



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

SPECIAL ATTENTION OF:

Public Housing Agencies
Public Housing Agencies that
Administer the Housing Choice
Voucher Program; Owners

NOTICE PIH 2017 - 20 (HA)

Issued: October 27, 2017

This notice remains in effect until amended,
superseded, or rescinded

SUBJECT: Housing Opportunity Through Modernization Act of 2016 (HOTMA) - Housing Quality Standards (HQS) Implementation Guidance

1. PURPOSE

This notice provides guidance on two provisions that relate to the initial inspection of dwelling units for the Housing Choice Voucher (HCV) tenant-based and Project-Based Voucher (PBV) assistance programs resulting from the enactment of the Housing Opportunity Through Modernization Act of 2016 (HOTMA). These provisions were implemented through Federal Register Notice “Housing Opportunity Through Modernization Act of 2016: Implementation of Various Section 8 Voucher Provisions” (82 FR 5458) and became effective on April 18, 2017. The provisions offer public housing agencies (PHAs) additional administrative flexibility over the initial inspection process. The decision to implement these provisions rests with the individual PHAs.

2. BACKGROUND

On July 29, 2016, HOTMA was signed into law (Public Law 114–201, 130 Stat. 782). HOTMA made numerous changes to statutes that govern HUD programs, including section 8 of the United States Housing Act of 1937 (1937 Act) (42 U.S.C. 1437f). On January 18, 2017, HUD issued a notice in the Federal Register (82 FR 5458) implementing some HOTMA provisions impacting the HCV and PBV programs (“January 18, 2017, implementation notice”). Among the provisions implemented by the January 18, 2017, implementation notice are two provisions related to the initial unit inspection requirements for HCV tenant-based and PBV assistance. These provisions went into effect on April 18, 2017.

Section 8(o)(8) of the United States Housing Act of 1937 (1937 Act) requires that units assisted under Section 8(o) be inspected to determine that the units meet housing quality standards (HQS)

before the PHA makes a housing assistance payment (HAP) pursuant to a HAP contract. The two HOTMA provisions discussed in this guidance **do not** remove the requirement that the PHA conduct an inspection prior to making a HAP, but give PHAs **two options** for bringing units under HAP contract (or, in the case of PBV, approving occupancy and the execution of a lease) more quickly. These options may be especially useful for PHAs operating in tight rental markets, where the ability to approve a unit and execute a HAP contract with the landlord more quickly could improve families' ability to use their vouchers to lease housing.

The first provision allows a PHA to approve the assisted tenancy and make HAPs on a unit that fails to meet HQS, provided the unit only has *non-life-threatening (NLT) deficiencies*. This provision is referred to throughout this guidance as the "**NLT provision.**"

The second provision allows the PHA to approve assisted tenancy of a unit prior to the HQS inspection if the property has passed an *alternative inspection* within the past 24 months. This provision is referred to throughout this guidance as the "**Alternative Inspection provision.**"

These provisions are discretionary. Therefore, a PHA may choose to adopt neither, one, or both provisions.

3. NOTICE ORGANIZATION

The main body of this notice is divided into **two parts**:

- **Implementing the NLT Provision**, divided into the following subparts:
 - A. HUD definition of **non-life-threatening** and **life-threatening** conditions
 - B. Incorporating life-threatening conditions for all inspections
 - C. Documenting the presence or absence of life-threatening conditions
 - D. Notification of owners and tenants
 - E. Effective date of HAP contract
 - F. Housing assistance payments
 - G. Administrative plans
 - H. Notification of HUD
 - I. Section Eight Management Assessment Program (SEMAP)

- **Implementing the Alternative Inspections Provision**, divided into the following subparts:
 - A. Eligible alternative inspection methods
 - B. Timing of the initial HQS inspection
 - C. Approval of assisted tenancy and execution of HAP contract
 - D. Housing assistance payments
 - E. Notification of owners and tenants
 - F. Administrative plans
 - G. Notification of HUD
 - H. SEMAP

4. IMPLEMENTING THE NLT PROVISION

The NLT provision allows a PHA to approve the assisted tenancy and begin paying HAP on a unit that fails to meet the HQS, provided the deficiencies are not life-threatening. This provision is optional for PHAs and may be applied to all or a portion of the PHA's tenant-based and project-based portfolio.

PHAs that choose to implement this provision **must:**

- amend their HCV administrative plan to adopt HUD's definition of non-life-threatening as well as life-threatening deficiencies;
- amend their administrative plan to explain the specific details on how the provision will be applied (e.g., PHA will apply the NLT provision to all or a portion of their initial inspections);
- inform owners and families of the new policy and procedures; and
- notify HUD via email of their choice to implement the provision so that HUD can ensure that PHAs' SEMAP scores are not negatively impacted.

The details of all the requirements listed above are explained further below.

Figures 1 and 2, located at the end of Part 4, illustrate the steps involved in establishing the NLT provision at the PHA (Figure 1) and how the NLT provision affects the initial inspection process (Figure 2).

A. HUD DEFINITION OF NON-LIFE-THREATENING (NLT) AND LIFE-THREATENING (LT) CONDITIONS

A PHA that implements the NLT provision must adopt HUD's definition of NLT conditions in its HCV administrative plan. An NLT condition is defined as any condition that would fail to meet the housing quality standards under 24 CFR 982.401 and is not a *life-threatening (LT)* condition as defined by HUD. HUD's definition of LT conditions includes specific conditions under 10 categories, as described in the January 18, 2017, implementation notice:

- (1) Gas (natural or liquid petroleum) leak or fumes
- (2) Electrical hazards that could result in shock or fire
- (3) Inoperable or missing smoke detector
- (4) Interior air quality (inoperable or missing carbon monoxide detector, where required)
- (5) Gas/oil fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney or venting
- (6) Lack of alternative means of exit in case of fire or blocked egress
- (7) Other interior hazards (missing or damaged fire extinguisher, where required)
- (8) Deteriorated paint surfaces in a unit built before 1978 and to be occupied by a family with a child under 6 years of age
- (9) Any other condition subsequently identified by HUD as life-threatening in a notice published in the Federal Register.

