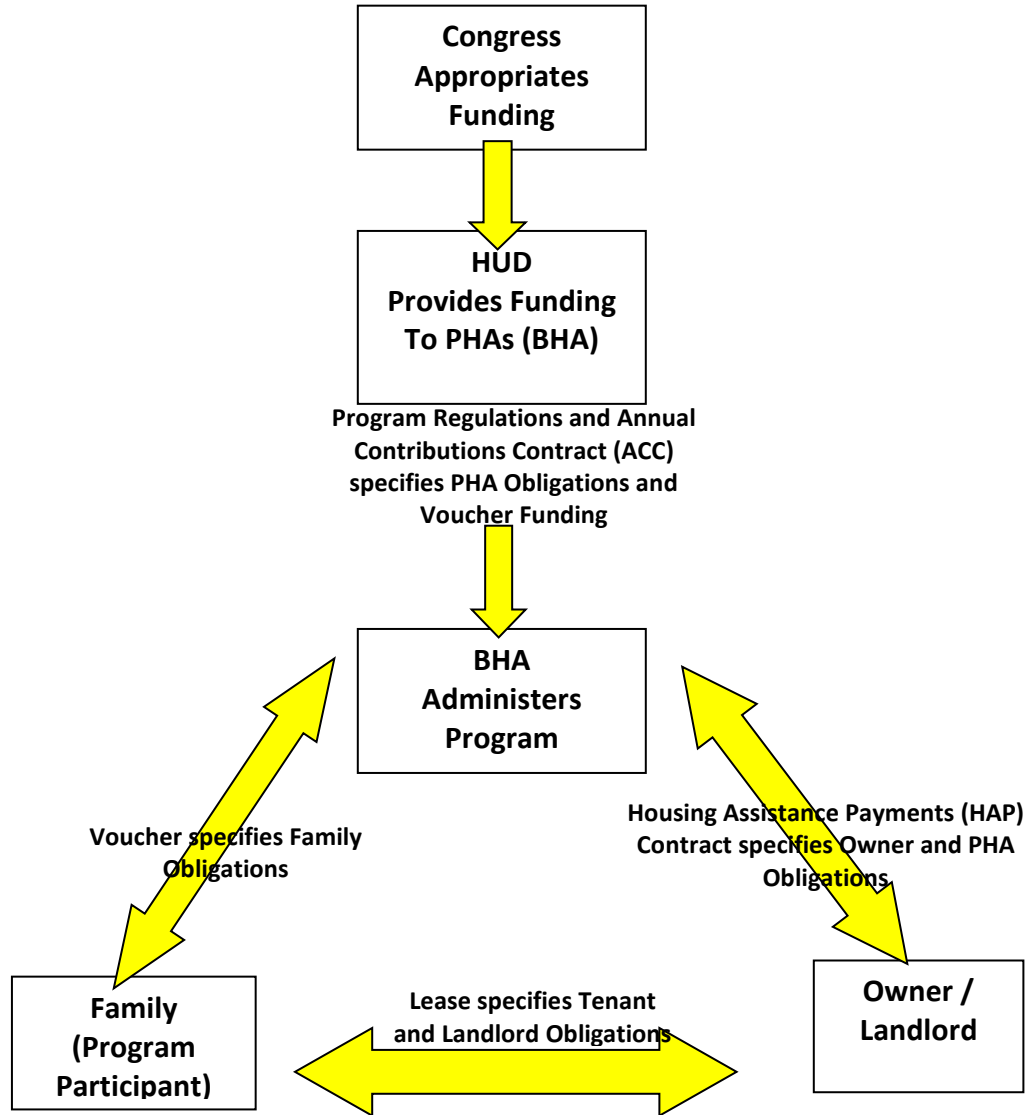
### **1-II.C. THE HCV PARTNERSHIPS**

To administer the HCV program, BHA enters into a contractual relationship with HUD. The BHA 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, BHA, 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.

The chart below illustrates key aspects of these relationships.

**The Housing Choice Voucher Relationships:**





### **What does HUD do?**

HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices and other guidance to implement HCV housing program legislation passed by Congress;
- Allocate HCV program funds to PHAs;
- Provide technical assistance to PHAs on interpreting and applying HCV program requirements;
- Monitor PHA compliance with HCV program requirements and PHA performance in program administration.

### **What does BHA do?**

BHA administers the HCV program under contract with HUD and has the following major responsibilities:

- Establish local policies;
- Review applications from interested applicant families to determine whether applicants are eligible for the program;
- Maintain waiting list and select families for admission;
- Issue voucher to selected family and, if necessary, assist the family in finding a place to live;
- Conduct outreach to owners, with special attention to owners outside areas of poverty or minority concentration;
- Approve the rental unit (including assuring compliance with housing quality standards and rent reasonableness), the owner, and the tenancy;
- Make housing assistance payments to the owner in a timely manner;
- Ensure that families and their rental units continue to qualify under the program;
- Ensure that owners and families comply with program rules;
- Provide families and owners with prompt, professional service;
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, BHA's administrative plan, and other applicable federal, state and local laws.

