

SECTION 8

ADMINISTRATIVE PLAN

**HOUSING AUTHORITY  
OF THE  
COUNTY OF BUTTE**

2008



**HOUSING AUTHORITY OF THE COUNTY OF BUTTE  
ADMINISTRATIVE PLAN FOR THE SECTION 8 VOUCHER PROGRAM**

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# HOUSING AUTHORITY OF THE COUNTY OF BUTTE

## Chapter 1 STATEMENT OF POLICIES AND OBJECTIVES

### INTRODUCTION

The Section 8 Program was enacted as part of the Housing and Community Development Act of 1974, which re-codified the U.S. Housing Act of 1937. The Act has been amended from time to time, and its requirements, as they apply to the Section 8 Tenant-Based Assistance Program, is described in and implemented throughout this Administrative Plan. The Section 8 rental assistance programs are federally funded and administered for the In the County of Butte by the Housing Authority of the County of Butte through its Section 8 housing office.

Administration of the Section 8 Program and the functions and responsibilities of the Public Housing Authority (PHA) staff shall be in compliance with the PHA's Personnel Policy, and the Department of Housing and Urban Development's (HUD) Section 8 Regulations as well as all Federal, State and local Fair Housing Laws and Regulations Jurisdiction.

The jurisdiction of the PHA is the In the County of Butte.

#### **A. HOUSING AUTHORITY MISSION STATEMENT**

The mission of the Housing Authority of the County of Butte is to assist low and moderate-income residents to secure and maintain high quality affordable housing.

#### **B. LOCAL OBJECTIVES**

[24 CFR 982.1]

The Section 8 Program is designed to achieve these major objectives:

- To provide decent, safe, and sanitary housing for low income families while maintaining rent payments at an affordable levels.
- To ensure that all units meet Housing Quality Standards and families pay fair and reasonable rents.
- To promote a housing program which maintains quality service and integrity while providing an incentive to private property owners to rent to low-income families.
- To 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.

- To create positive public awareness and expand the level of family, owner, and community support in accomplishing the PHA's mission.
- To attain and maintain a high level of standards and professionalism in our day-to-day management of all program components.
- To administer an efficient, high-performing agency through continuous improvement of the PHA's support systems and commitment to our employees and their development.
- To promote fair housing and the opportunity for low-income families of all ethnic backgrounds to experience freedom of housing choice.

**PHA Goal: Increase assisted housing choices**

Objectives:

- Provide voucher mobility counseling
- Conduct outreach efforts to potential voucher landlords

**PHA Goal: Ensure equal opportunity and affirmatively further fair housing**

Objectives:

- Undertake affirmative measures to ensure access to assisted housing regardless of race, color, religion national origin, sex, familial status, and disability.
- Undertake affirmative measures to provide a suitable living environment for families living in assisted housing, regardless of race, color, religion national origin, sex, familial status, and disability.
- Undertake affirmative measures to ensure accessible housing to persons with all varieties of disabilities regardless of unit size required.

**C. PURPOSE OF THE PLAN**

[24 CFR 982.54]

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 the Agency Plan. The Housing Choice Voucher Program is implemented as of 10/1/99, and pre-merger Housing Voucher tenancies and Over Fair Market Rent tenancies converted automatically to Housing Choice Voucher tenancies on that date. All other existing contracts remained in effect until the family's second reexamination after the merger date or when a new lease was executed.

The PHA is responsible for complying with all changes in HUD regulations pertaining to these programs. If such changes conflict with this Plan, HUD regulations will have precedence. 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.

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
- Local rules that are made part of this Plan are intended to promote local housing objectives consistent with the intent of the federal housing legislation.

**D. ADMINISTRATIVE FEE RESERVE**

[24 CFR 982.54(d)(21)]

Expenditures from the Administrative Fee Reserve (Operating Reserve) for other housing purposes shall be made in accordance with Board Resolution

**E. RULES AND REGULATIONS**

[24 CFR 982.52]

This Administrative Plan is set forth to define the PHA'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 Memos, Notices and guidelines, or 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.

**F. TERMINOLOGY**

The Housing Authority of the County of Butte is referred to as "**PHA**" or "**Housing Authority**" throughout this document.

"**Family**" is used interchangeably with "Applicant" or "Participant" and can refer to a single person family.

"**Tenant**" is used to refer to participants in terms of their relation to landlords.

"**Landlord**" and "**owner**" are used interchangeably.

"**Disability**" is used where "**handicap**" was formerly used.

"**Non-citizens Rule**" refers to the regulation effective June 19, 1995 restricting

assistance to U.S. citizens and eligible immigrants.

The "**Section 8 program**" is also known as the "**Housing Choice Voucher Program**".

"**HQS**" means the Housing Quality Standards required by regulations as enhanced by the PHA.

"**Failure to Provide**" refers to all requirements in the first Family Obligation. See "Denial or Termination of Assistance" chapter.

"**Merger date**" refers to October 1, 1999, which is the effective date of the merging of the Section 8 Certificate and Voucher program into the Housing Choice Voucher Program.

See Glossary for other terminology.

#### **G. FAIR HOUSING POLICY**

[24 CFR 982.54(d)(6)]

It is the policy of the Housing Authority to comply fully with all Federal, State, and local nondiscrimination laws and with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment.

The PHA shall not deny any family or individual the equal opportunity to apply for or receive assistance under the Section 8 Programs on the basis of race, color, sex, religion, creed, national or ethnic origin, age, familial status, disability or sexual orientation.

To further its commitment to full compliance with applicable Civil Rights laws, the PHA will provide Federal/State/local information to Voucher holders regarding unlawful discrimination and any recourse available to families who believe they are victims of a discriminatory act. Such information will be made available during the family briefing session, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made a part of the Voucher holder's briefing packet and available upon request at the front desk.

Housing Authority staff will be required to attend fair housing training and informed of the importance of affirmatively furthering fair housing and providing equal opportunity to all families, including providing reasonable accommodations to persons with disabilities, as a part of the overall commitment to quality customer service. Fair Housing posters are posted throughout the Housing Authority office(s), including in the lobby and interview rooms and the equal opportunity logo will be used on all outreach materials. Staff will attend local fair housing update training sponsored by HUD and other local organizations to keep current with new developments.

Except as otherwise provided in 24 CFR 8.21(c)(1), 8.24(a), 8.25, and 8.31, no individual with disabilities shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination because the PHA's facilities are inaccessible to or unusable by persons with disabilities. Posters and housing information are displayed in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair.

The offices of the Housing Authority of the County of Butte are accessible to persons with disabilities.

#### **H. REASONABLE ACCOMMODATIONS POLICY**

[24 CFR 100.202]

It is the policy of this PHA to be service-directed in the administration of our housing programs, and to exercise and demonstrate a high level of professionalism while providing housing services to families.

A participant with a disability must first ask for a specific change to a policy or practice as an accommodation of their disability before the PHA will treat a person differently than anyone else. The PHA's policies and practices will be designed to provide assurances that persons with disabilities will be given reasonable accommodations, upon request, oral or written, so that they may fully access and utilize the housing program and related services. The availability of requesting an accommodation will be made known by including notices on PHA forms and letters. This policy is intended to afford persons with disabilities an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as those who do not have disabilities and is applicable to all situations described in this Administrative Plan including when a family initiates contact with the PHA, when the PHA initiates contact with a family including when a family applies, and when the PHA schedules or reschedules appointments of any kind.

To be eligible to request a reasonable accommodation, the requester must first certify (if apparent) or verify (if not apparent) that they are a person with a disability under the following ADA definition:

- A physical or mental impairment that substantially limits one or more of the major life activities of an individual;
- A record of such impairment; or
- Being regarded as having such an impairment

Note: This is not the same as the HUD definition used for purposes of determining allowances.

Rehabilitated former drug users and alcoholics are covered under the ADA. However, a current drug user is not covered. In accordance with 5.403(a), individuals are not

considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence. Individuals whose drug or alcohol addiction is a material factor to their disability are excluded from the definition. Individuals are considered disabled if disabling mental and physical limitations would persist if drug or alcohol abuse discontinued.

Once the person's status as a qualified person with a disability is confirmed, the PHA will give the participant a Request for a Reasonable Accommodation form to be filled out by the participant. If needed, HACB will encourage advocacy by referring the participant to a social worker (such as Independent Living Services of Northern California) or allow the participant to contact a friend or family member to help fill out paperwork. The PHA will receive authorization to forward the Request for a Reasonable Accommodation form to a professional third party competent to make the assessment. If authorization is not granted, the PHA will give the accommodation to participant to take to a professional third party. The PHA will require the third party to provide written verification that the person needs the specific accommodation due to their disability and the change is required for them to have equal access to the housing program.

If the PHA finds that the requested accommodation creates an undue administrative or financial burden, the PHA will either deny the request and/or present an alternate accommodation that will still meet the need of the person.

An undue administrative burden is one that requires a fundamental alteration of the essential functions of the PHA (i.e., waiving a family obligation).

An undue financial burden is one that when considering the available resources of the agency as a whole, the requested accommodation would pose a severe financial hardship on the PHA.

The PHA will respond to the request in writing within fourteen (14) days and provide a written decision to the person requesting the accommodation within a reasonable period of time. If a person is denied the accommodation or feels that the alternative suggestions are inadequate, they must respond to the PHA within fourteen days in writing stating why they disagree with the PHA's decision. The PHA will engage in an interactive process and discuss alternative accommodations and may reconsider the accommodation and its findings. If the person is denied the accommodation or feels the alternative suggestions are inadequate, they may request an informal hearing within fourteen (14) days of the review of the PHA's decision.

Reasonable accommodation will be made for persons with a disability that requires an advocate or accessible offices. A designee will be allowed to provide some information, but only with the permission of the person with the disability.

All PHA mailings will be made available in an accessible format upon request, as a reasonable accommodation. In each of its offices, the HACB will post information in a

conspicuous place and at a height easily read by all persons including persons with mobility disabilities.

### **Verification of Disability**

The PHA will verify disabilities under definitions in the Fair Housing Amendments Act of 1988, Section 504 of the 1973 Rehabilitation Act, and Americans with Disabilities Act.

### **Outreach**

Outreach efforts will include notification of local agencies that serve persons with disabilities as well as all other appropriate media and agencies regarding public notices (see section on opening and closing the waiting list in "Applying for admission" chapter.)

### **Applying for Admission**

All persons who wish to apply for any of the PHA's programs must submit an application form in writing. Applications will be made available in an accessible format upon request from a person with a disability.

To provide specific accommodation to persons with disabilities, upon request, the information may be furnished to the applicant by alternative means in an accessible format.

At the eligibility appointment in the applicant's own handwriting, unless assistance is needed, or a request for accommodation is requested by a person with a disability. Applicants will then be interviewed by PHA staff to review the information on the full application form. Verification of disability as it relates to 504, Fair Housing, or ADA reasonable accommodation will be requested at this time. The full application will also include questions asking all applicants whether reasonable accommodations are necessary.

## ***I. LIMITED ENGLISH PROFICIENCY (LEP)***

Language for Limited English Proficiency Person (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the Housing Choice Voucher program and other Housing Assistance Programs. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Person, published December 19, 2003 in the Federal Register.

The HACB will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

In order to determine the level of access needed by LEP persons, the HACB will consider the following four factors:

1. Number of applicants and participants in Butte County who do not speak English and speak another language.
2. Estimated cost to the HACB per client of translation of English written documents into another language.
3. The availability of local organizations to provide translation services to non-English speaking families.
4. Availability of bi-lingual staff to provide translation for non-English speaking families.

The Housing Authority has bi-lingual staff to assist non-English speaking families in the following languages: Spanish and Hmong.

Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the HACB.

#### ***J. MANAGEMENT ASSESSMENT OBJECTIVES***

The PHA operates its housing assistance program with efficiency and can demonstrate to HUD auditors that the PHA is using its resources in a manner that reflects its commitment to quality and service. The PHA policies and practices are consistent with the areas of measurement for the following HUD SEMAP indicators:

- Selection from the Waiting List
- Reasonable Rent
- Determination of Adjusted Income
- Utility Allowance Schedule
- HQS Quality Control Inspections
- HQS Enforcement
- Expanding Housing Opportunities
- FMR/exception rent & Payment Standards
- Annual Re-examinations
- Correct Tenant Rent Calculations
- Pre-Contract HQS Inspections
- Annual HQS Inspections
- Lease-up
- Family Self-Sufficiency Enrollment and Escrow Account Balances
- Bonus Indicator De-concentration

Supervisory quality control reviews will be performed by a qualified person other than the person who performed the work, as required by HUD, on the following SEMAP factors:

- Selection from the waiting list
- Rent reasonableness
- Determination of adjusted income
- HQS Enforcement
- HQS Quality Control

The annual sample of files and records will be drawn in an unbiased manner, leaving a clear audit trail.

The minimum sample size to be reviewed will relate directly to each factor.

#### ***K. RECORDS FOR MONITORING PHA PERFORMANCE***

In order to demonstrate compliance with HUD and other pertinent regulations, the PHA will maintain records, reports and other documentation for a time that is in accordance with HUD requirements and in a manner that will allow an auditor, housing professional or other interested party to follow, monitor and or assess the PHA's operational procedures objectively and with accuracy and in accordance with SEMAP requirements with internal supervisory audits.

In addition to the required SEMAP documentation, supervisory staff audits the following functions:

- Not less than five percent (5%) of reexaminations
- Not less than five percent (5%) of new applications
- Not less than five percent (5%) of claims processed

#### ***L. PRIVACY RIGHTS***

[24 CFR 982.551 and 24 CFR 5.212]

Applicants and participants, including all adults in their households, are required to sign the HUD 9886 Authorization for Release of Information. This document incorporates the Federal Privacy Act Statement and describes the conditions under which HUD/PHA will release family information.

The PHA's policy regarding release of information is in accordance with State and local laws which may restrict the release of family information.