- (10) Any other condition identified by the administering PHA as life-threatening in the PHA’s administrative plan prior to April 18, 2017 (the effective date of the January 18, 2017, implementation notice).

Table 1 lists the specific LT conditions identified in the January 18, 2017, implementation notice under each of the 10 categories. Only the specific conditions listed in the second column of Table 1 are life-threatening conditions for the purposes of implementing the NLT provision. The third column of Table 1 provides the relevant inspection item number from form HUD-52580 or 52580-A for each the LT conditions. As described in Part 4.C. below, PHAs must document the presence of any LT conditions on form HUD-52580, HUD-52580-A, or successor form.

Table 1. Life-Threatening Conditions and Where to Record on HUD Inspection Form

Category	Life-Threatening Conditions	Where to Record on HUD-52580 or HUD-52580-A
(1) Gas (natural or liquid petroleum) leak or fumes	<ul style="list-style-type: none"> • A fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking. • A strong gas odor detected with potential for explosion or fire, or that results in health risk if inhaled. 	7.2 or 8.9
(2) Electrical hazards that could result in shock or fire	<ul style="list-style-type: none"> • A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed. • A light fixture is hanging by its wires. • A light fixture has a missing or broken bulb, and the open socket is readily accessible to the tenant during the day to day use of the unit. • A receptacle (outlet) or switch is missing or broken and electrical connections or wires are exposed. • A receptacle (outlet) or switch has a missing or damaged cover plate and electrical connections or wires are exposed. • An open circuit breaker position is not appropriately blanked off in a panel board, main panel board, or other electrical box that contains circuit breakers or fuses. • A cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections. • Any nicks, abrasions, or fraying of the insulation that expose conducting wire. • Exposed bare wires or electrical connections. • Any condition that results in openings in electrical panels or electrical control device enclosures. • Water leaking or ponding near any electrical device. 	1.3, 2.3, 3.3, 4.3, or 5.3

Category	Life-Threatening Conditions	Where to Record on HUD-52580 or HUD-52580-A
	<ul style="list-style-type: none"> Any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition. 	
(3) Inoperable or missing smoke detector	<ul style="list-style-type: none"> The smoke detector is missing. The smoke detector does not function as it should. 	4.10
(4) Interior air quality (inoperable or missing carbon monoxide detector)	<ul style="list-style-type: none"> The carbon monoxide detector (where required) is missing. The carbon monoxide detector does not function as it should. 	8.9
(5) Gas/oil fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney or venting	<ul style="list-style-type: none"> The chimney or venting system on a fuel fired water heater is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting of gases. A gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside. A fuel fired space heater is not properly vented or lacks available combustion air. A non-vented space heater is present. Safety devices on a fuel fired space heater are missing or damaged. The chimney or venting system on a fuel fired heating, ventilation, or cooling system is misaligned, negatively pitched, or damaged which may cause improper or dangerous venting of gases. 	7.2, 7.4, or 8.9
(6) Lack of alternative means of exit in case of fire or blocked egress	<ul style="list-style-type: none"> Any of the components that affect the function of the fire escape are missing or damaged. Stored items or other barriers restrict or prevent the use of the fire escape in the event of an emergency. The building's emergency exit is blocked or impeded, thus limiting the ability of occupants to exit in a fire or other emergency. 	8.2
(7) Other interior hazards (missing or damaged fire extinguisher, where required)	<ul style="list-style-type: none"> A fire extinguisher (where required) that is missing, damaged, discharged, overcharged, or expired. (This applies only if the PHA has adopted an acceptability criteria variation to the HQS to require fire extinguishers.) 	8.7
(8) Lead-Based Paint	<ul style="list-style-type: none"> Deteriorated paint surfaces in a unit built before 1978 and to be occupied by a family with a child under 6 years of age. 	1.9, 2.9, 3.9, 4.9, or 6.6

(9) Any other condition subsequently identified by HUD in a notice published in the Federal Register	N/A	N/A
(10) Any other condition identified by the PHA	<ul style="list-style-type: none"> Any other condition identified by the administering PHA as life-threatening in the PHA's administrative plan prior to April 18, 2017. 	Per PHA policy

Most of the categories of life-threatening conditions are self-explanatory. The following additional guidance may be helpful for categories 7 through 10:

- Category (7): Other interior hazards (missing or damaged fire extinguisher, where required).** PHAs may adopt, with HUD approval, acceptability criteria variations to the HQS. A PHA may have adopted an acceptability criteria variation to the HQS to require fire extinguishers in HCV units. If the PHA using the NLT provision requires fire extinguishers, then if a required fire extinguisher is missing, damaged, discharged, overcharged, or expired, it must be considered a life-threatening condition per HUD's definition, even if the PHA had previously considered such a condition to be non-life-threatening. If the PHA has not adopted an acceptability criteria variation to the HQS to require fire extinguishers in HCV units, this category does not apply.
- Category (8): Deteriorated paint surfaces of a unit built before 1978 and to be occupied by a child under 6 years of age.** The presence of deteriorated paint surfaces in a unit built before 1978 and where a child under 6 years of age resides or is expected to reside is a life-threatening condition only for determining whether the family can move into the unit. The presence of such hazards during the initial HQS inspection means a PHA may not approve the tenancy, execute the HAP contract and make assistance payments until lead hazard reduction is complete. However, in the case where the deficiency is identified for a unit under HAP contract during a regular or interim HQS inspection, lead hazard reduction need not be completed within 24 hours. Instead, PHAs and owners must follow the requirements in 24 CFR part 35.
- Category (9): Any other condition subsequently identified by HUD.** At a future date, HUD may add to the list any other condition(s) that HUD identifies as life-threatening. If HUD makes such changes, HUD will publish the changes in a Federal Register notice and notify PHAs.
- Category (10): Any other condition identified by the PHA.** PHAs that adopt the NLT provision may add any other condition (not covered by the LT conditions on HUD's list) that the PHA defined as life-threatening in its HCV Administrative Plan prior to April 18, 2017. The PHA may not add its own conditions to HUD's definition of LT conditions after April 18, 2017. The reason for this restriction is that HUD wants to avoid inconsistent definitions of LT conditions for the purposes of implementing this provision of HOTMA.