## **What does the Owner do?**

The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine if they will be good renters.
  - BHA can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.
  - The owner should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.
- Comply with the terms of the Housing Assistance Payments contract, executed with BHA;
- Comply with all applicable fair housing laws and discriminate against no one;
- Maintain the housing unit by making necessary repairs in a timely manner;
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

## **What does the Family do?**

The family has the following responsibilities:

- Provide BHA with complete and accurate information, determined by BHA to be necessary for administration of the program;
- Make their best and most timely efforts to find a place to live that is suitable for them and that qualifies for the program;
- Attend all appointments scheduled by BHA;
- Respond promptly and completely to written requests from BHA;
- Allow BHA to inspect the unit at reasonable times and after reasonable notice;
- Take responsibility for care of the housing unit, including any violations of housing quality standards caused by the family;
- Comply with the terms of the lease with the owner;
- Comply with the family obligations of the voucher;
- Not commit serious or repeated violations of the lease;
- Not engage in drug-related or violent criminal activity;
- Notify BHA and the owner before moving or terminating the lease;
- Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit, assign the lease, or have any interest in the unit;
- Promptly notify BHA of any changes in family composition;

- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

If all parties fulfill their obligations in an appropriate and timely manner, the program responsibilities will be fulfilled effectively.

### **1-II.D. APPLICABLE REGULATIONS**

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program

## **PART III: THE HCV ADMINISTRATIVE PLAN**

### **1-III.A. OVERVIEW AND PURPOSE OF THE PLAN**

The Administrative Plan is required by HUD. The purpose of the Administrative Plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in BHA's Agency Plan. This Administrative Plan is a supporting document to the BHA agency plan, and is available for public review as required by CFR 24 Part 903.

This Administrative Plan is set forth to define the BHA's local policies for operation of the housing programs in the context of federal laws and regulations. All issues related to Section 8 not addressed in this document are governed by such federal regulations, HUD handbooks and guidebooks, notices and other applicable law. The policies in this Administrative Plan have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding.

BHA is responsible for complying with all changes in HUD regulations pertaining to the HCV program. If such changes conflict with this plan, HUD regulations will have precedence.

Administration of the HCV program and the functions and responsibilities of BHA staff shall be in compliance with BHA's personnel policy and HUD's Section 8 regulations as well as all federal, state and local fair housing laws and regulations.

### **1-III.B. CONTENTS OF THE PLAN [24 CFR 982.54]**

HUD regulations contain a list of what must be included in the Administrative Plan. BHA Administrative Plan must cover BHA policies on these subjects:

- Selection and admission of applicants from BHA waiting list, including any BHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening BHA waiting list (Chapter 4);
- Issuing or denying vouchers, including BHA policy governing the voucher term and any extensions or suspensions of the voucher term. 'Suspension' means stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If

BHA decides to allow extensions or suspensions of the voucher term, the BHA Administrative Plan must describe how BHA determines whether to grant extensions or suspensions, and how BHA determines the length of any extension or suspension (Chapter 5);

- Any special rules for use of available funds when HUD provides funding to BHA for a special purpose (e.g., desegregation), including funding for specified families or a specified category of families (Chapter 4);
- Occupancy policies, including definition of what group of persons may qualify as a 'family', definition of when a family is considered to be 'continuously assisted'; standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with 982.553 (Chapters 3 and 12);
- Encouraging participation by owners of suitable units located outside areas of low income or minority concentration (Chapter 13);
- Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit (Chapter 2);
- Providing information about a family to prospective owners (Chapters 3 and 9);
- Disapproval of owners (Chapter 13);
- Subsidy standards (Chapter 5);
- Family absence from the dwelling unit (Chapter 12) ;
- How to determine who remains in the program if a family breaks up (Chapter 3);
- Informal review procedures for applicants (Chapter 16);
- Informal hearing procedures for participants (Chapter 16);
- The process for establishing and revising voucher payment standards (Chapter 16);
- The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract) (Chapter 8);
- Special policies concerning special housing types in the program (e.g., use of shared housing) (Chapter 15);
- Policies concerning payment by a family to BHA of amounts the family owes BHA (Chapter 16);
- Interim redeterminations of family income and composition (Chapter 11);
- Restrictions, if any, on the number of moves by a participant family (Chapter 10);
- Approval by the board of commissioners or other authorized officials to charge the administrative fee reserve (Chapter 16);
- Procedural guidelines and performance standards for conducting required housing quality standards inspections (Chapter 8); and
- BHA screening of applicants for family behavior or suitability for tenancy (Chapter 3).

## **Mandatory vs. Discretionary Policy**

HUD makes a distinction between:

- Mandatory policies: those driven by legislation, regulations, current handbooks, notices, and legal opinions, and
- Optional, non-binding guidance, including guidebooks, notices that have expired and recommendations from individual HUD staff.

HUD expects PHAs to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the PHA has adopted. BHA's Administrative Plan is the foundation of those policies and procedures. HUD's directions require PHAs to make policy choices that provide guidance to staff and consistency to program applicants and participants.

Following HUD guidance, even though it is not mandatory, provides a PHA with a "safe harbor." HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. If a PHA adopts an alternative strategy, it must make its own determination that the alternative approach is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than HUD's safe harbor, but PHAs should carefully think through those decisions.

### **1-III.C. ORGANIZATION OF THE PLAN**

The Plan is organized to provide information to users in particular areas of operation.

### **1-III.D. UPDATING AND REVISING THE PLAN**

BHA will revise this Administrative Plan as needed to comply with changes in HUD regulations. The original plan and any changes must be approved by the Board of Commissioners of the agency, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

#### BHA Policy

BHA will review and update the plan at least once a year, and more often if needed, to reflect changes in regulations, BHA operations, or when needed to ensure staff consistency in operation.