Any and all information which would lead one to determine the nature and/or severity of

a person's disability must be kept in a separate folder and marked "confidential" or returned to the family member after its use. The personal information in this folder must not be released except on an "as needed" basis in cases where an accommodation is under consideration. All requests for access and granting of accommodations based on this information must be approved by the Section 8 Eligibility Manager/Housing Director.

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

PHA staff will not discuss family information contained in files unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

#### ***M. FAMILY OUTREACH***

The PHA will publicize and disseminate information to make known the availability of housing assistance and related services for low income families on a regular basis. When the PHA's waiting list is open, the PHA will publicize the availability and nature of housing assistance for low income families on its web site, in a newspaper of general circulation, minority media, and by other suitable means.

The PHA will communicate the status of housing availability to other service providers in the community, and advise them of housing eligibility factors and guidelines in order that they can make proper referrals for housing assistance.

#### ***N. OWNER OUTREACH***

[24 CFR 982.54(d)(5)]

The PHA makes a concerted effort to keep private owners informed of legislative changes in the tenant-based program, which are designed to make the program more attractive to owners. This includes informing participant owners of applicable legislative changes in program requirements through the Housing Authority's web site and periodic mailings.

The PHA encourages owners of decent, safe and sanitary housing units to lease to Section 8 families. The PHA conducts periodic meetings with participating owners to improve owner relations and to recruit new owners.

The PHA maintains a list of units available for the Section 8 Program. When listings from owners are received, they will be compiled by the PHA staff by bedroom size. The PHA will maintain lists of available housing submitted by owners in all neighborhoods within Butte County to ensure greater mobility and housing choice to low income households. The list of units available will be provided at the front desk and/or mailed on request and provided at briefings.



The staff of the PHA initiates personal contact with private property owners and managers by conducting formal and informal discussions and meetings. Printed material is offered to acquaint owners and managers with the opportunities available under the program. The PHA has active participation in a community-based organization(s) comprised of private property and apartment owners and managers.

The PHA encourages program participation by owners of units located outside areas of poverty or minority concentration. The PHA periodically evaluates the demographic distribution of assisted families to identify areas within Butte County where owner outreach should be targeted. The purpose of these activities is to provide more choice and better housing opportunities to families. Voucher holders are informed of a broad range of areas where they may lease units within Butte County and given a list of landlords or other parties who are willing to lease units or help families who desire to live outside areas of poverty or minority concentration

The PHA shall periodically:

- Develop working relationships with owners and real estate broker associations.
- Establish contact with civic, charitable or neighborhood organizations which have an interest in housing for low-income families and public agencies concerned with obtaining housing for displacements.
- Explain the program, including equal opportunity requirements and nondiscrimination requirements, including Fair Housing Amendments Act of 1988 and Americans with Disabilities Act, to real estate agents, landlords, and other groups that have dealings with low-income families or are interested in housing such families.

## **Chapter 2 ELIGIBILITY FOR ADMISSION**

[24 CFR Part 5, Subparts B, D & E; Part 982, Subpart E]

### **INTRODUCTION**

This Chapter defines both HUD and the PHA's criteria for admission and denial of admission to the program. The policy of this PHA is to strive for objectivity and consistency in applying these criteria to evaluate the eligibility of families who apply. The PHA staff will review all information provided by the family carefully and without regard to factors other than those defined in this Chapter. Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by the PHA pertaining to their eligibility.

#### **A. ELIGIBILITY FACTORS**

[982.201(B)] [24 CFR 5.612]

The PHA accepts applications only from families whose head or spouse is at least 18 years of age or emancipated minors under State law.

To be eligible for participation, an applicant must meet HUD's criteria, as well as any permissible additional criteria established by the PHA.

The HUD eligibility criteria are:

1. An applicant must be a "family"
2. An applicant must be within the appropriate Income Limits
3. An applicant must furnish Social Security Numbers for all family members age six and older
4. An applicant must furnish declaration of Citizenship or Eligible Immigrant Status and verification where required
5. At least one member of the applicant family must be either a U.S. citizen or have eligible immigration status before the PHA may provide any financial assistance

Reasons for denial of admission are addressed in the "Denial or Termination of Assistance" chapter. These reasons for denial constitute additional admission criteria. The Family's initial eligibility for placement on the waiting list will be made in accordance with the eligibility factors.

Evidence of Citizenship/Eligible Immigrant Status will not be verified until the family is selected from the waiting list for final eligibility processing for issuance of a Voucher,

unless the PHA determines that such eligibility is in question, whether or not the family is at or near the top of the waiting list.

### **Students Enrolled in Institutions of Higher Education**

Restrictions apply to students (both part- and full time) who are enrolled in institutions of higher education who are seeking assistance, separately from their parents. If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, and does not have a dependent child, the student's eligibility must be examined along with the income eligibility of the student's parents. Both the student and the student's parents (the parents individually or jointly) must be income eligible in order for the student to be eligible to receive section 8 assistance.

A student deemed to be independent from his/her parents in accordance with the Department of Education definition of independent student the PHA does not need to consider the parents income.

Independent student is required to meet one or more of the following criteria:

- Be at least 24 years old by December 31 of the award year for which aid is sought;
- Be an orphan or a ward of the court through the age of 18;
- Be a veteran of the U.S. Armed Forces;
- Have legal dependents other than a spouse
- Be a graduate or professional student; or
- Be married.

The basis by which an independent student can demonstrate the absence of, or independence from, parents are not limited to the consideration of the following criteria:

- The individual is of legal contract age under state law.
- The individual has established a household separate from his/her parents for at least one year prior to application for assistance or the individual meets the U.S. Department of Education's definition of independent student.
- The individual was not claimed as a dependent by his/her parents pursuant to the IRS regulations, as demonstrated on the parents' most recent tax forms.
- The individual provides a certification of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

### **B. FAMILY COMPOSITION**

[24 CFR 982.201(c)]

The applicant must qualify as a Family. A Family may be a single person or a group of persons.

A “family” includes a family with a child or children. A group of persons consisting of two or more elderly persons or disabled persons living together, or one or more elderly or disabled persons living with one or more live-in aides is a family. The PHA determines if any other group of persons qualifies as a “family”.

A single person family may be:

1. An elderly person
2. A displaced person
3. A disabled person
4. Any other single person

Elderly, disabled, and displaced families are defined by HUD in 24 CFR 5.403 , as follows:

Disabled family means a family whose head, spouse, or sole member is a person with disabilities. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

Displaced family means a family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

Elderly family means a family whose head, spouse, or sole member is a person who is at least 62 years of age. It may include two or more persons who are at least 62 years of age living together, or one or more persons who are at least 62 years of age living with one or more live-in aides.”

A person with a disability (individuals may not be considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence). A child who is temporarily away from home because of placement in foster care is considered a member of the family. This provision only pertains to the foster child's temporary absence from the home, and is not intended to artificially enlarge the space available.

A family also includes:

1. Two or more persons who intend to share residency whose income and resources are available to meet the family's needs.
2. Two or more elderly or disabled persons living together, or one or more elderly, near elderly or disabled persons living with one or more live-in aides is a family.

**Head of Household**

The head of household is the adult member of the household who is designated by the family as head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease under State/local law. Emancipated minors who qualify under State law will be recognized as head of household.

**Spouse of Head (Spouse means the husband or wife of the head).**

For proper application of the Non-citizens Rule, the definition of spouse is: the marriage partner who, in order to dissolve the relationship, would have to be divorced. It includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

**Co-Head**

An individual in the household who is equally responsible for the lease with the Head of Household. (A family may have a spouse or co-head, but not both. A co-head never qualifies as a dependent).

**Live-in Attendants**

A family may include a live-in aide provided that such live-in aide:

1. Is determined by the PHA to be essential to the care and well being of an elderly person, a near-elderly person, or a person with disabilities,
2. Is not obligated for the support of the person(s), and
3. Would not be living in the unit except to provide care for the person(s)

A live-in aide is treated differently than family members:

1. Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.
2. Live-in aides are not subject to Non-Citizen Rule requirements.
3. Live-in aides are not considered as a remaining member of the tenant family.

Relatives are not automatically excluded from being live-in aides, but they must meet all of the elements in the live-in aide definition described above.

A Live in Aide may only reside in the unit with the approval of the PHA. Written verification will be required from a reliable, qualified professional, such as a doctor, social worker, or caseworker. The verification provider must certify that a live-in aide is needed for the care of the family member who is elderly, near-elderly (50-61) or disabled.

The PHA will approve a live-in aide if needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability. Approval of a live-in aide for reasonable accommodation will be in accordance with CFR 24 Part 8 and the reasonable accommodations section in Chapter 1 of this administrative plan. Verification must include the hours the care will be provided. The live-in aide will be required to complete a Live-In Aide Certification prior to approval of their occupancy.

[24 CFR 982.316] At any time, the PHA will refuse to approve a particular person as a live-in aide or may withdraw such approval if:

1. The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
2. The person commits drug-related criminal activity or violent criminal activity; or
3. The person currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

#### **Split Households Prior to Voucher Issuance**

When a family on the waiting list splits into two otherwise eligible families due to divorce or legal separation, and the new families both claim the same placement on the waiting list, and there is no court determination, the PHA will make the decision taking into consideration the following factors:

1. Which family member applied as head of household
2. Which family unit retains the children or any disabled or elderly members
3. Restrictions that were in place at the time the family applied
4. Role of domestic violence in the split
5. Recommendations of social service agencies or qualified professionals such as children's protective services

Documentation of these factors is the responsibility of the applicant families. If either or both of the families do not provide the documentation, they may be denied placement on the waiting list for failure to supply information requested by the PHA.

In cases where domestic violence played a role, any of the three forms of documentation outlined in VAWA can be used to verify domestic violence when a family breaks up. VAWA permits an individual to certify incidents of domestic violence by:

- Completing the HUD-approved certification form
- Providing a police or court record, or
- Providing a statement signed by the victim and a third party, such as a domestic

violence service provider, medical professional, or attorney.

The PHA will require evidence that the family has been displaced as a result of fleeing violence in the home or the family is currently living in a situation where they are being subjected to or victimized by violence in the home (See Maintaining the Waiting List" Chapter).

### **Multiple Families in the Same Household**

When families apply which consist of two families living together, (such as a mother and father, and a daughter with her own husband or children), if they apply as a family unit, they will be treated as a family unit.

### **Joint Custody of Children**

Children who are subject to a joint custody agreement but live with one parent at least fifty one percent (51%) of the time will be considered members of the household. "51% of the time" is defined as one-hundred and eighty-three (183) calendar days during the year, which do not have to run consecutively.

When both parents are on the Waiting List and both are trying to claim the child, the parent whose address is listed in the school records and/or the parent who claims the dependent exemption for that child on the current or most recent Federal income tax return will be allowed to claim the school-age child as a dependent.

## **C. INCOME LIMITATIONS**

[24 CFR 982.201(b), 982.353]

To be eligible for assistance, an applicant must have an Annual Income at the time of admission that does not exceed the very low income limits for occupancy established by HUD.

To be income eligible the applicant must be a family in the very low income category, which is a family whose income does not exceed 50 percent of the area median income. The PHA will not admit families whose income exceeds 50 percent of the area median income except those families included in 24 CFR 982.201(b).

To determine if the family is income-eligible, the PHA compares the Annual Income of the family to the applicable income limit for the family's size.

Families whose Annual Income exceeds the income limit will be denied admission and offered an informal review.

Portability: For initial lease-up at admission, families who exercise portability must be within the applicable income limit for the jurisdiction of the receiving PHA in which they want to live.

**D. MANDATORY SOCIAL SECURITY NUMBERS**

[24 CFR 5.216, 5.218]

Families are required to provide verification of Social Security Numbers for all family members age six (6) and older prior to admission, if they have been issued a number by the Social Security Administration. This requirement also applies to persons joining the family after admission to the program.

Failure to furnish verification of social security numbers is grounds for denial or termination of assistance.

Persons who have not been issued a Social Security Number must sign a certification that they have never been issued a Social Security Number.

Persons who disclose their Social Security Number but cannot provide verification must sign a certification and provide verification within 60 calendar days. Elderly persons must provide verification within 120 calendar days.

**E. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS**

[24 CFR Part 5, Subpart E]

In order to receive assistance, a family member must be a U.S. citizen or eligible immigrant. Individuals who are neither may elect not to contend their status. Eligible immigrants are persons who are in one of the immigrant categories as specified by HUD.

For the Citizenship/Eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

**Mixed Families**

A family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "mixed." Such applicant families will be given notice that their assistance will be prorated and that they may request a hearing if they contest this determination.

**All Members Ineligible**

Applicant families that include no eligible members are ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

**Non-citizen Students**

Defined by HUD in the non-citizen regulations at 24CFR 5.522 (Not eligible for assistance).

**Appeals**

For this eligibility requirement only, the applicant is entitled to a hearing exactly like



those provided for participants.

#### **F. OTHER CRITERIA FOR ADMISSIONS**

[24 CFR 982.552(c)]

A family will not be admitted to the program if any member of the family has been evicted from federally assisted housing for serious violation of the lease within the past *five (5)* years.

A family will be denied admission to the program if any member of the family fails to sign and submit consent forms for obtaining information required by the PHA, including Form HUD-9886.

The PHA will apply the following criteria, in addition to the HUD eligibility criteria, as grounds for denial of admission to the program:

1. The family must not have violated any family obligation during a previous participation in the Section 8 program for five (5) years prior to final eligibility determination.
2. The PHA may make an exception, if the family member who violated the family obligation is not a current member of the household on the application.
3. The family must pay any outstanding debt owed the PHA or another PHA as a result of prior participation in any federal housing program in full, before admission to the program.

The PHA may check criminal history for all adults in the household to determine whether any member of the family has violated any of the prohibited behaviors as referenced in the section on screening and terminations policy in the "Denial or Termination of Assistance" chapter.