B. INCORPORATING LIFE-THREATENING CONDITIONS FOR ALL INSPECTIONS

A PHA that chooses to adopt the NLT provision **must** apply their list of LT conditions to all HQS inspections (e.g. annual, interim, special), not just initial inspections subject to the NLT provision. **In other words, a PHA must use its newly adopted list of LT conditions in its ongoing HQS inspections and HQS enforcement activities even if the PHA adopts this provision for only a portion of its initial inspections.**

PHAs that adopt the NLT provision will do so as of a certain date after amending their HCV Administrative Plan. **As of the effective date of the PHA's NLT provision, the new list of LT conditions will be in effect for all inspections the PHA conducts from that date on.** The PHA is not required to conduct special inspections, outside of the normal schedule, to determine whether units already under HAP as of the effective date of the PHA's NLT provision have any LT deficiencies based on the new standard.

There may be cases where the effective date of the PHA's NLT provision falls in the middle of a 30-day correction period for a deficiency that was previously identified as non-life-threatening, but as of the effective date of the provision is now defined as life-threatening. In such a case, the owner would have the remainder of the original 30-day cure period to make the repair, but at the end of the original cure period the 24-hour standard would take effect.

The presence of **deteriorated paint** in units built before 1978 to be occupied by a family with a child under the age of 6, which is a LT condition under the NLT provision, is treated differently from other LT conditions. **If the PHA identifies such hazards during the initial HQS inspection, the PHA may not approve the tenancy, execute the HAP contract (or, in the case of PBV, approve occupancy and the execution of a lease), or make assistance payments until lead hazard reduction is complete.** However, if the deficiency is identified for a unit already occupied by an assisted family under a HAP contract as of the effective date of the PHA's NLT provision, for example during a regular or interim HQS inspection, lead hazard reduction does not need to be completed within 24 hours as is the case for all other LT conditions. Instead, PHAs and owners must follow the requirements in 24 CFR part 35.

C. DOCUMENTING THE PRESENCE OR ABSENCE OF LIFE-THREATENING CONDITIONS

PHAs that choose to implement the NLT provision must ensure that the unit does not have any life-threatening deficiencies before approving the unit and executing the HAP contract (or, in the case of PBV, approves occupancy and the execution of a lease). PHAs must document that the unit passes all components of the inspection that relate to any life-threatening conditions identified in the PHA's administrative plan (including those on HUD's list) before approving the assisted tenancy and executing the HAP contract (in the case of HCV). PHAs must note and describe any life-threatening conditions on HUD's inspection form (HUD-52580, HUD-52580-A, or successor form). If a unit's completed inspection form has no noted life-threatening conditions, the PHA is certifying that the unit was free of life-threatening deficiencies at the time of the initial inspection.

D. NOTIFICATION OF OWNERS AND TENANTS

After the initial inspection is complete, the PHA must notify the owner and the family of the inspection results in writing. The notification of the inspection results must include detailed information for all failed and inconclusive inspection items so that the owner and family are fully aware of the work necessary to pass the HQS inspection.

For a unit that fails the HQS inspection, the notification must list the individual HQS fail items and identify which, if any, of the failed items meet the PHA's definition of life-threatening conditions.

If any of the items are LT conditions, the owner must be notified, in writing, that these deficiencies must be corrected before the PHA can approve the tenancy.

If the unit has only NLT conditions, the PHA must offer the family the choice to accept the units or to decline the unit and continue their housing search. **The PHA must notify the family that if the owner fails to correct the NLT deficiencies within the PHA-specified timeframe, the PHA will terminate the HAP contract, which in turn terminates the assisted lease and the family will have to move to another unit to continue receiving voucher assistance.** If the family declines the unit, the PHA must inform the family of how much search time they have remaining consistent with the PHA's policies. In accordance with 982.303(c), the PHA must provide for the suspension of the initial or any extended term of the voucher from the date the family submitted the request for PHA approval of the tenancy until the date the PHA notifies the family in writing whether the request has been approved or denied. In this circumstance, the date of the family's choice to decline the unit would be the date of the end of the suspension of the voucher term. As a reminder, families with disabilities may make a reasonable accommodation request for an extension of the search time at any time.

If the family accepts the unit with the NLT conditions, the PHA must notify the owner, in writing, that PHA has approved the assisted tenancy and the owner has 30 calendar days from the date of the notification to correct the NLT conditions, after which time the PHA will withhold the HAP and follow its policy regarding owner non-compliance with HQS.

E. EFFECTIVE DATE OF HAP CONTRACT

The process for approving a unit and executing the HAP contract (or, in the case of PBV, approves occupancy and the execution of a lease) for a unit under the NLT provision is like the regular practice of approving an assisted tenancy. **The only difference is that the unit does not need to pass the inspection before the PHA can approve the leasing of the unit, but the PHA must still inspect the unit before the initial lease term and HAP contract term (in the case of PBV) may commence.** Under the NLT provision, the following steps must occur before the date the initial term of the lease for the unit commences in the case of TBV (the date the initial term of the lease commences is the same as the effective date of the HAP contract in the case of PBV):

- 1) The family finds a unit and submits a request for tenancy approval (RFTA), Form HUD-52517.
- 2) The PHA determines the unit is an eligible unit.

- 3) The unit has been inspected by the PHA and has no life-threatening deficiencies.
- 4) The PHA determines the rent to owner is reasonable, the family share does not exceed 40 percent of monthly adjusted income (unless gross rent is equal or less than the payment standard), and the lease includes the tenancy addendum.
- 5) The family and owner execute the lease (including HCV tenancy addendum and lead-based paint disclosure information as required).

F. HOUSING ASSISTANCE PAYMENTS

PHAs that adopt the NLT provision may, with the agreement of the family, approve the assisted tenancy, execute the HAP contract (in the case of TBV), and make HAPs for a unit that fails the initial HQS inspection only because of NLT conditions as defined above.

If the NLT conditions are not corrected within 30 days of the PHA notifying the owner of the unit's failure of HQS, the PHA must withhold any further HAPs until those conditions are addressed and the unit complies with HQS. The 30-day requirement is statutory, the PHA may not extend the time for the owner to correct the repairs before the PHA withholds payment. After the 30-day correction period has passed and the PHA begins withholding payments, the PHA may establish a policy regarding the maximum amount of time it will withhold payments before abating payments or terminating the HAP contract for owner non-compliance with HQS.

Once the unit is in compliance with HQS, the PHA must recommence making HAPs. The PHA may use any payments withheld to pay the owner for the period during which payments were withheld. However, the PHA is not required to provide HAP to the owner for the time that HAP was withheld. The PHA's policy regarding withheld payments should be detailed in the PHA's administrative plan.

PHAs have discretion over the maximum amount of time the PHA will withhold payments before ultimately terminating the HAP contract for owner non-compliance with HQS. However, under no circumstance may the HAP contract continue beyond 180 days of the effective date of the HAP contract if the unit is not in compliance with HQS.

The PHA must follow its administrative policy on when to issue a new voucher to the family and when to terminate the HAP contract for owner non-compliance with HQS.

G. ADMINISTRATIVE PLANS

Before implementing the NLT provision, PHAs must amend their HCV administrative plan to add HUD's definition of NLT conditions (and LT conditions) and to specify how the PHA will apply the flexibility for initial inspections in its HCV and PBV programs.

Specifically, the PHA must add:

- HUD's definition of NLT conditions, as defined in the January 18, 2017, implementation notice. HUD defines a NLT condition as "any condition that would fail to meet the HQS and is not a life-threatening condition."

- HUD’s list of LT conditions, as defined in the January 18, 2017, implementation notice. If the PHA had LT conditions listed in its HCV administrative plan prior to April 18, 2017 that are not covered by the LT conditions on HUD’s list and that the PHA wishes to include in the new definition of LT, the PHA must also include these conditions in the amended plan.
- The PHA’s policy for how it will apply the NLT provision across the initial inspections that it conducts for tenant-based HCV and/or PBV units. The policy must indicate whether the provision will be applied to all initial inspections or a portion of initial inspections. If the provision will be applied to some inspections and not others, the PHA’s policy must explain how units will be selected for this provision using objective criteria. Possible criteria include program type (e.g., tenant-based HCV versus PBV units), unit location (e.g., if the PHA wants to apply the policy in areas where lease-up is particularly challenging), or unit age. The policy must explain the criteria in sufficient detail so that they can be fairly evaluated by the PHA’s Board and others reviewing the policy.
- The PHA’s policy on suspending or abating any HAP withheld from owners due to failure to address NLT conditions, including whether the PHA will repay the owner for the HAP withheld during the period of non-compliance. However, if the PHA took enforcement action to abate payment when repairs were not made within the cure period, the owner would not be paid for the time the abatement was in effect.

These changes to the HCV administrative plan may constitute a significant amendment to the PHA Plan, in which case the PHA must follow its PHA Plan amendment and public notice requirements before using the NLT provision.