If any applicant deliberately misrepresents the information on which eligibility or tenant rent is established, the PHA may deny assistance and may refer the family file/record to the proper authorities for appropriate disposition. (See Program Integrity – Chapter 21).

#### **G. TENANT SCREENING**

[24 CFR 982.307)]

The PHA will take into consideration any of the criteria for admission described in the "Denial or Termination of Assistance" chapter.

The PHA will not screen family behavior or suitability for tenancy. The PHA will not be liable or responsible to the owner or other persons for the family's behavior or the

family's conduct in tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before PHA approval of the tenancy, the PHA will inform the owner that screening and selection for tenancy is the responsibility of the owner.

The owner is responsible for screening families based on their tenancy histories, including such factors as [24 CFR 982.307(a)(3)]:

1. Payment of rent and utility bills
2. Caring for a unit and premises
3. Respecting the rights of other residents to the peaceful enjoyment of their housing
4. Drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others; and
5. Compliance with other essential conditions of tenancy

The PHA will provide the owner:

1. The family's current and prior address as shown in the PHA's records; and
2. The name and address (if known by the PHA) of the landlord at the family's current and prior address.

The PHA will, upon request from the owner, make available to the owner other information in the PHA's possession concerning the family, including:

1. Information about the family's tenancy history; or
2. Information about drug-trafficking by family members

The same types of information will be supplied to all owners.

The PHA will advise families how to file a complaint if they have been discriminated against by an owner. The PHA will advise the family to make a Fair Housing complaint. The PHA may also report the owner to HUD (Fair Housing/Equal Opportunity) or the local Fair Housing Organization.

**H. CHANGES IN ELIGIBILITY PRIOR TO EFFECTIVE DATE OF THE CONTRACT**

Changes that occur during the period between issuance of a voucher and lease up may affect the family's eligibility or share of the rental payment.

**I. INELIGIBLE FAMILIES**

Families who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review, or an informal hearing if they were denied due to non-citizen status. See "Complaints and Appeals" chapter for additional information about reviews and hearings.

**J. PROHIBITED ADMISSIONS CRITERIA**

[24 CFR 982.202(b)]

Admission to the program may not be based on:

- Where the family lives prior to admission to the program.
- Discrimination because members of the family are unwed parents, recipients of public assistance, or children born out of wedlock.
- Discrimination because a family includes children.
- Whether a family decides to participate in a family self sufficiency program; or
- Other reasons as listed in the "Statement of Policies and Objectives" chapter under the Fair Housing and Reasonable Accommodations sections.

## **Chapter 3 APPLYING FOR ADMISSION**

[24 CFR 982.204]

### **INTRODUCTION**

The policy of the PHA is to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply, and are treated in a fair and consistent manner. This Chapter describes the policies and procedures for completing an initial application for assistance, placement and denial of placement on the waiting list, and limitations on who may apply. The primary purpose of the intake function is to gather information about the family, but the PHA will also utilize this process to provide information to the family so that an accurate and timely decision of eligibility can be made. Applicants will be placed on the waiting list in accordance with this Plan.

### **A. OVERVIEW OF THE APPLICATION TAKING PROCESS**

The purpose of application taking is to permit the PHA to gather information and determine placement on the waiting list. The application will contain questions designed to obtain pertinent program information.

Families who wish to apply for any one of the PHA's programs must comply with the procedures outlined in the PHA's current application process.

The application process will involve the following three phases:

1. The first phase is the "initial" request to be placed on the waiting list. Families who wish to apply for the Housing Choice Voucher program must complete a lottery entry form when the waiting list is open. Lottery entry forms will be available in an accessible format upon request from a person with a disability.
2. The second phase is an "initial" application for assistance (referred to as a pre-application). The purpose of the application is to permit the PHA to preliminarily assess family eligibility or ineligibility. The application will contain questions designed to obtain the following information:
  - a.) Names of head and spouse
  - b.) Names of adult members and age of all members
  - c.) Number of family members (used to estimate bedroom size needed)
  - d.) Citizenship status
  - e.) Street address and telephone numbers
  - f.) Mailing address (if PO Box or other permanent address)
  - g.) Annual income
  - h.) Source(s) of income received by household members
  - i.) Social security numbers
  - j.) Race/ethnicity
  - k.) Questions regarding previous participation in HUD programs

- I.) Arrest or convictions for drug-related and/or violent criminal acts
3. The third phase if the “full” application for final eligibility determination. The full application takes place when the family reaches the top of the waiting list. At this time the PHA ensures that verification of all HUD and PHA eligibility factors is current in order to determine the family’s eligibility for the issuance of a voucher.

**B. OPENING/CLOSING OF APPLICATION TAKING**

[24 CFR 982.206, 982.54(d)(1)]

The PHA will utilize the following procedures for opening the waiting list. When the PHA opens the waiting list, the PHA will advertise through public notice on the Housing Authority’s website, newspapers, minority publications and media entities. The Housing Authority will also notify:

- Independent Living Services of Northern California
- Butte County Legal Services
- Butte County Department of Employment & Social Services
- Community Action Agency
- CDI Headstart
- Community Housing & Credit Counseling Center
- Northern Valley Catholic Social Services
- Touchstone/Enloe Medical Center
- Chico Community Shelter Partnership
- Catalyst Domestic Violence Services
- Skyway House
- Paradise Senior Center
- Paradise Ridge Family Resource Center
- Sabbath House
- Healthy Mother’s Program

The notice will contain:

- The dates, times, and the locations where families may apply.
- The name of the program(s) for which applications will be taken.
- Limitations, if any, on who may apply.

The notices will be made in an accessible format if requested. They will provide potential applicants with information that includes the PHA address and telephone number, and referral to resources to obtain information concerning how to submit an application and the eligibility requirements.

A person(s) with a disability may submit an application by an alternate method upon request as an accommodation.

If the waiting list is open, the PHA will accept applications from eligible families unless there is good cause for not accepting the application, such as denial of assistance because of action or inaction by members of the family for the grounds stated in the "Denial or Termination of Assistance" chapter of this Administrative Plan [24 CFR 982.206(b)(2)].

### **Closing the Waiting List**

The PHA may stop applications if there are enough applicants to fill anticipated openings for the next twenty-four (24) months. The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws.

The open period shall be long enough to achieve a waiting list adequate to cover projected turnover and new allocations over the next twenty-four (24) months. The PHA will give at least five (5) business days notice prior to closing the list.

### **Limits on Who May Apply**

When the waiting list is open, any family asking to be placed on the waiting list for Section 8 rental assistance will be given the opportunity to complete an application.

## **C. "INITIAL" APPLICATION PROCEDURES**

[24 CFR 982.204(b)]

The PHA will utilize a lottery entry form to gather pertinent information about the family. The purpose of the lottery entry form is to permit the PHA to preliminarily assess family eligibility or ineligibility, and through a specified process, to be put on the waiting list. The lottery entry form may contain questions designed to obtain the following information:

- Names of adult members and age of all members
- Gender and relationship of all members
- Street address and phone numbers
- Mailing address (if PO Box or no other permanent address)

Duplicate applications, including applications from a segment of an applicant household, will not be accepted.

Since placement on the waiting list does not require an interview and the information contained in the lottery entry form does not require verification, ineligible families may inadvertently be placed on the waiting list. However, final eligibility will be determined only when the full application process is completed and all information is verified.

#### **D. APPLICANT STATUS WHILE ON WAITING LIST**

[24 CFR 982.204]

Applicants are required to inform the PHA in writing of changes in address and telephone (if any). Applicants are also required to respond to requests from the PHA to update information on their application and to determine their continued interest in assistance.

If after a review of the application the family is determined to be preliminarily eligible, they will be notified in writing or in an accessible format upon request, as a reasonable accommodation.

This written notification of preliminary eligibility will be mailed to the applicant by first class mail.

If the family is determined to be ineligible based on the information provided in the application, the PHA will notify the family in writing (in an accessible format upon request as a reasonable accommodation), state the reason(s), and inform them of their right to an informal review. Persons with disabilities may request to have an advocate attend the informal review as an accommodation. See "Complaints and Appeals" Chapter.

#### **E. SELECTION PROCESS**

[24 CFR 982.204, 5.410]

The waiting list will be selected by lottery. Lottery entry forms may be obtained at either the main Housing Authority office located at 2039 Forest Avenue, Chico CA or at the Gridley office located at 850 East Gridley Road, Gridley CA. Lottery entry forms may also be obtained through pre-selected community-based organizations, service providers or by mail.

All entry forms must be completed in English and must reach the designated PO Box by the deadline specified by the PHA. Lottery entry forms will not be accepted if they are mailed or delivered to the PHA offices. Incomplete or late entries will be returned to the applicants upon request.

The PHA will determine the total number of applicants it needs to select in order to maintain a two (2) year wait list. All entries received by the deadline will be entered in the lottery. All lottery entrants will have an equal chance of selection in the lottery. The pre-numbered lottery entry forms will be randomly selected by the computer. The resulting placement on the waiting list will be in the order of their selection from the draw. The results of the drawing will be posted on the PHA website, at the Housing Authority offices and in selected newspapers.

## **F. NOTIFICATION OF ELIGIBILITY INTERVIEW**

When funding is available and the PHA is ready to issue vouchers to applicants, applicants will be required to fill out an eligibility packet. The applicant will be required to furnish complete and accurate information as requested by the PHA representative. The applicant will sign and certify that all information is complete and accurate.

The eligibility packet will be communicated as requested as an accommodation to a person with a disability.

### **Requirement to Attend Interview**

The PHA utilizes the eligibility interview to discuss the family's circumstances in greater detail, to clarify information that has been provided by the family, and to ensure that the information is complete. The interview is also used as a vehicle to meet the informational needs of the family by providing information about the application and verification process, as well as to advise the family of other PHA services or programs which may be available.

All adult family members must be represented at the interview.

Exceptions may be made for students attending school out of state or members for whom attendance would be a hardship.

However, if the head of household cannot attend the interview, the spouse may and certify for the family. The head of household, however, will be required to attend an interview within fourteen (14) days to review the information and to certify by signature that all of the information is complete and accurate.

If an applicant fails to appear for or make arrangements to reschedule a pre-scheduled appointment the application will be withdrawn.

Reasonable accommodation will be made for persons with a disability who require an advocate or accessible offices. A designee will be allowed to participate in the interview process, but only with permission of the person with a disability.

At its discretion, the PHA may require that an applicant/tenant be accompanied by another individual at appointments who will ensure that the applicant/tenant fully understands and comprehends information relating to housing assistance.

If, during the course of an appointment, an applicant/tenant demonstrates his/her inability to comprehend information presented to him/her or if the applicant/tenant interacts with PHA staff in a manner that renders the interview unproductive the PHA reserves the right to terminate the appointment until such time as the applicant/tenant is accompanied by another individual capable of understanding and explaining the information presented to the applicant.



If an application is denied due to failure to attend the eligibility interview, the applicant will be notified in writing and offered an opportunity to request an informal review. (See "Complaints and Appeals" Chapter.)

All adult members must sign the HUD Form 9886, Release of Information, the application form and all supplemental forms required by the PHA, the declarations and consents related to citizenship/immigration status and any other documents required by the PHA. Applicants will be required to sign specific verification forms for information which is not covered by the HUD form 9886. Failure to do so will be cause for denial of the application for failure to provide necessary certifications and release as required by the PHA.

Every adult household member must sign a consent form to release criminal conviction records and to allow PHAs to receive records and use them in accordance with HUD regulations.

If the PHA determines at or after the interview that additional information or document(s) are needed, the PHA will request the document(s) or information in writing. The family will be given fourteen (14) days or approved extension to supply the information. If the information is not supplied in this time period, the PHA will provide the family a notification of denial for assistance (See "Complaints and Appeals" chapter).

#### **G. VERIFICATION**

[24 CFR 982.201(e)]

Information provided by the applicant will be verified, using the verification procedures in the "Verification Procedures" chapter. Family composition, income, allowances and deductions, assets, full-time student status, eligibility and rent calculation factors, and other pertinent information will be verified. Verifications may not be more than 60 calendar days old at the time of issuance of the Voucher.

#### **H. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY**

[24 CFR 982.201]

After the verification process is completed, the PHA will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by the PHA, and the current eligibility criteria in effect. If the family is determined to be eligible, the PHA will mail a notification of eligibility. A briefing will be scheduled for the issuance of a voucher and the family's orientation to the housing program.

## **Chapter 4 MAINTAINING THE WAITING LIST**

[24 CFR Part 5, Subpart D; 982.54(d)(1); 982.204, 982.205, 982.206]

### **INTRODUCTION**

It is the PHA's objective to ensure that families are placed in the proper order on the waiting list and selected from the waiting list for admissions in accordance with the policies in this Administrative Plan.

By maintaining an accurate waiting list, the PHA will be able to perform the activities which ensure that an adequate pool of qualified applicants will be available so that program funds are used in a timely manner.

### **A. WAITING LIST**

[24 CFR 982.204]

The PHA uses a single waiting list for admission to its Section 8 tenant-based assistance program.

Except for Special Admissions, applicants will be selected from the PHA waiting list in accordance with policies and income targeting requirements defined in this Administrative Plan.

The PHA will maintain information that permits proper selection from the waiting list.

The waiting list contains the following information for each applicant listed:

- Applicant Name
- Family Unit Size (minimum number of bedrooms family qualifies for under PHA subsidy standards)
- Lottery date and ranking
- Racial or ethnic designation of the head of household

### **B. SPECIAL ADMISSIONS**

[24 CFR 982.54(d)(e), 982.203]

If HUD awards a PHA program funding that is targeted for specifically named families, the PHA will admit these families under a Special Admission procedure.

The PHA may admit a family that is not on the PHA waiting list, or without considering the family's waiting list position. The PHA must maintain records showing that the family was admitted with HUD-targeted assistance.