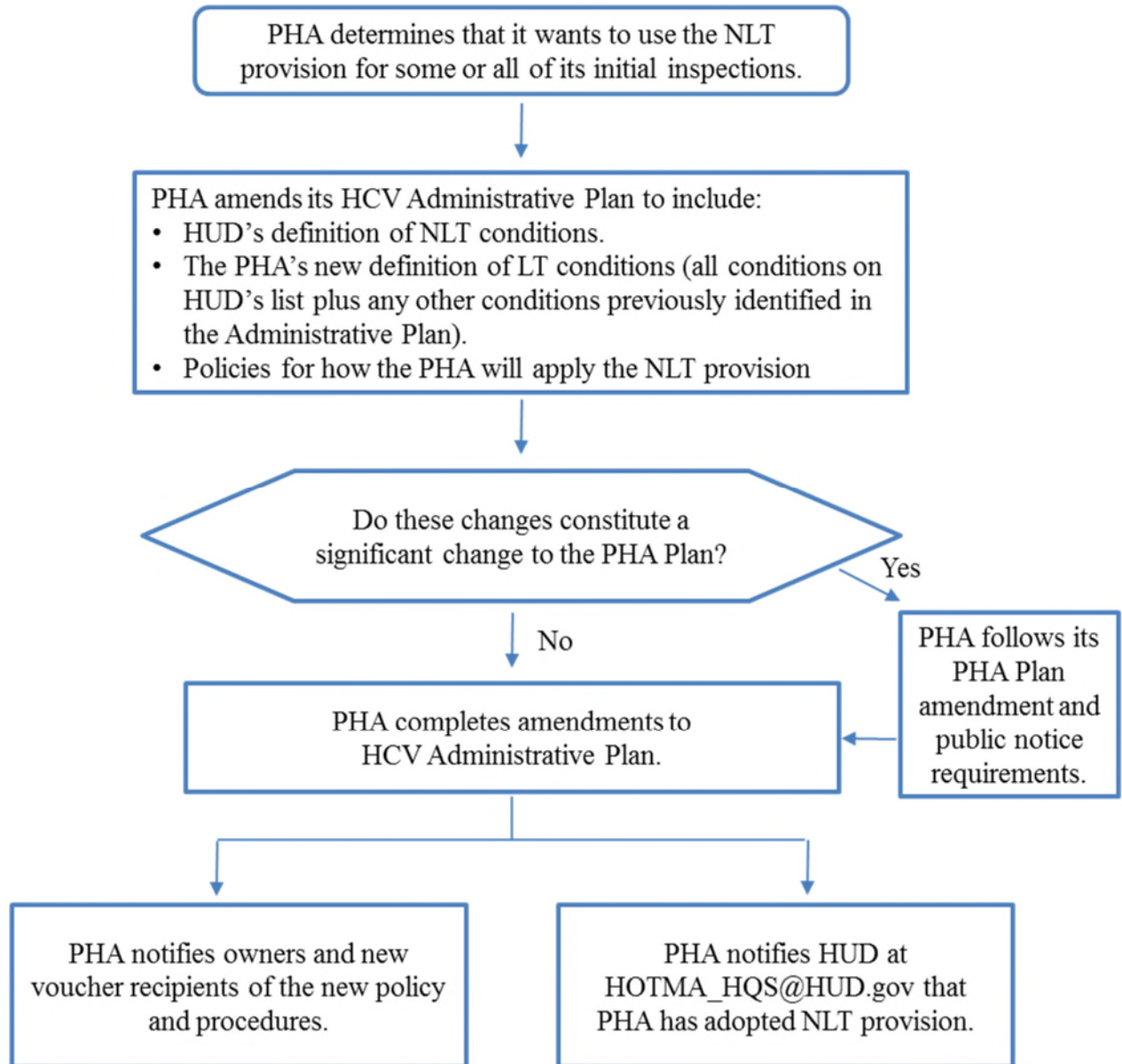
H. NOTIFICATION OF HUD

The PHA is required to notify HUD 30 days before the policy becomes effective by sending an email to HOTMA_HQS@HUD.GOV. This notification should take place after the PHA amends its HCV Administrative Plan to reflect the NLT provision but at least 30 days before the PHA implements the new policy. If the PHA chooses to no longer use the provision, the PHA must send another email to the same mailbox indicating they will no longer be applying the NLT provision.

I. SECTION EIGHT MANAGEMENT ASSESSMENT PROGRAM (SEMAP)

PHAs that have adopted the NLT provision will be given full points on SEMAP indicator 11 until the indicator is revised or the system is updated to allow PHAs to identify the specific unit(s) to which the PHA has applied the provision.

Figure 1. Preparing to Implement the NLT Provision

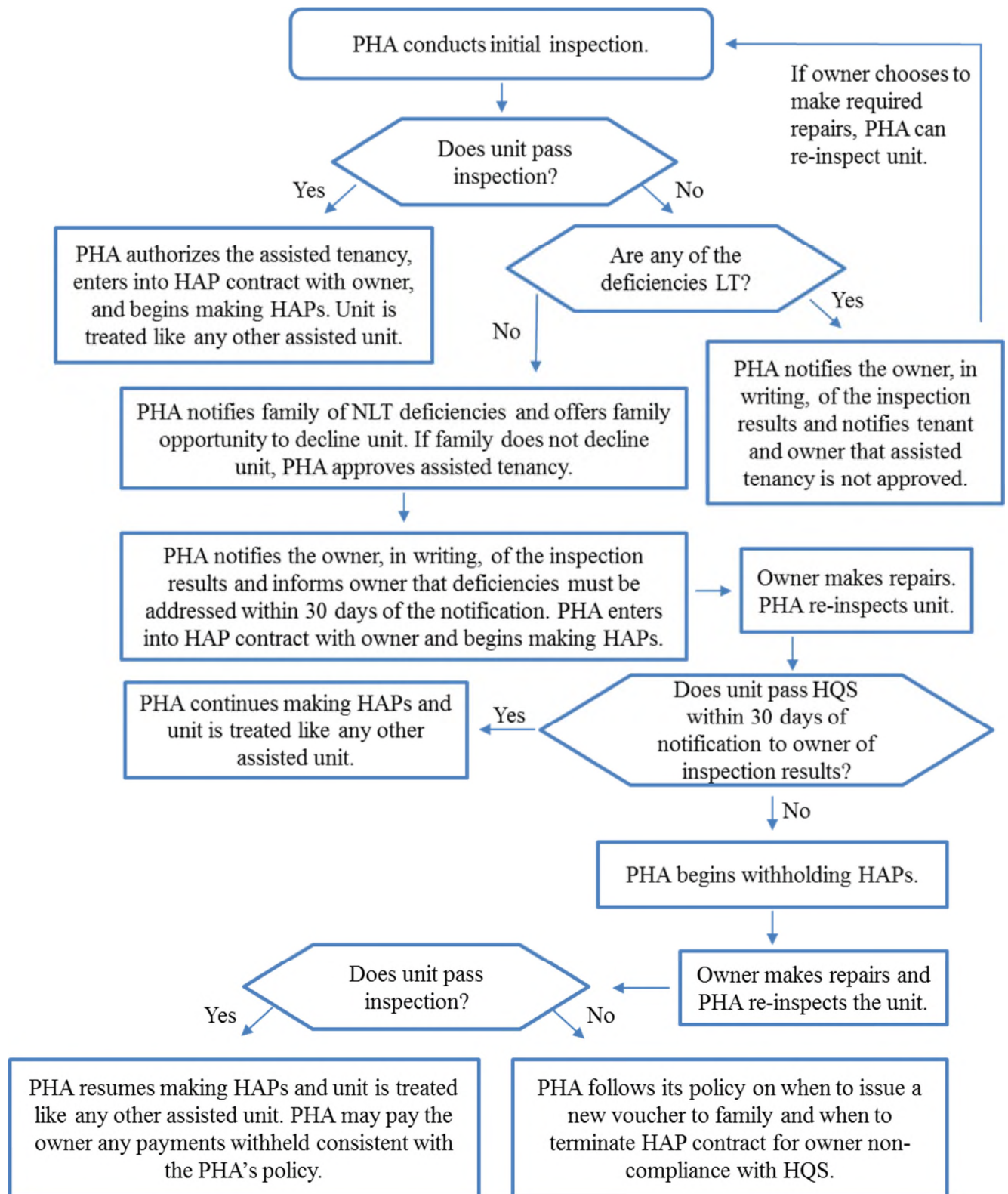


Additional Steps to Consider

- Incorporate information on the new process into tenant briefings.
- Revise inspection results letter to owners as needed.
- Revise inspection results letter to tenants as needed.
- Develop procedures (timeframe and methods) to enable tenants to decline the unit on the basis of conditions identified through the inspection.
- Train inspectors in documenting LT deficiencies using HQS inspection form.
- Train inspectors to apply LT deficiencies to all inspections, not just initial inspections subject to the NLT provision.

Figure 2. Initial Inspections with NLT Provision

This process applies specifically to TBV, the process for PBV will be slightly different.



5. IMPLEMENTING THE ALTERNATIVE INSPECTION PROVISION

The alternative inspection provision allows the PHA to approve assisted tenancy of a unit before the PHA conducts the initial HQS inspection if the property has, in the previous 24 months, passed a qualifying alternative inspection. Under this provision, HAP is not paid to the owner until the PHA completes its initial HQS inspection. The PHA then makes assistance payments retroactively, dating back to the effective date of the HAP contract and assisted lease term, once the unit has been inspected and found to meet HQS standards. The guidance on how to implement the requirements for this provision is discussed in detail below.

Flow charts showing the steps involved in establishing the alternative inspection provision at the PHA (Figure 3) and how the alternative inspection provision changes the initial inspection process (Figure 4) are found at the end of this section.

A. ELIGIBLE ALTERNATIVE INSPECTION METHODS

The alternative inspection method must meet all the following requirements:¹

- 1) The PHA must be able to obtain the results of the alternative inspection.
- 2) If the alternative inspection method uses sampling, the unit in question must be included in the universe of units from which the sample was drawn. For example, if a 100-unit property includes 20 units that are occupied by HCV-assisted families or are under a PBV contract, then those 20 units must have been included in the universe of units from which the alternative inspection sample was pulled. However, this does not mean that any of the 20 units would necessarily have to be part of the sample of units selected for inspection.
- 3) A PHA may rely upon inspections of housing assisted under the HOME Investment Partnerships (HOME) program or housing financed using Low Income Housing Tax Credits (LIHTCs), or inspections performed by HUD, without prior HUD approval. However, before employing this alternative method the PHA must amend its HCV administrative plan and notify HUD (as described below in Parts F and G).
- 4) If the PHA wishes to rely on an alternative inspection method other than that used for HOME, LIHTC, or inspections performed by HUD, that method must be approved by HUD's Real Estate Assessment Center (REAC). The PHA must obtain REAC approval before amending its HCV administrative plan. If the PHA has already obtained REAC approval for the method for the purposes of satisfying the biennial inspection requirement, the PHA does not need to obtain separate REAC approval to use the method for initial inspections. Requests to use an alternative inspection method may be submitted to Director, Real Estate Assessment Center, 550 12th Street SW, Washington, DC 20410. All requests are to include a copy of the inspection method the PHA wishes to use, along with an analysis of the inspection method that shows that the method provides the same or greater protection

¹ Note that these requirements are substantially the same as those in place for the use of alternative inspections for the annual (or biennial) inspection requirement (see 24 CFR 982.406).

to occupants of dwelling units as would HQS. The PHA must also monitor this inspection method for changes to the standards in the inspection requirements. If any change is made to the inspection method requirements, the PHA must submit a copy of the revised standards and requirements to the REAC Director along with a revised comparison to HQS. If the PHA or REAC determines that the revision would cause the alternative inspection to no longer meet or exceed HQS, then the PHA may no longer rely upon the alternative inspection method and the PHA would have to amend its administrative plan.

B. TIMING OF THE INITIAL HQS INSPECTION

The alternative inspection provision does not eliminate the requirement for the PHA to conduct the initial HQS inspection. All PHAs that implement this provision, regardless of the size of their voucher program, must conduct the initial HQS inspection within 15 days of receiving the RFTA (Form HUD-52517). This applies even for those PHAs with greater than 1250 units for whom this is not the case under the regular voucher program rules.

C. APPROVAL OF ASSISTED TENANCY AND EXECUTION OF HAP CONTRACT

The PHA approves the assisted tenancy in response to a RFTA received from the family and executes the HAP contract (in the case of TBV) before the PHA's initial inspection takes place. The process, which is also illustrated in Figure 4, will generally work as follows in the case of TBV:

- 1) At the time of voucher issuance, as part of the tenant package, the PHA provides the family with the list of conditions defined as life-threatening in the PHA's Administrative Plan.
- 2) The family finds a unit and submits a RFTA.
- 3) The PHA determines the unit is an eligible unit.
- 4) The PHA determines the property passed an inspection within the previous 24 months that qualifies as an alternative inspection.
- 5) The PHA determines the rent to owner is reasonable, that the family share does not exceed 40 percent of monthly adjusted income (unless gross rent is equal or less than the payment standard), and that the lease includes the tenancy addendum.
- 6) PHA notifies both the owner and the family that unit is eligible for approval based on alternative inspection.
- 7) The PHA explains to the family how the alternative inspection provision applies to the unit they have selected. The family may choose to accept the unit, decline the unit until it has passed the PHA's inspection (assuming the owner is willing), or decline the unit and search for another unit with their voucher.
- 8) The PHA establishes that the owner is willing to execute the HAP contract. PHAs should keep in mind that some owners may not want to commit to this policy, since they do not get paid until the PHA inspects the unit and may be concerned about assuming liability

for repairs without knowing what the PHA may require them to fix. The PHA needs to ensure the owner understands that they will not receive the initial HAP until the PHA has inspected the unit and determined the unit meets HQS, even though the family's assisted tenancy has commenced and the HAP contract is executed before that time.

- 9) The PHA executes the HAP contract with the owner, and the family and owner execute the lease (including HCV tenancy addendum and lead-based paint disclosure information as required). The effective date of the HAP contract (for TBV) must be on or before the date of the HQS inspection.
- 10) The PHA conducts the initial HQS inspection (within 15 days of receiving the RFTA).