The following are examples of types of program funding that may be designated by HUD for families living in a specified unit:

- A family displaced because of demolition or disposition of a public or Indian housing project
- A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project
- For housing covered by the Low Income Housing Preservation and Resident Home-ownership Act of 1990
- A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term
- A non-purchasing family residing in a HOPE 1 or HOPE 2 project

Applicants who are admitted under Special Admissions, rather than from the waiting list, are maintained on separate lists.

### **Treatment of Single Applicants**

Single applicants will be treated as any other eligible family on the waiting list.

### **C. INCOME TARGETING**

In accordance with the Quality Housing and Work Responsibility Act of 1998, each fiscal year the PHA will reserve a minimum of seventy-five percent of its Section 8 new admissions for families whose income does not exceed 30 percent of the area median income. HUD refers to these families as “extremely low-income families.” The PHA will admit families who qualify under the Extremely Low Income limit to meet the income targeting requirement.

The PHA’s income targeting requirement does not apply to low income families continuously assisted as provided for under the 1937 Housing Act.

The PHA is also exempted from this requirement where the PHA is providing assistance to low income or moderate income families entitled to preservation assistance under the tenant-based program as a result of a mortgage prepayment or opt-out.

### **D. TARGETED FUNDING**

[24 CFR 982.203]

When HUD awards special funding for certain family types, families who qualify are placed on the regular waiting list. When a specific type of funding becomes available, the waiting list is searched for the first available family meeting the targeted funding criteria.

## **E. INCOME TARGETING ELIGIBILITY**

[24 CFR 982.207]

### **Change in Circumstances**

If the family's verified annual income, at final eligibility determination, does not fall under the extremely low income limit and the family was selected for income targeting purposes, the family will be returned to the waiting list.

### **Cross-Listing of Different Housing Programs and Section 8 [24 CFR 982.205(a)]**

The PHA will not merge its waiting lists.

### **Other Housing Assistance [24 CFR 982.205(b)]**

Other housing assistance means a federal, State or local housing subsidy, as determined by HUD, including public housing.

The PHA may not take any of the following actions because an applicant has applied for, received, or refused other housing [24 CFR 982.205(b)]:

- Refuse to list the applicant on the PHA waiting list for tenant-based assistance
- Change the applicant's place on the waiting list by lottery date and ranking of application or other factors affecting selection under the PHA selection policy
- Remove the applicant from the waiting list.

## **F. ORDER OF SELECTION**

[24 CFR 982.207(e)]

In accordance with the Quality Housing and Work Responsibility Act of 1998, the HACB will reserve a minimum of seventy-five percent of its Section 8 new admissions for families whose income does not exceed 30 percent of the area median income, or local exception. In addition to HUD required income targeting, the HACB will use lottery date and ranking of application for selection applicants from the waiting list.

## **G. REMOVAL FROM WAITING LIST AND PURGING**

[24 CFR 982.204(c)]

To ensure that the waiting list is current and accurate, it will be purged once every calendar year by mailing an updated application to all applicants. Applicants must complete the updated application, indicating whether or not they still wish to receive rental assistance, and return the card to the Housing Authority within fourteen (14) days.

If an applicant fails to respond to the updated application, the applicant will be sent written notification and given fourteen (14) days to contact the PHA. If they fail to respond within fourteen (14) days, they will be removed from the waiting list.

Any mailings to the applicant which require a response will state that failure to respond within fourteen (14) days will result in the applicant's name being removed from the waiting list.

An extension of fourteen (14) days to respond will be granted, if requested and needed as a reasonable accommodation for a person with a disability.

If the applicant did not respond to the PHA request for information or updates because of a family member's disability, the PHA will reinstate the applicant in the family's former position on the waiting list.

If a letter or card is returned by the Post Office without a forwarding address, the applicant's name will be removed without further notice, and the unopened envelope and letter or returned card will be maintained in the file.

If a letter or card is returned with a forwarding address, it will be re-mailed to the address indicated.

If an applicant is removed from the waiting list for failure to respond, they will not be entitled to reinstatement unless the Applications Clerk determines there were circumstances beyond the person's control. The following exceptions, if determined to exist, will be acceptable to warrant reinstatement:

1. Death in Family
2. Medical Emergency
3. Natural Disaster
4. Reasonable Accommodation

## **Chapter 5    SUBSIDY STANDARDS**

[24 CFR 982.54(d)(9)]

### **INTRODUCTION**

HUD guidelines require that PHA's establish subsidy standards for the determination of family unit size, and that such standards provide for a minimum commitment of subsidy while avoiding overcrowding. The standards used for the unit size selected by the family must be within the minimum unit size requirements of HUD's Housing Quality Standards. This Chapter explains the subsidy standards which will be used to determine the voucher size (family unit size) for various sized families when they are selected from the waiting list, as well as the PHA's procedures when a family's size changes or a family selects a unit size that is different from the Voucher.

### **A.    *DETERMINING FAMILY UNIT (VOUCHER) SIZE***

[24 CFR 982.402]

The PHA does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the Voucher. The PHA's subsidy standards for determining voucher size shall be applied in a manner consistent with Fair Housing guidelines. Children of the opposite sex, 8 years of age or under, may occupy the same bedroom. For subsidy standards, an adult is a person 18 years or older. All standards in this section relate to the number of bedrooms on the Voucher, not the family's actual living arrangements. The unit size on the Voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented.

Generally, the PHA assigns one bedroom to two people plus one within the following guidelines:

1. Foster children will be included in determining unit size only if they will be in the unit for more than twelve (12) months.
2. Children under temporary guardianship for not less than six (6) months, will be included in determining unit size, provided it is verifiable.
3. Live-in attendants will generally be provided a separate bedroom. No additional bedrooms are provided for the attendant's family.
4. Space may be provided for a child who is away at school but who lives with the family during school recesses.
5. Space will not be provided for a family member, other than a spouse, who will be absent most of the time, such as a member who is away in the military.
6. Single pregnant women will be treated as a two (2) person family.

7. Single person families shall be allocated one (1) bedroom.

**GUIDELINES FOR DETERMINING VOUCHER SIZE**

Voucher Size	Persons in Household	
	Minimum Number	Maximum Number
0 Bedroom	1	2
1 Bedroom	1	3
2 Bedrooms	2	5
3 Bedrooms	3	7
4 Bedrooms	4	9
5 Bedrooms	6	11
6 Bedrooms	8	13

**B. EXCEPTIONS TO SUBSIDY STANDARDS**

[24 CFR 982.403(a) & (b)]

The PHA shall grant exceptions from the subsidy standards if the family requests and the PHA determines the exceptions are justified by the relationship, age, sex, health or disability of family members, or other individual circumstances.

The PHA will grant an exception upon request as an accommodation for persons with disabilities. Circumstances may dictate a larger size than the subsidy standards permit when persons cannot share a bedroom because of a need, such as a:

- Verified medical or health reason
- Elderly persons or persons with disabilities who may require a live-in attendant.

**Request for Exceptions to Subsidy Standards**

The family may request a larger sized voucher than indicated by the PHA's subsidy standards. Such request must be made in writing within fourteen (14) days of the PHA's determination of bedroom size. The request must explain the need or justification for a larger bedroom. Documentation verifying the need or justification will be required as appropriate.

The PHA will not issue a larger voucher due to additions of family members other than by birth, adoption, marriage, or court-awarded custody. The PHA will consider issuing a larger voucher to the sole caregiver to a disabled relative as a reasonable accommodation.

An exception will be granted if the family has submitted a "Self-Certification of Physical Custody of Minor Child/Children" or an "Appointment of Temporary Guardian" to the PHA. If either of these forms have been submitted the PHA will also require that the family has initiated legal proceedings for guardianship or legal custody.

Requests based on health related reasons must be verified by either a medical professional or social service professional.

### **PHA Error**

If the PHA makes an error in the bedroom size designation, the family will be issued a Voucher of the appropriate size.

### **Changes for Applicants**

The voucher size is determined prior to the briefing by comparing the family composition to the PHA subsidy standards. If an applicant requires a change in the voucher size, based on the requirements of the PHA subsidy standards, the above references guidelines will apply.

### **Changes for Participants**

The members of the family residing in the unit must be approved by the PHA. The family must obtain approval of any additional family member before the new member occupies the unit except for additions by birth, adoption, or court-awarded custody, in which case the family must inform the PHA, in writing, within fourteen (14) days. The above referenced guidelines will apply.

### **Under housed Families**

If a unit does not meet HQS space standards due to an increase in family size, (unit too small), the PHA will issue a new voucher of the appropriate size and assist the family in locating a suitable unit.

The PHA will also notify the family of the circumstances under which an exception will be granted, such as:

- If a family with a disability is under-housed in an accessible unit.
- If a family requires the additional bedroom because of a health problem which has been verified by the PHA.

## **C. UNIT SIZE SELECTED**

[24 CFR 982.402(c)]

The family may select a different size dwelling unit than that listed on the Voucher. There are three criteria to consider:

### **Subsidy Limitation**

The family unit size as determined for a family under the PHA subsidy standard for a family assisted in the voucher program is based on the PHA's adopted payment standards. The payment standard for a family shall be the lower of:



- The payment standard amount for the family unit size; or
- The payment standard amount for the unit size rented by the family

**Utility Allowance**

The utility allowance used to calculate the gross rent is based on the actual size of the unit the family selects, regardless of the size authorized on the family's Voucher.

**Housing Quality Standards**

The standards allow two persons per living/sleeping room and permit maximum occupancy levels (assuming a living room is used as a living/sleeping area) as shown in the table below. The levels may be exceeded if a room in addition to bedrooms and living room is used for sleeping.

**HQS GUIDELINES FOR UNIT SIZE SELECTED**

UNIT SIZE	MAXIMUM NUMBER IN HOUSEHOLD
0 Bedroom	2
1 Bedroom	3
2 Bedrooms	5
3 Bedrooms	7
4 Bedrooms	9
5 Bedrooms	11
6 Bedrooms	13

## **Chapter 6 FACTORS RELATED TO TOTAL TENANT PAYMENT AND FAMILY SHARE DETERMINATION**

[24 CFR Part 5, Subparts E and F; 982.153, 982.551]

### **INTRODUCTION**

The PHA will use the methods as set forth in this Administrative Plan to verify and determine that family income at admission and at annual reexamination is correct. The accurate calculation of Annual Income and Adjusted Income will ensure that families are not paying more or less money for rent than their obligation under the Regulations.

This Chapter defines the allowable expenses and deductions to be subtracted from Annual Income and how the presence or absence of household members may affect the Total Tenant Payment (TTP). Income and TTP are calculated in accordance with 24 CFR Part 5, Subparts E and F, and further instructions set forth in HUD Notices and Memoranda. The formula for the calculation of TTP is specific and not subject to interpretation. The PHA's policies in this Chapter address those areas which allow the PHA discretion to define terms and to develop standards in order to assure consistent application of the various factors that relate to the determination of TTP.

#### **A. INCOME AND ALLOWANCES**

[24 CFR 5.609]

**Income:** Includes all monetary amounts that are received on behalf of the family. For purposes of calculating the Total Tenant Payment, HUD defines what is to be calculated and what is to be excluded in the federal regulations. In accordance with this definition, all income that is not specifically excluded in the regulations is counted.

Annual Income is defined as the gross amount of income anticipated to be received by the family during the twelve (12) months after certification or Reexamination. Gross income is the amount of income prior to any HUD allowable expenses or deductions, and does not include income that has been excluded by HUD. Annual income is used to determine whether or not applicants are within the applicable income limits.

Adjusted Income is defined as the Annual income minus any HUD allowable expenses and deductions.

HUD has five allowable deductions from Annual Income:

1. **Dependent Allowance:** \$480 each for family members (other than the head or spouse) who are minors, and for family members who are 18 and older who are full-time students or who are disabled.
2. **Elderly/Disabled Allowance:** \$400 per family for families whose head or spouse is 62 or over or disabled.

3. Allowable Medical Expenses: Deducted for all family members of an eligible elderly/disabled family.
4. Child Care Expenses: Deducted for the care of children under 13 when child care is necessary to allow an adult member to work, attend school, or actively seek employment.
5. Allowable Disability Assistance Expenses: Deducted for attendant care or auxiliary apparatus for persons with disabilities if needed to enable the individual or an adult family member to work.

**B. DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATIONS FOR PERSONS WITH DISABILITIES**

[24 CFR 5.617; 982.201(b)(3)]

**INSTRUCTION:** *This section was effective April 20, 2001. Between April 20, 2001 and March 15, 2002, the disallowance was available only to disabled members of disabled families. Technical amendments published February 13, 2002, extended the disallowance to all qualifying family members with disabilities effective March 15, 2002. Exclusion of income during participation in training programs under 24 CFR 5.609[c][8][v] is still applicable. PHAs must take all necessary steps to ensure those disabled families eligible for the mandatory earned income disallowance receive the disallowance.*

The annual income for qualified families may not be increased as a result of increases in earned income of a family member who is a person with disabilities beginning on the date on which the increase in earned income begins and continuing for a cumulative 12-month period. After the disabled family receives 12 cumulative months of the full exclusion, annual income will include a phase-in of half the earned income excluded from annual income.

A family qualified for the earned income exclusion is a disabled family that is receiving tenant-based rental assistance under the Housing Choice Voucher Program; and

1. Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;
2. Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or
3. Whose annual income increases, as a result of new employment or increased earnings of a family member during or within six months after receiving assistance, benefits or services under any State program for TANF provided that the total amount over a six-month period is at least \$500. The qualifying TANF assistance may consist of any amount of monthly income maintenance, and/or at least \$500 in such TANF benefits and services as one-time payments, wage

subsidies and transportation assistance.

The HUD definition of "previously unemployed" includes a person with disabilities who has earned in the previous 12 months no more than the equivalent earnings for working 10 hours per week for 50 weeks at the minimum wage. Minimum wage is the prevailing minimum wage in the State or locality.