A key requirement of the alternative inspection provision is that the PHA must execute the HAP contract with the owner **before** the assisted lease and assisted tenancy commences. The alternative inspection provision overrides the current regulation at 24 CFR 982.305(c). That regulation provides that the PHA must use best efforts to execute the HAP contract before the beginning of the lease term, but allows for the HAP contract to be executed no later than 60 calendar days from the beginning of the lease term. *A PHA that utilizes the alternative inspection provision for a unit must enter into the HAP contract before the beginning of the lease term, regardless of the 60-day window that is normally applicable under 982.305(c).* Since the family will have moved into the unit before the PHA conducts the initial inspection, the executed HAP contract ensures that the owner is contractually responsible to make any repairs that are necessary for the unit to meet HQS and provides protections for the family not to be charged the full amount of the rent if the owner fails to make the necessary repairs.

D. HOUSING ASSISTANCE PAYMENTS

Under the alternative inspection provision, no housing assistance payments are made to the owner until the unit passes the PHA's initial HQS inspection. If the unit passes the HQS inspection, the PHA makes housing assistance payments retroactively to the effective date of the HAP contract (or, in the case of PBV, the effective date of the lease).

The rules for making housing assistance payments are different depending on whether the PHA has only adopted the alternative inspection provision or has adopted both the alternative inspection provision and the NLT provision described in Part 4 above.

IF THE PHA HAS ADOPTED THE ALTERNATIVE INSPECTION PROVISION ONLY:

- The PHA must not make any HAPs until all HQS deficiencies identified through the HQS inspection have been corrected.
- After the PHA inspection, the PHA notifies the owner and family in writing of the inspection results.
- If the unit passes HQS, the PHA begins making HAPs retroactively to the start of the effective date of the HAP contract and the assisted lease term.

- If the unit fails HQS:
 - a. The PHA must require life-threatening deficiencies (as identified in the PHA's HCV administrative plan) to be corrected within 24 hours. Non-life-threatening deficiencies are to be corrected within 30 calendar days or any reasonable time established by the PHA.
 - b. If the deficiencies are corrected within the timeframes established in paragraph a above and the unit passes HQS, the PHA makes HAPs retroactively to the start of the effective date of the HAP contract and the start of the assisted lease term.
 - c. The PHA must withhold HAP during the cure period described in paragraph a above. Once the deficiencies are corrected and the unit passes HQS, the PHA may pay the owner any amount withheld.
 - d. If the deficiencies are not corrected within timeframe established in paragraph a above, the PHA must abate the HAP.
 - e. The PHA must follow its administrative policy on when to terminate the HAP contract and issue a new voucher to the family due to owner non-compliance with HQS. Under no circumstances can the HAP contract continue beyond 180 days of the effective date of the HAP contract if unit is not in compliance with HQS.

IF THE PHA HAS ADOPTED THE ALTERNATIVE INSPECTION PROVISION AND THE NLT PROVISION:

- After the inspection, the PHA notifies the owner in writing of the inspection results.
- If the unit passes HQS, the PHA begins making HAPs. The PHA makes HAPs retroactively to the start of the effective date of the HAP contract and the start of the assisted lease term.
- If the unit fails HQS with only non-life-threatening deficiencies:
 - a. The PHA begins making HAPs. The PHA makes HAPs retroactively to the start of the effective date of the HAP contract and the start of the assisted lease term.
 - b. After 30 days from the notification of the owner of the inspection results, if the deficiencies have not been corrected, the PHA must begin withholding HAP (as described in Part 4).
- If the unit fails HQS with life-threatening deficiencies:
 - a. The PHA does not begin making HAPs until the life-threatening deficiencies are corrected.
 - b. The PHA takes enforcement action against the owner if any life-threatening defect is not corrected within 24 hours.
 - c. Once the life-threatening deficiencies have been addressed, the PHA makes HAPs retroactively to the start of the effective date of the HAP contract and the start of the assisted lease term.
 - d. If the unit also has non-life-threatening conditions, the owner has 30 days to make those repairs before the PHA begins withholding HAP.
 - e. The PHA may pay the owner any withheld HAP once the unit passes HQS.

- f. If the PHA took enforcement action to abate payment when repairs were not made within the cure period, the owner would not be paid for the time the abatement was in effect.
- g. If the owner fails to correct the deficiencies within the PHA's timeframes, the PHA follows its administrative policy on when to terminate the HAP contract and issue a new voucher to the family due to owner non-compliance with HQS. Under no circumstances can the HAP contract continue beyond 180 days of the effective date of the HAP contract if unit is not in compliance with HQS.

E. NOTIFICATION OF OWNERS AND TENANTS

PHAs that adopt the alternative inspection provision must notify owners and families, as applicable, of the new procedures and timelines for assistance payments.

In addition, the PHA must advise families of the PHA's list of life-threatening deficiencies so that families can look for such items in the unit and notify the PHA immediately if such deficiencies are found or decline to enter into the lease with the owner. The best time to provide the list of life-threatening deficiencies is at the family briefing or voucher issuance so that the family is aware of the list while they are searching.

HUD also strongly encourages PHAs to notify families that if the family agrees to the unit and the unit does not pass the initial inspection, the family may be obligated to stay in the unit, in accordance with the lease, until the repairs are made or the PHA terminates the HAP contract (in accordance with the PHA's HQS enforcement policy), and that if the PHA terminates the HAP contract, the family will have to move to retain use of the voucher.

F. ADMINISTRATIVE PLANS

Before implementing the alternative inspection provision, PHAs must amend their HCV administrative plan to include the following:

- The specific alternative inspection method(s) that will be used.
- How the PHA intends to use the alternative method(s), including details around specific properties or types of properties for which each method will be employed.