The HUD definition of economic self-sufficiency program is: any program designed to encourage, assist, train or facilitate economic independence of assisted families or to provide work for such families. Such programs may include job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as substance abuse or mental health treatment).

Qualifying increases are any earned income increases of a family member who is a person with disabilities during participation in an economic self-sufficiency or job training program and not increases that occur after participation, unless the training provides assistance, training or mentoring after employment.

The amount that is subject to the disallowance is the amount of incremental increase in income of a family member who is a person with disabilities. The incremental increase in income is calculated by comparing the amount of the disabled family member's income before the beginning of qualifying employment or increase in earned income to the amount of such income after the beginning of employment or increase in earned income.

### **Initial Twelve-Month Exclusion**

During the cumulative 12-month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the PHA will exclude from annual income of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over the prior income of that family member.

### **Second Twelve-Month Exclusion and Phase-in**

During the second cumulative 12-month period after the expiration of the initial cumulative 12-month period referred to above, the PHA must exclude from annual income of a qualified family 50 percent of any increase in income of a family member who is a person with disabilities as a result of employment over income of that family member prior to the beginning of such employment.

### **Maximum Four Year Disallowance**

The earned income disallowance is limited to a lifetime 48-month period for each family member who is a person with disabilities. For each family member who is a person with disabilities, the disallowance only applies for a maximum of 12 months of full exclusion

of incremental increase, and a maximum of 12 months of phase-in exclusion during the 48-month period starting from the date of the initial exclusion.

If the period of increased income does not last for 12 consecutive months, the disallowance period may be resumed at any time within the 48-month period, and continued until the disallowance has been applied for a total of 12 months of each disallowance (the initial 12-month full exclusion and the second 12-month phase-in exclusion).

No earned income disallowance will be applied after the 48-month period following the initial date the exclusion was applied.

### **Applicability to Child Care Expense Deductions**

The amount deducted for child care necessary to permit employment shall not exceed the amount of employment income that is included in annual income. Therefore, for families entitled to the earned income disallowance, the amounts of the full and phase-in exclusions from income shall not be used in determining the cap for child care deductions.

### **Tracking the Earned Income Exclusion**

The earned income exclusion will be reported on the HUD 50058 form. Documentation will be included in the family's file to show the reason for the reduced increase in rent. Such documentation will include:

- Date the increase in earned income was reported by the family
- Name of the family member whose earned income increased
- Reason (new employment, participation in job training program, within 6 months after receiving TANF) for the increase in earned income
- Amount of the increase in earned income (amount to be excluded)
- Date the increase in income is first excluded from annual income
- Date(s) earned income ended and resumed during the initial cumulative 12-month period of exclusion (if any)
- Date the family member has received a total of 12 months of the initial exclusion
- Date the 12-month phase-in period began
- Date(s) earned income ended and resumed during the second cumulative 12-month period (phase-in) of exclusion (if any)
- Date the family member has received a total of 12 months of the phase-in exclusion
- Ending date of the maximum 48-month (four year) disallowance period (48 months from the date of the initial earned income disallowance)

The PHA will maintain a tracking system to ensure correct application of the earned income disallowance.

### **Inapplicability to Admission**

The earned income disallowance is only applied to determine the annual income of

families who are participants in the Housing Choice Voucher Program, and therefore does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

**C. MINIMUM RENT**

[24 CFR 5.616]

"Minimum rent" is fifty (\$50). Minimum rent refers to the Minimum Total Tenant Payment and includes the combined amount a family pays towards rent and/or utilities when it is applied.

**D. DEFINITION OF TEMPORARILY/PERMANENTLY ABSENT**

[24 CFR 982.54(d)(10), 982.551, 982.312]

The PHA must compute all applicable income of every family member who is on the lease, including those who are temporarily absent. In addition, the PHA must count the income of the spouse (or the head of the household if that person is temporarily absent) even if that person is not on the lease.

"Temporarily absent" is defined as away from the unit for less than three (3) consecutive months.

Income of persons permanently absent will not be counted. If the spouse is temporarily absent and in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

It is the responsibility of the head of household to report changes in family composition. The PHA will evaluate absences from the unit using this policy.

**Absence of Any Member**

Any member of the household will be considered permanently absent if s/he is away from the unit for three (3) consecutive months or longer except as otherwise provided in this Chapter.

**Absence due to Medical Reasons**

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, the PHA will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than ninety (90) consecutive calendar days, the family member will not be considered permanently absent. If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in

accordance with the PHA's "Absence of Entire Family" policy.

### **Absence Due to Full-time Student Status**

Full time students who attend school away from the home will be treated in the following manner: Full time students who attend school away from the home and live with the family during school recess will be considered permanently absent from the household.

### **Absence due to Incarceration**

If the sole member is incarcerated for more than ninety (90) consecutive calendar days, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for three (3) consecutive months. The PHA will determine if the reason for incarceration is for drug-related or violent criminal activity.

### **Absence of Children due to Placement in Foster Care**

If the family includes a child or children temporarily absent from the home due to placement in foster care, the PHA will determine from the appropriate agency when the child/children will be returned to the home. If the time period is to be greater than three (3) months from the date of removal of the child/ren, the Voucher size will be reduced. If all children are removed from the home permanently, the voucher size will be reduced in accordance with the PHA's subsidy standards.

### **Absence of Entire Family**

These policy guidelines address situations when the family is absent from the unit, but has not moved out of the unit. In cases where the family has moved out of the unit, the PHA will terminate assistance in accordance with appropriate termination procedures contained in this Plan. Families are required both to notify the PHA before they move out of a unit and to give the PHA information about any family absence from the unit. Families must notify the PHA, and the landlord, no more than fourteen (14) calendar days after leaving the unit if they are going to be absent from the unit for more than thirty (30) consecutive calendar days. If the entire family is absent from the assisted unit for more than thirty(30) consecutive calendar days, the unit will be considered to be vacated and the assistance will be terminated.

"Absence" means that no family member is residing in the unit. In order to determine if the family is absent from the unit, the PHA may:

- Contact the Landlord
- Write letters to the family at the unit
- Telephone the family at the unit
- Interview neighbors
- Verify if utilities are in service
- Check with the post office

A person with a disability may request an extension of time as an accommodation, provided that the extension does not go beyond the HUD-allowed one-hundred and

eighty (180) consecutive calendar day's limit.

If the absence which resulted in termination of assistance was due to a person's disability, and the PHA can verify that the person was unable to notify the PHA in accordance with the family's responsibilities, and if funding is available, the PHA may reinstate the family as an accommodation if requested by the family, as long as the period was within 180 calendar days.

### **Caretaker for Children**

If neither parent remains in the household and social services or the juvenile court has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the PHA will treat that adult as a visitor for the first fourteen (14) consecutive calendar days. If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, the Voucher will be transferred to the caretaker. If the appropriate agency cannot confirm the guardianship status of the caretaker, the PHA will review the status at thirty (30) calendar day intervals.

If custody or legal guardianship has not been awarded by the court, but the action is in process, the PHA will secure verification from social services staff or the attorney as to the status.

If custody is awarded for a limited time in excess of stated period, the PHA will state in writing that the transfer of the Voucher is for that limited time or as long as they have custody of the children. The PHA will use discretion as deemed appropriate in determining any further assignment of the Voucher on behalf of the children. The caretaker will be allowed to remain in the unit, as a visitor, until a determination of custody is made.

When the PHA approves a person to reside in the unit as caretaker for the child/ren, the income should be counted pending a final disposition. The PHA will work with the appropriate service agencies and the landlord to provide a smooth transition in these cases.

If a member of the household is subject to a court order that restricts him/her from the home for more than three (3) consecutive months, the person will be considered permanently absent.

### **Visitors**

Any adult not included on the HUD 50058 who has been in the unit more than fourteen (14) consecutive calendar days without PHA approval, or a total of thirty (30) calendar days in a twelve (12) month period, will be considered to be living in the unit as an unauthorized household member.

Absence of evidence of any other address will be considered verification that the visitor is a member of the household. Statements from neighbors and/or the landlord will be



considered in making the determination. Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.

The burden of proof that the individual is a visitor rest on the family. In the absence of such proof, the individual will be considered an unauthorized member of the household and the PHA will terminate assistance since prior approval was not requested for the addition.

Minors and college students who were part of the family but who now live away from home during the school year and are no longer on the lease may visit for up to ninety (90) calendar days per year without being considered a member of the household. In a joint custody arrangement, if the minor is in the household less than one hundred eighty three (183) calendar days per year, the minor will be considered to be an eligible visitor and not a family member.

#### **Reporting Additions to Owner and PHA**

Reporting changes in household composition to the PHA is both a HUD and a PHA requirement. The family obligations require the family to request PHA approval in writing within fourteen (14) days to add any other family member as an occupant of the unit and to inform the PHA of the birth, adoption or court-awarded custody of a child. The family must request prior approval of additional household members in writing. If any new family member is added, the income of the additional member will be included in the family income as applicable under HUD regulations.

If the family does not obtain prior written approval from the PHA, any person the family has permitted to move in will be considered an unauthorized household member. An interim reexamination will be conducted for any additions to the household. In addition, the lease may require the family to obtain prior written approval from the owner when there are changes in family composition other than birth, adoption or court awarded custody.

#### **Reporting Absences to the PHA**

Reporting changes in household composition is both a HUD and a PHA requirement. If a family member leaves the household, the family must report this change to the PHA, in writing, within fourteen (14) days of the change and certify as to whether the member is temporarily absent or permanently absent. The PHA will conduct an interim evaluation for changes that affect the Total Tenant Payment in accordance with the interim policy.

### ***E. AVERAGING INCOME***

When Annual Income cannot be anticipated for a full twelve (12) months, the PHA may:

- Average known sources of income that vary to compute an annual income, or

- Annualize current income and conduct an interim reexamination if income changes.

If there are bonuses or overtime, that the employer cannot anticipate for the next twelve (12) months, bonuses and overtime received the previous year will be used. If, by averaging, an estimate can be made for those families whose income fluctuates from month to month, this estimate will be used so as to reduce the number of interim adjustments. The method used depends on the regularity, source and type of income.

#### **F. MINIMUM INCOME**

There is no minimum income requirement. Families who report zero income are required to undergo an Interim Reexamination every three (3) months. Families that report zero income will be required to provide information regarding their means of basic subsistence, such as food, utilities, transportation, etc. If the family's expenses exceed their known income, the PHA will make inquiry of the head of household as to the nature of the family's accessible resources.

#### **G. INCOME OF PERSON PERMANENTLY CONFINED TO NURSING HOME**

[24 CFR 982.54(d)(10)]

If a family member is permanently confined to a hospital or nursing home and there is a family member left in the household, the PHA will calculate the Total Tenant Payment by calculating the income using the following methodology and using the income figure which would result in a lower payment by the family:

1. Excluding the income of the person permanently confined to the nursing home and not giving the family deductions for medical expenses of the confined family member; or
2. Including the income of the person permanently confined to the nursing home and giving the family the medical deductions allowable on behalf of the person in the nursing home.

#### **H. REGULAR CONTRIBUTIONS AND GIFTS**

[24 CFR 5.609]

Regular contributions and gifts received from persons outside the household are counted as income for calculation of the Total Tenant Payment. Any contribution or gift received for more than one(1) month will be considered a "regular" contribution or gift. This includes rent and utility payments made on behalf of the family and other cash or non-cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts. (See "Verification Procedures" chapter for further

definition.)

For contributions and gifts pertaining to the 40% rule please read Chapter 9 page 98.

If the family's expenses exceed its known income, the PHA will inquire of the family regarding contributions and gifts.

### ***I. ALIMONY AND CHILD SUPPORT***

[24 CFR 5.609]

Regular alimony and child support payments are counted as income for calculation of Total Tenant Payment. If the amount of child support or alimony received is less than the amount awarded by the court, the PHA will use the amount awarded by the court unless the family can verify that they are not receiving the full amount and verification of item(s) below are provided.

The PHA will accept verification that the family is receiving an amount less than the award if:

- The PHA receives verification from the agency responsible for enforcement or collection
- The family furnishes documentation of child support or alimony collection action filed through a child support enforcement/collection agency, or has filed an enforcement or collection action through an attorney

It is the family's responsibility to supply a certified copy of the divorce decree.

### ***J. LUMP-SUM RECEIPTS***

[24 CFR 5.609]

Lump-sum additions to Family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses, are not included in income but may be included in assets.

Lump-sum payments caused by delays in processing periodic payments such as unemployment or welfare assistance are counted as income. Lump sum payments from Social Security or SSI are excluded from income, but any amount remaining will be considered an asset. Deferred periodic payments which have accumulated due to a dispute will be treated the same as periodic payments which are deferred due to delays in processing.

### **Retroactive Calculation Methodology for Newly Admitted Participants**

The PHA will go back to the date the lump-sum payment was received, or to the date of

admission, whichever is closer. The PHA will determine the amount of income for each certification period, including the lump sum, and recalculate the tenant rent for each certification period to determine the amount due the PHA.

The family has the choice of paying this "retroactive" amount to the PHA in a lump sum. At the PHA's option, the PHA may enter into a Payment Agreement with the family. The amount owed by the family is a collectible debt even if the family becomes unassisted.

### **Attorney Fees**

The family's attorney fees may be deducted from lump-sum payments when computing annual income if the attorney's efforts have recovered a lump-sum compensation, and the recovery paid to the family does not include an additional amount in full satisfaction of the attorney fees.

### **K. CONTRIBUTIONS TO RETIREMENT FUNDS – ASSETS**

[24 CFR 5.603(d)]

Contributions to company retirement/pension funds are handled as follows: While an individual is employed, count as assets only amounts the family can withdraw without retiring or terminating employment. After retirement or termination of employment, count any amount the employee elects to receive as a lump sum.