When considering whether to adopt the alternative inspection provision, HUD recommends the PHA consider the complications that could arise if a PHA enters into a HAP contract with an owner but then identifies HQS deficiencies in its initial inspection. The family may be living with these deficiencies during the correction period and may ultimately have to move if the owner is not willing to make the corrections.

These changes may be a significant amendment to the PHA Plan, in which case a PHA must follow its PHA Plan amendment and public notice requirements before using the alternative inspection method.

G. NOTIFICATION OF HUD

The PHA is required to notify HUD 30 days before the policy becomes effective by sending an email to HOTMA_HQS@HUD.GOV. This notification should take place **after** the PHA amends its HCV Administrative Plan to reflect adoption of the alternative inspection provision **but at least 30 days before the PHA implements the new policy**. The notification to HUD should list the alternative inspection method(s) to be used. If the PHA plans to use a method other than the pre-approved methods listed in Part 4.A. above (HOME, LIHTC, and inspections performed by HUD), the PHA should provide the date when HUD approved the use of the other method. If the PHA decides to no longer use the provision, the PHA must amend their HCV Administrative Plan to reflect the change then must send another email to HOTMA_HQS@HUD.GOV indicating they will no longer be applying the alternative inspection provision.

H. SECTION EIGHT MANAGEMENT ASSESSMENT PROGRAM (SEMAP)

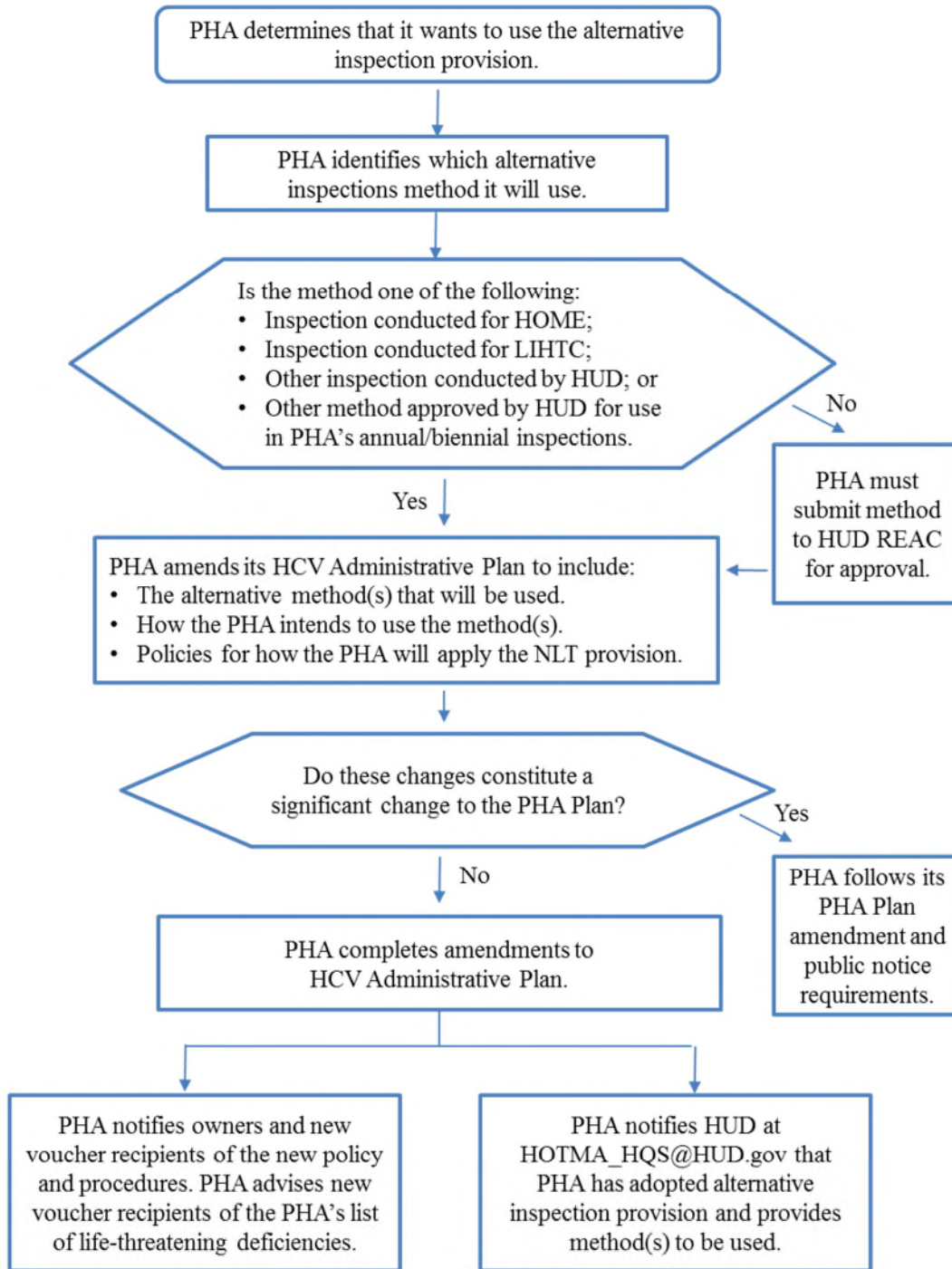
PHAs that have adopted the alternative inspection provision will be given full points on SEMAP indicator 11 until the indicator is revised or the system is updated to allow PHAs to identify the specific unit(s) to which the PHA has applied the provision.

6. FOR INQUIRES ABOUT THIS NOTICE CONTACT: HOTMA_HQS@HUD.GOV

/s/

Dominique Blom,
General Deputy Assistant Secretary
for Public and Indian Housing

Figure 3. Preparing to Implement the Alternative Inspection Provision



Additional Steps to Consider

- Incorporate information on the new process into tenant briefings.
- Revise PHA procedures and train staff to ensure that the PHA's initial HQS inspection occurs within 15 days of the PHA's receipt of the RFTA.

Figure 4. Initial Inspections with Alternative Inspection Provision (without NLT Provision)

This process applies to TBV, the process for PBV will be slightly different.