### **L. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE**

[24 CFR 5.603(d)(3)]

The PHA must count assets disposed of for less than fair market value during the two years preceding certification or reexamination. The PHA will count the difference between the market value and the actual payment received in calculating total assets. Assets disposed of as a result of foreclosure or bankruptcy is not considered to be assets disposed of for less than fair market value. Assets disposed of as a result of a divorce or separation is not considered to be assets disposed of for less than fair market value.

The PHA's minimum threshold for counting assets disposed of for less than Fair Market value is five thousand dollars (\$5,000). The PHA will use HUD's Passport Rate or industry standards. If the total value of assets disposed of within a one-year period is less than five thousand dollars (\$5,000) they will not be considered an asset.

### **M. CHILD CARE EXPENSES**

[24 CFR 5.603]

Child care expenses for children under the age of 13 may be deducted from annual

income if they enable an adult to work or attend school full time, or to actively seek employment. In the case of a child attending private school, tuition will not be allowed as a deduction, however payments for after-hours care can be counted as child care expenses.

In cases where an adult family member is available to provide child care:

- Child care expenses will not be allowed as a deduction unless there is a documented reason that the family member is unable to care for the child.
- Child care expenses will be allowed as a deduction when the family chooses a non-family member provider.

Allowability of deductions for child care expenses is based on the following guidelines:

Child care expenses cannot be allowed as a deduction if there is an adult household member capable of caring for the child who can provide the child care. Examples of those adult members who would be considered *unable* to care for the child include:

- The abuser in a documented child abuse situation
- A person with disabilities or older person unable to take care of a small child, as verified by a reliable knowledgeable source, as determined by the PHA

### **Child Care to Work**

The maximum child care expense allowed must be less than the amount earned by the person enabled to work which is included in the family's annual income. The "person enabled to work" will be the adult member of the household who earns the least amount of income from working.

### **Child Care for School or for Actively Seeking Work**

The number of hours claimed for child care may not exceed the number of hours the family member is attending school or actively seeking work, including reasonable travel time to and from school or work sites.

### **Amount of Expense**

The PHA will establish guidelines for determining reasonable child care expenses. If the hourly rate materially exceeds the guideline, the PHA may calculate the allowance using the guideline.

## **N. MEDICAL EXPENSES**

[24 CFR 5.609(a)(2), 5.603]

When it is unclear in the HUD rules as to whether or not to allow an item as a medical expense, IRS Publication 502 will be used as a guide.

Nonprescription medicines must be prescribed by a doctor or licensed health

professional in order to be considered a medical expense.

Nonprescription medicines will be counted toward medical expenses for families who qualify if the family furnishes legible receipts.

Acupressure, acupuncture, and related herbal medicines, and chiropractic services will be considered allowable medical expenses.

#### ***O. PRORATION OF ASSISTANCE FOR "MIXED" FAMILIES***

[24 CFR 5.520]

##### **Applicability**

Prorated assistance must be offered to any "mixed" applicant or participant family. A "mixed" family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible members.

##### **Prorated Assistance Calculation**

Prorated assistance is calculated by determining the amount of assistance payable if all family members were eligible and multiplying by the percent of the family members who actually are eligible. Calculations for each housing program are performed on the HUD 50058 form.

#### ***P. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS***

The PHA will not reduce the rental contribution for families whose welfare assistance is reduced specifically because of:

- fraud by a family member in connection with the welfare program; or
- failure to participate in an economic self-sufficiency program; or
- noncompliance with a work activities requirement

However, the PHA will reduce the rental contribution if the welfare assistance reduction is a result of:

- The expiration of a lifetime time limit on receiving benefits; or
- A situation where a family member has not complied with other welfare agency requirements; or
- A situation where a family member has complied with welfare agency economic self-sufficiency or work activities requirements but cannot or has not obtained employment, such as the family member has complied with welfare program requirements, but the durational time limit, such as a cap on the length of time a family can receive benefits, causes the family to lose their welfare benefits.

Imputed welfare income is the amount of annual income not actually received by a family as a result of a specified welfare benefit reduction that is included in the family's income for rental contribution. Imputed welfare income is not included in annual income if the family was not an assisted resident at the time of sanction. The amount of imputed welfare income is offset by the amount of additional income a family receives that begins after the sanction was imposed. When additional income is at least equal to the imputed welfare income, the imputed welfare income is reduced to zero.

### **Verification Before Denying a Request to Reduce Rent**

The PHA will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance with economic self-sufficiency or work activities requirements before denying the family's request for rent reduction. The welfare agency, at the request of the PHA, will inform the PHA of:

- amount and term of specified welfare benefit reduction for the family;
- reason for the reduction; and
- subsequent changes in term or amount of reduction.

### **Cooperation Agreements**

The PHA has a written cooperation agreement in place with the local welfare agency which assists the PHA in obtaining the necessary information regarding welfare sanctions. The PHA has taken a proactive approach to creating an effective working relationship between the PHA and the local welfare agency for the purpose of targeting economic self-sufficiency programs throughout the community that are available to Section 8 and public housing residents. The PHA and the local welfare agency have mutually agreed to notify each other of any economic self-sufficiency and/or other appropriate programs or services that would benefit Section 8 and public housing residents.

## **Q. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS**

[24 CFR 982.153, 982.517]

The same Utility Allowance Schedule is used for all tenant-based programs. The utility allowance is intended to cover the cost of utilities not included in the rent. The allowance is based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. Allowances are not based on an individual family's actual energy consumption.

The PHA's utility allowance schedule, and the utility allowance for an individual family, must include the utilities and services that are necessary in the locality to provide housing that complies with the housing quality standards. The PHA may not provide any allowance for non-essential utility costs, such as costs of cable or satellite television.

The PHA must classify utilities in the utility allowance schedule according to the

following general categories:

- heating
- air conditioning
- cooking
- water heating
- water
- sewer
- trash collection
- other electric
- refrigerator (for tenant supplied refrigerator)
- range (for tenant-supplied range)
- other specified services

An allowance for tenant-paid air conditioning will be provided in those cases where the majority of housing units in the market have central air conditioning or are wired for tenant installed air conditioners [24 CFR 982.517]. If the PHA determines that an air conditioning allowance will be granted in certain areas or throughout the PHA's jurisdiction, the air conditioning allowance will only be granted to families in the applicable area when the PHA has confirmed that the unit actually has an air conditioner in the unit.

The PHA will review the utility allowance schedule annually. If the review finds a utility rate has changed by 10 percent or more since the last revision of the utility allowance schedule, the schedule will be revised to reflect the new rate. Revised utility allowances will be applied in a participant family's rent calculation at their next reexamination. The approved utility allowance schedule is given to families along with their Voucher. The utility allowance is based on the actual unit size selected.

Where families provide their own range and refrigerator, the PHA will establish an allowance adequate for the family to purchase or rent a range or refrigerator, even if the family already owns either appliance. Allowances for ranges and refrigerators will be based on the lesser of the cost of leasing or purchasing the appropriate appliance per year over a seven (7) year period.

Where the calculation on the HUD 50058 results in a utility reimbursement payment due the family [24 CFR 982.514(b)], the PHA will provide a Utility Reimbursement Payment for the family each month. The check will be made out directly to the tenant.



## **Chapter 7 VERIFICATION PROCEDURES**

[24 CFR Part 5, Subparts B, D, E and F; 982.158; 24 CFR 5.617]

### **INTRODUCTION**

HUD regulations require that the factors of eligibility and Total Tenant Payment/Family Share be verified by the PHA. PHA staff will obtain written verification from independent sources whenever possible and will document tenant files whenever third party verifications are not possible as to why third party verification was impossible to obtain. Applicants and program participants must provide true and complete information to the PHA whenever information is requested. The PHA's verification requirements are designed to maintain program integrity. This Chapter explains the PHA's procedures and standards for verification of income, assets, allowable deductions, family status, and changes in family composition. The PHA will obtain proper authorization from the family before requesting information from independent sources.

### **A. METHODS OF VERIFICATION AND TIME ALLOWED**

[24 CFR 982.516]

#### **Upfront Income Verification**

The verification of income, before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals.

#### **Authorization for Use of Upfront Income Verification**

To prevent fraud and abuse in HUD programs, the United States Code (USC) and Code of Federal Regulations (CFR) allow HUD and PHAs to obtain information about applicants and participants to determine their eligibility or level of benefits. Most importantly, the USC authorizes computer-matching agreements of income information. Below is a summary of laws and regulations that govern the use of upfront income verification.

24 CFR §5.234 (Requests for Information from SWICAs and Federal Agencies; Restrictions on Use) indicates that income information will generally be obtained through computer matching Agreements between HUD and a SWICA or Federal Agency, or between a PHA and a SWICA.

42 USC 3544 ©(2)(A) (Preventing Fraud and Abuse in Housing and Urban Development Programs) provides the legal basis for preventing fraud and abuse in HUD programs. The law allows HUD to require the applicants and participants sign a consent form to request the following: current or previous wages and salaries from employers, wage information and unemployment compensation from the State agency charged with the administration of the State unemployment law, and income information from the commissioner of Social Security and the Secretary of the Treasury.

## **Types of Income That May be Verified Using Upfront Income Verification (UIV)**

1. Gross Wages and Salaries (including overtime pay, commission, fees, tips, bonuses and other compensation for personal services).
2. Unemployment Compensation
3. Welfare Benefits
4. Social Security Benefits (including Federal and State benefits, Black Lung Benefits, dual benefits)
  - a. Social Security (SS)
  - b. Supplemental Security Income

**Note:** Other income types (i.e., child support, pensions, etc.) should be verified using upfront income verification techniques if the resources are available.

### **HUD System Available for Upfront Income Verification**

Use of HUD's Tenant Assessment Sub-System (TASS) and centralized UIV System are acceptable methods for verifying family income. HUD will announce the availability of the UIV System through issuance of a Public Housing Notice (PHN) or other appropriate means in the future. The PHA will verify information through the five methods of verification acceptable to HUD in the following order:

1. Upfront Income Verification
2. Third-Party Written: The PHA's second choice is a written third party verification to substantiate claims made by an applicant or resident.
3. Third-Party Oral: The PHA may also use telephone verifications.
4. Review of Documents: The PHA will review documents, when relevant, to substantiate the claim of an applicant or resident.
5. Family Certification/Self Declaration: A notarized family certification will be accepted when no other form of verification is available.

For applicants, verifications may not be more than sixty (60) calendar days old at the time of Voucher issuance or for participants who are moving. For participants at time of re-examination, they are valid for ninety (90) calendar days from date of execution.

### **Third-Party Written Verification**

Third-party verification is used to verify information directly with the source. Third-party written verification forms will be sent and returned via first class mail. The family will be required to sign an authorization for the information source to release the specified

information. Verifications received electronically directly from the source are considered third party written verifications. Third party verification forms will not be hand-carried by the family under any circumstances. The PHA will accept verifications in the form of computerized printouts delivered by the family from the following agencies:

- Social Security Administration
- Veterans Administration
- Welfare Assistance
- Unemployment Compensation Board
- City or County Courts

The PHA may send requests for third party written verifications to the source regardless of whether the family provides a computerized printout.

### **Third-Party Oral Verification**

Oral third-party verification may be used when written third-party verification is delayed or not possible. When third-party oral verification is used, staff will be required to complete a Certification of Document Viewed or Person Contacted form, noting with whom they spoke, the date of the conversation, and the facts provided. If oral third party verification is not available, the PHA will compare the information to any documents provided by the Family. If provided by telephone, the PHA must originate the call.

### **Review of Documents**

In the event that third-party written or oral verification is unavailable, or the information has not been verified by the third party within two (2) weeks, the PHA will annotate the file accordingly and utilize documents provided by the family as the primary source if the documents provide complete information.

All such documents, excluding government checks, will be photocopied and retained in the applicant file. In cases where documents are viewed which cannot be photocopied, staff viewing the document(s) will complete a Certification of Document Viewed or Person Contacted form or document.

The PHA will accept the following documents from the family provided that the document is such that tampering would be easily noted:

- Printed wage stubs
- Computer print-outs from the employer
- Signed letters (provided that the information is confirmed by phone)
- Other documents noted in this Chapter as acceptable verification

The PHA may accept Faxed documents. The PHA will not accept photocopies.

If third-party verification is received after documents have been accepted as provisional verification, and there is a discrepancy, the PHA will utilize the third party verification.

The PHA will not delay the processing of an application beyond thirty (30) calendar days

because a third party information provider does not return the verification in a timely manner.

### **Self-Certification/Self-Declaration**

When verification cannot be obtained by third-party verification or review of documents, families will be required to submit a self-certification/self declaration. Self-certification/self declaration means a statement under penalty of perjury, and the statement must be notarized.

## **B. RELEASE OF INFORMATION**

[24 CFR 5.230]

Adult family members will be required to sign the HUD 9886 Release of Information/Privacy Act form. In addition, family members will be required to sign specific authorization forms when information is needed that is not covered by the HUD form 9886, Authorization for Release of Information/Privacy Act Notice. Family refusal to cooperate with the HUD prescribed verification system will result in denial of admission or termination of assistance because it is a family obligation to supply any information and to sign consent forms requested by the PHA or HUD.

## **C. COMPUTER MATCHING**

For some time, HUD has conducted a computer matching initiative to independently verify resident income. HUD can access income information and compare it to information submitted by PHAs on the 50058 form. HUD can disclose Social Security information to PHAs, but is precluded by law from disclosing Federal tax return data to PHAs. If HUD receives information from Federal tax return data indicating a discrepancy in the income reported by the family, HUD will notify the family of the discrepancy. The family is required to disclose this information to the PHA (24 CFR 5.240). HUD's letter to the family will also notify the family that HUD has notified the PHA in writing that the family has been advised to contact the PHA. HUD will send the PHA a list of families who have received "income discrepancy" letters.

When the PHA receives notification from HUD that a family has been sent an "income discrepancy" letter, the PHA will wait thirty (30) calendar days after the date of notification before contacting tenant by mail or telephone asking the family to promptly furnish any letter or other notice by HUD concerning the amount or verification of family income. The PHA will fully document the contact in the tenant's file, including a copy of the letter to the family and/or written documentation of phone call.

When the family provides the required information, the PHA will verify the accuracy of the income information received from the family, review the PHA's interim reexamination policy, will identify unreported income, will charge retroactive rent as appropriate, and change the amount of rent or terminate assistance, as appropriate, based on the

information.

If tenant fails to respond to PHA:

- The PHA will ask HUD to send a second letter.
- After thirty (30) calendar days, the PHA will send a letter to the head of household, warning of the consequences if the family fails to contact the PHA within two (2) weeks.

If the tenant claims a letter from HUD was not received:

- The PHA will ask HUD to send a second letter with a verified address for the tenant.
- After thirty (30) calendar days, the PHA will contact the tenant family.
- If the tenant family still claims they have not received a letter, the PHA will ask HUD to send a third letter.
- After thirty (30) calendar days, the PHA will set up a meeting with the family to complete IRS forms 4506 and 8821.

If the tenant family fails to meet with the PHA or will not sign the IRS forms, the PHA will send a warning letter to the head of household, notifying the family that termination proceedings will begin within one week if the tenant fails to meet with the PHA and/or sign forms.

If tenant does receive a discrepancy letter from HUD:

- The PHA will set up a meeting with the family.
- If the family fails to attend the meeting, the PHA will reschedule the meeting.
- If the family fails to attend the second meeting, the PHA will send a termination warning.
- The family must bring the original HUD discrepancy letter to the PHA.

If tenant disagrees with the Federal tax data contained in the HUD discrepancy letter:

- The PHA will ask the tenant to provide documented proof that the tax data is incorrect.
- If the tenant does not provide documented proof, the PHA will obtain proof to verify the Federal tax data using third party verification.

#### ***D. ITEMS TO BE VERIFIED***

[24 CFR 982.516]

- All income not specifically excluded by the regulations
- Full-time student status including High School students who are 18 or over
- Current assets including assets disposed of for less than fair market value in preceding two (2) years
- Child care expense where it allows an adult family member to be employed, or to actively seek work, or to further his/her education

- Total medical expenses of all family members in households whose head or spouse is elderly or disabled
- Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus for a disabled member of the family, which allow an *adult* family member to be employed
- Disability for determination of allowances or deductions
- U.S. citizenship/eligible immigrant status
- Social Security Numbers for all family members over 6 years of age or older who have been issued a social security number
- Familial or Marital status when needed for head or spouse definition

**Verification of Reduction in Benefits for Noncompliance:**

The PHA will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance *before* denying the family's request for rent reduction.

**E. VERIFICATION OF INCOME**

[24 CFR 982.516] [ 24 CFR 5.612]

This section defines the methods the PHA will use to verify various types of income.

**Employment Income**

Verification forms request the employer to specify the:

1. Dates of employment
2. Amount and frequency of pay
3. Date of the last pay increase
4. Likelihood of change of employment status and effective date of any known salary increase during the next twelve (12) months
5. Year-to-date earnings
6. Estimated income from overtime, tips, bonus pay expected during next twelve (12) months

Acceptable methods of verification include:

1. Employment verification form completed by the employer.
2. W-2 forms plus income tax return forms.
3. Profit and Loss/Income Tax form (if available) or self-certifications signed by the family may be used for verifying self-employment income, or income from tips and other gratuities.

Applicants and program participants may be requested to sign an authorization for release of information from the Internal Revenue Service for further verification of income. In cases where there are questions about the validity of information provided by the family, the PHA will require the most recent federal income tax statements. Where doubt regarding income exists, a referral to IRS for confirmation will be made on a case-by-case basis.

## **Social Security, Pensions, Supplementary Security Income (SSI), Disability Income**

Acceptable methods of verification include:

1. Benefit verification form completed by agency providing the benefits.
2. Award or benefit notification letters prepared and signed by the providing agency.
3. Computer report electronically obtained or in hard copy.

## **Unemployment Compensation**

Acceptable methods of verification include:

1. Verification form completed by the unemployment compensation agency.
2. Computer report electronically obtained or in hard copy, from unemployment office stating payment dates and amounts.

## **Welfare Payments or General Assistance**

Acceptable methods of verification include:

1. PHA verification form completed by payment provider.
2. Written statement from payment provider indicating the amount of grant/payment, start date of payments, and anticipated changes in payment in the next 12 months.
3. Computer-generated Notice of Action.
4. Computer-generated list of recipients from Welfare Department.

## **Alimony or Child Support Payments**

Acceptable methods of verification include:

1. Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.
2. Copy of latest check and/or payment stubs from Court Trustee. PHA must record the date, amount, and number of the check.
3. A letter from the person paying the support.
4. Family's self-certification/self-declaration of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received. If payments are irregular, the family must provide:
  - a. A copy of the separation or settlement agreement, or a divorce decree stating the amount and type of support and payment schedules
  - b. A statement from the agency responsible for enforcing payments to show that the family has filed for enforcement
  - c. A notarized self declaration/affidavit from the family indicating the amount(s) received
  - d. A welfare notice of action showing amounts received by the welfare agency for child support
  - e. A written statement from an attorney certifying that a collection or enforcement action has been filed.

## **Net Income from a Business**

In order to verify the net income from a business, the PHA will view IRS and financial

documents from prior years and use this information to anticipate the income for the next twelve (12) months.

**Acceptable methods of verification include:**

1. Applicable IRS Forms – Example - Form 1040, including:
  - a. Schedule C (Small Business)
  - b. Schedule E (Rental Property Income)
  - c. Schedule F (Farm Income)
2. If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.
3. Audited or unaudited financial statement(s) of the business.
4. Credit report or loan application.
5. Documents such as manifests, appointment books, cash books, bank statements, and receipts will be used as a guide for the prior six months (or lesser period if not in business for six months) to project income for the next 12 months. The family will be advised to maintain these documents in the future if they are not available.

Family's self-certification as to net income realized from the business during previous years.

**Child Care Business**

If an applicant/participant is operating a licensed day care business, income will be verified as with any other business. If the applicant/participant is operating a "cash and carry" operation (which may or may not be licensed), the PHA will require that the applicant/participant complete a form for each customer which indicates

1. name of person(s) whose child (children) is/are being cared for
2. phone number
3. number of hours child is being cared for
4. method of payment (check/cash)
5. amount paid
6. and signature of customer

If the family has filed a tax return, the family will be required to provide it. If child care services were terminated, a third-party verification will be sent to the parent whose child was cared for.

**Recurring Gifts**

The family must furnish a self-certification which contains the following information:

1. The person who provides the gifts
2. The value of the gifts
3. The regularity (dates) of the gifts
4. The purpose of the gifts



### **Zero Income Family**

Families claiming to have no income will be required to execute verification forms to determine that forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by the household. The PHA will request information from the State Employment Development Department. The PHA may run a credit report if information is received that indicates the family has an unreported income source. Applicants may be requested to sign an authorization for release of information from the Internal Revenue Service for verification of zero income.

### **Student Financial Assistance**

Independent student enrolled in an institution of higher education seeking or receiving Section 8 assistance on their own (apart from their parents) receiving any financial assistance in the excess amounts received for tuition, (Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement incentive Scholarships, State Assistance the Leveraging Education Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program and Federal Work Study programs.) private sources, or from institution of higher education, shall be included in annual income unless the individual is over the age of 23 with dependent children.

Students attending an institution of higher education that are under the age of 24, are not veteran, are not married, have no dependent children and is not dependent from his/her parents, the PHA must determine the income eligibility of the student's parent in order to determine whether the student is eligible for assistance. The PHA should use the low-income limits for the jurisdictions in which the parents live. Verification of parental income that the PHA may accept from a parent is a declaration and certification of income, which includes a penalty of perjury. The PHA has the right to request and review supporting documentation at any time it determines the declaration, certification and eligibility of the parent is in question.

Supporting documentation includes, but is not limited to: Internal Revenue Services (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefits statements, Temporary Assistance to Needy Families (TANF) award letter, Social Security Administration award letter and other official and authentic document form a federal, state or local agency.

HUD's criteria for determining whether to obtain income information from parents, individually or jointly:

- If the students parent are married and living together, the PHA is to obtain a joint declaration and certification from the parents
- If the student's parent is widowed or single, obtain a declaration and certification from that parent.
- If the student's parents are divorced or separated, obtain declarations and certifications of income from each parent.
- If the student has been living with one of his/her parents and has not had contact with or does not know where to contact his/her other parent, the student is to

provide certification under penalty of perjury describing the circumstances and a statement that student has not received financial assistance from the absent parent. The student's parent to whom the student is living with or has contact with, will be required to provide income declaration and certification of income for the parent.

Families with dependents that are full time students that are not the head, co-head or spouse, only the first \$480.00 of earned income of a full time student is considered towards the family income. Full time student status will need to be verified educational institution.

**Exclusions from income that must be verified and reported on the 50058 include the following:**

- Expenditures for business expansion.
- Amortization of capital indebtedness as deductions in determining net income of a business.
- Withdrawals of cash or assets from a professional or business operation if the withdrawal is a reimbursement for cash or assets invested in the operation by the family.
- Allowance for business asset depreciation, based on straight line depreciation, as provided in the Internal Revenue Service (IRS) regulations.
- Income from employment of children or foster children under 18 years old.
- Earnings in excess of \$480 for each full-time student 18 years old or older (excluding head or household and spouse).
- Earned income disallowance.
- Amounts earned by temporary Census employees; terms of employment may not exceed 180 days for the purposes of the exclusion.
- Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by the resident for performing a service for the PHA, on a part-time basis, that enhances the quality of life in the development.
- Stipends to reimburse residents for expenses for serving as members of the PHA governing board or commission.
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
- The full amount of military pay of any family member other than the head and spouse. If other family members are away from home in the military, the PHA may remove their name from the lease and exclude their income.
- Other military pay specifically excluded by law (e.g. Desert Storm active duty).
- Income of a live-in aide.
- Earnings and benefits from employment training programs funded by HUD.
- Reimbursement for out-of-pocket expenses while attending a public assisted training program.
- Incremental earnings and benefits from participation in qualifying state and local employment programs.

- Payments to volunteers under the Domestic Volunteer Services Act.
- Payments received under programs funded in whole or in part under the Workforce Investment Act (WIA) (formerly known as the Job Training Partnership Act (JTPA)).
- Earnings and benefits to any family member from an employment training and supportive services program during the exclusion period. The exclusion is applicable only if the family was admitted to the qualifying program prior to October 1, 1999.
- Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home.
- Food stamps.
- Annual Imputed Welfare Income if the family was not an assisted resident at the time of sanction.
- Nonrecurrent, short-term benefits under TANF assistance that:
  - Are designed to deal with a specific crisis situation or episode of need;
  - Are not intended to meet recurrent or ongoing needs; and
  - Will not extend beyond four months.
- Work subsidies under TANF assistance (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training).
- Supportive services under TANF assistance such as child care and transportation provided to families who are employed.
- Refundable earned income tax credits.
- Individual Development Accounts under TANF.
- Services provided under TANF assistance such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support.
- Transportation benefits under TANF assistance provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of the Act, to an individual who is not otherwise receiving assistance.
- Lump-sum pension benefits payable as a death benefit.
- Deferred periodic amounts from SSI benefits that the family member received in a lump sum amount or in prospective monthly amounts.
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of SSI eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS).
- Deferred periodic amounts from Social Security benefits that the family member received in a lump sum amount or in prospective monthly amounts.
- Child care arranged or provided under the Child Care and Development Block Grant Act.
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member.

- Payments received under the Alaska Native Claims Settlement Act.
- Income derived from certain submarginal land or the United States that is held in trust for certain Indian tribes.
- Income derived from the disposition of funds of the Grand River Band of Ottawa Indians.
- The first \$2000 of per capita shares from judgment funds awarded by Indian Claims.
- Payments received under the Maine Indian Claims Settlement Act of 1980.
- Payments received by Indian Claims Commission to the Confederate Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation.
- The first \$2000 of income received by individual Indians derived from interests or trust or restricted land.
- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone).
- Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses.
- Full amount of student financial assistance and paid directly to the student or to the educational institution.
- Temporary, nonrecurring or sporadic income (including gifts).
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.
- Adoption assistance payments in excess of \$480 per adopted child.
- Refunds or rebates under state or local law for property taxes paid on dwelling unit.
- Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply.
- Payments or allowances under DHHS' low-income home energy assistance program (LIHEAP).
- Federal scholarships funded under Title IV of The Higher Education Act of 1965, including awards under the Federal work study program or under the Bureau of Indian Affairs student assistance program.
- Payments received from programs funded under Title V of the Older Americans Act of 1965.
- Payments received on or after January 1, 1989 from the Agent Orange Settlement Fund or any fund established pursuant to the settlement in the In Re Agent Orange product liability litigation.
- Earned Income Tax Credit refund tax payments.
- Any allowance paid under provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is a child of a Vietnam Veteran.
- Any amount of crime victim compensation that the applicant (under the Victims

Crime Act) receives through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims Crime Act because of the commission of a crime against the applicant.

## **F. ENTERPRISE INCOME VERIFICATION**

Enterprise income verification (EIV) refers to the HACB's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. EIV will be used to the extent that these systems are available to the HACB.

### HACB Policy

The HACB will inform all applicants and participants of its use of the following EIV Resources during the admission and reexamination process:

HUD's EIV system (when it is available to the HACB)

The HACB must restrict access to and safeguard EIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD.

There may be legitimate differences between the information provided by the family and EIV-generated information. In case of disputes, no adverse action can be taken against a family until the HACB has independently verified the EIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the HACB if requested.

### **Definition of Substantial Difference**

EIV information is used differently depending upon whether there is a *substantial difference* between information provided by the family and the EIV information. In "HUD Guidelines for Projecting Annual Income When EIV Data is Available" [HUD website, April 2004], HUD recommends using \$200 per month as the threshold for a substantial difference.

See Chapter 6 for the HACB's policy on the use of EIV to project annual income and for the HACB's threshold for substantial difference.

### **When No Substantial Difference Exists**

If EIV information does not differ substantially from family information, the EIV documentation may serve as third-party written verification.

### **When a Substantial Difference Exists**

When there is a substantial difference between the information provided by the EIV source and the family, the HACB must request another form of third-party written

verification and use any other verification methods (in priority order) to reconcile the difference(s).

### **Use of HUD's Enterprise Income Verification (EIV) System**

HUD's EIV system contains data showing earned income, unemployment benefits, Social Security and SSI benefits for participant families. HUD requires the HACB to use the EIV system when available. The following policies will apply when the HACB has access to HUD's EIV system.

The EIV system contains two main components: tenant income data reports and "exceeds threshold" reports.

### ***Enterprise Income Verification (EIV) Reports***

The data shown on EIV reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

### **HACB Policy**

The HACB will obtain EIV reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

EIV reports will be compared to family-provided information as part of the annual reexamination process. EIV reports may be used in the calculation of annual income, as described in Chapter 6. EIV reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between EIV reports and family-provided information will be resolved as described in Chapter 6 and in this chapter.

EIV reports will be used in interim reexaminations when it is necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits.

EIV reports will be retained in participant files with the applicable annual or interim reexamination documents.

When the HACB determines through EIV reports and third party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 21, Program Integrity.

### ***Exceeds Threshold Reports (ETRs)***

The ETR is a tool for identifying families who may have concealed or under-reported income. Data in the ETR represents income for past reporting periods and may be between 6 months and 30 months old at the time ETRs are generated.

Families who have not concealed or under-reported income may appear on the ETR in some circumstances, such as loss of a job or addition of new family members.

## HACB Policy

The HACB will generate and review ETRs on a monthly basis. The ETR threshold percentage will be adjusted as necessary based on the findings in the ETRs.

In reviewing ETRs, the HACB will begin with the largest discrepancies.

When the HACB determines that a participant appearing on the ETR has not concealed or under-reported income, the participant's name will be placed on a list of "false positive" reviews. To avoid multiple reviews in this situation, participants appearing on this list will be eliminated from ETR processing until a subsequent interim or annual reexamination has been completed.

When it appears that a family may have concealed or under-reported income, the HACB will request third-party written verification of the income in question.

When the HACB determines through ETR review and third party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 21, Program Integrity.

### ***EIV Identity Verification***

The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on Social Security number, name, and date of birth.

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

## HACB Policy

The HACB will identify participants whose identity verification has failed as part of the annual reexamination process.

The HACB will attempt to resolve PIC/SSA discrepancies by reviewing file documents. When the HACB determines that discrepancies exist due to HACB errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

## **G. INCOME FROM ASSETS**

[24 CFR 982.516]

### **Savings Account Interest Income and Dividends**

Acceptable methods of verification include, in this order:

1. Account statements, passbooks, certificates of deposit, or PHA verification forms completed by the financial institution.

2. Broker's statements showing value of stocks or bonds and the earnings credited the family. Earnings can be obtained from current newspaper quotations or oral broker's verification.
3. IRS Form 1099 from the financial institution, provided that the PHA must adjust the information to project earnings expected for the next twelve (12) months.

### **Interest Income from Mortgages or Similar Arrangements**

Acceptable methods of verification include, in this order:

1. A letter from an accountant, attorney, real estate broker, the buyer, or a financial institution stating interest due for next 12 months. (A copy of the check paid by the buyer to the family is not sufficient unless a breakdown of interest and principal is shown.)
2. Amortization schedule showing interest for the 12 months following the effective date of the certification or Reexamination.

### **Net Rental Income from Property Owned by Family**

Acceptable methods of verification include, in this order:

1. IRS Form 1040 with Schedule E (Rental Income).
2. Copies of latest rent receipts, leases, or other documentation of rent amounts.
3. Documentation of allowable operating expenses of the property: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.
4. Lessee's written statement verifying rent payments to the family and family's self-certification as to net income realized.

## ***H. VERIFICATION OF ASSETS***

### **Family Assets**

The PHA will require the information necessary to determine the current cash value of the family's assets, (the net amount the family would receive if the asset were converted to cash).

Acceptable verification may include any of the following:

1. Verification forms, letters, or documents from a financial institution or broker.
2. Passbooks, checking account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker.



3. Quotes from a stock broker or realty agent as to net amount family would receive if they liquidated securities or real estate.
4. Real estate tax statements if the approximate current market value can be deduced from assessment.
5. Financial statements for business assets.
6. Copies of closing documents showing the selling price and the distribution of the sales proceeds.
7. Appraisals of personal property held as an investment.
8. Family's self-certification describing assets or cash held at the family's home or in safe deposit boxes.
9. Assets Disposed of for Less than Fair Market Value (FMV) During Two Years Preceding Effective Date of Certification or Reexamination

For all Certifications and Reexaminations, the PHA will obtain the Family's certification as to whether any member has disposed of assets for less than fair market value during the two years preceding the effective date of the certification or Reexamination. If the family certifies that they have disposed of assets for less than fair market value, verification is required that shows:

1. all assets disposed of for less than FMV
2. the date they were disposed of
3. the amount the family received
4. the market value of the assets at the time of disposition

Third party verification will be obtained wherever possible.

(Calculating Assets refer to Chapter 6).

## ***I. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME***

[24 CFR 982.516]

### **Child Care Expenses**

Written verification from the person who receives the payments is required. If the child care provider is an individual, s/he must provide a statement of the amount they are charging the family for their services.

Verifications must specify the following:

1. Child care provider's name, address, telephone number
2. Social Security or Employer Identification Number
3. Names of the children cared for
4. Number of hours the child care occurs
5. Rate of pay
6. Typical yearly amount paid, including school and vacation periods (The family must complete a certification as to whether any of those payments have been or

will be paid or reimbursed by outside sources)

### **Medical Expenses**

Families who claim medical expenses will be required to submit a certification as to whether or not any expense payments have been, or will be, reimbursed by an outside source. All expense claims will be verified by one or more of the methods listed below:

1. Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, of:
  - (a) the anticipated medical costs to be incurred by the family and regular payments due on medical bills
  - (b) the extent to which those expenses will be reimbursed by insurance or a government agency
2. Written confirmation by the insurance company or employer of health insurance premiums to be paid by the family.
3. Written confirmation from the Social Security Administration of Medicare premiums to be paid by the family over the next 12 months. A computer printout will be accepted.
4. For attendant care:
  - a) A reliable, knowledgeable professional's certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.
  - b) Attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or stubs from the agency providing the services.
5. Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next 12 months.
6. Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of the next 12 months.
7. Receipts or other record of medical expenses incurred during the past 12 months that can be used to anticipate future medical expenses. PHA may use this approach for "general medical expenses" such as non-prescription drugs and regular visits to doctors or dentists, but not for one time, non-recurring expenses from the previous year.

The PHA will use mileage at the IRS rate, or cab, bus fare, or other public transportation cost for verification of the cost of transportation directly related to medical treatment.

### **Assistance to Persons with Disabilities**

[24 CFR 5.611(c)]

#### **In All Cases**

Written certification from a reliable, knowledgeable professional that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to

permit him/her to be employed or to function sufficiently independently to enable another family member to be employed. Family's certification as to whether they receive reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.

### **Attendant Care**

Attendant's written certification of amount received from the family, frequency of receipt, and hours of care provided. Certification of family and attendant and/or copies of canceled checks family used to make payments.

### **Auxiliary Apparatus**

Receipts for purchases or proof of monthly payments and maintenance expenses for auxiliary apparatus. In the case where the person with disabilities is employed, a statement from the employer that the auxiliary apparatus is necessary for employment.

## **J. VERIFYING NON-FINANCIAL FACTORS**

[24 CFR 5.617(b)(2)]

### **Verification of Legal Identity**

In order to prevent program abuse, the PHA will require applicants to furnish verification of legal identity for all family members. The documents listed below will be considered acceptable verification of legal identity for adults. If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required:

1. Certificate of Birth, naturalization papers
2. Church issued baptismal certificate
3. Current, valid Driver's license
4. U.S. military discharge (DD 214)
5. U.S. passport
6. Voter's registration
7. Company/agency Identification Card
8. Department of Motor Vehicles Identification Card
9. Hospital records

Documents considered acceptable for the verification of legal identity for minors may be one or more of the following:

1. Certificate of Birth
2. Adoption papers
3. Custody agreement
4. Health and Human Services ID
5. School records

### **Verification of Marital Status**

Verification of divorce status will be a certified copy of the divorce decree, signed by a

Court Officer. Verification of a separation may be a copy of court-ordered maintenance or other records. Verification of marriage status is a marriage certificate or a confirmation of an electronic public record.

### **Familial Relationships**

Certification will normally be considered sufficient verification of family relationships. In cases where reasonable doubt exists, the family may be asked to provide verification.

The following verifications will always be required if applicable:

1. Verification of relationship:
  - a. Official identification showing names
  - b. Birth Certificates
  - c. Baptismal certificates
2. Verification of guardianship is:
  - a. Court-ordered assignment
  - b. Verification from social services agency

### **Verification of Permanent Absence of Family Member**

If an adult member who was formerly a member of the household is reported permanently absent by the family, the PHA will consider any of the following as verification:

1. Husband or wife institutes divorce action.
2. Husband or wife institutes legal separation.
3. Order of protection/restraining order obtained by one family member against another.
4. Proof of another home address, such as utility bills, canceled checks for rent, driver's license, or lease or rental agreement, if available.
5. Statements from other agencies such as social services or a written statement from the landlord or manager that the adult family member is no longer living at that location.

If the adult family member is incarcerated, a document from the Court or correctional facility should be obtained stating how long they will be incarcerated.

### **Verification of Change in Family Composition**

The PHA may verify changes in family composition (either reported or unreported) through letters, telephone calls, utility records, inspections, landlords, neighbors, credit data, school or DMV records, and other sources.

### **Verification of Disability**

Verification of disability must be receipt of SSI or SSA disability payments under Section 223 of the Social Security Act or 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7) or verified by appropriate diagnostician such

as physician, psychiatrist, psychologist, therapist, rehab specialist, or licensed social worker, using the HUD language as the verification format.

### **Verification of Citizenship/Eligible Immigrant Status**

[24 CFR 5.508, 5.510,5.512, 5.514]

To be eligible for assistance, individuals must be U.S. citizens or eligible immigrants. Individuals who are neither may elect not to contend their status. Eligible immigrants must fall into one of the categories specified by the regulations and must have their status verified by Immigration and Naturalization Service (INS). Each family member must declare their status once. Assistance cannot be delayed, denied, or terminated while verification of status is pending except that assistance to applicants may be delayed while the PHA hearing is pending.

Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury. The PHA will require citizens to provide documentation of citizenship. Acceptable documentation will include at least one of the following original documents:

1. United States birth certificate
2. United States passport
3. Un-expired Resident alien/registration card
4. Legible Social Security card
5. Other appropriate documentation as determined by the PHA

Eligible Immigrants aged 62 or over are required to sign a declaration of eligible immigration status and provide proof of age.

Non-citizens with eligible immigration status must sign a declaration of status and verification consent form and provide their original immigration documents which are copied front and back, when permitted by the issuing agency, and returned to the family. The PHA verifies the status through the INS SAVE system. If this primary verification fails to verify status, the PHA must request within ten business days that the INS conduct a manual search.

Ineligible family members who do not claim to be citizens or eligible immigrants must be listed on a statement of ineligible family members signed by the head of household or spouse.

Non-citizen students on student visas are ineligible members even though they are in the country lawfully. They must provide their student visa but their status will not be verified and they do not sign a declaration but are listed on the statement of ineligible members.

### **Failure to Provide**

If an applicant or participant family member fails to sign required declarations and

consent forms or provide documents, as required, they must be listed as an ineligible member. If the entire family fails to provide and sign as required, the family may be denied or terminated for failure to provide required information.

### **Time of Verification**

For applicants, verification of U.S. citizenship/eligible immigrant status occurs at the time of initial application. The PHA will not provide assistance to any family prior to the affirmative establishment and verification of the eligibility of the individual or at least one member of the family. The PHA will verify the U.S. citizenship/eligible immigration status of all participants no later than the date of the family's first annual reexamination following the enactment of the Quality Housing and Work Responsibility Act of 1998. Once verification has been completed for any covered program, it need not be repeated except that, in the case of port-in families, if the initial PHA does not supply the documents, the PHA must conduct the determination.

### **Extensions of Time to Provide Documents**

The PHA will grant an extension of thirty (30) calendar days for families to submit evidence of eligible immigrant status.

### **Acceptable Documents of Eligible Immigration**

The regulations stipulate that only the following documents are acceptable unless changes are published in the Federal Register:

1. Un-expired Resident Alien Card (I-551)
2. Alien Registration Receipt Card (I-151)
3. Arrival-Departure Record (I-94)
4. Temporary Resident Card (I-688)
5. Employment Authorization Card (I-688B)
6. Receipt issued by the INS for issuance of replacement of any of the above documents that shows individual's entitlement has been verified

A birth certificate is not acceptable verification of status. All documents in connection with U.S. citizenship/eligible immigrant status must be kept five years.

If the PHA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside permanently in the family's unit, the family's assistance will be terminated for sixty (60) months, unless the ineligible individual has already been considered in prorating the family's assistance.

### **Verification of Social Security Numbers [24 CFR 5.216]**

Social security numbers must be provided as a condition of eligibility for all family members age six and over if they have been issued a number. Verification of Social Security numbers will be done through a Social Security Card issued by the Social Security Administration. If a family member cannot produce a Social Security Card, only the documents listed below showing his or her Social Security Number may be used for verification. The family is also required to certify in writing that the document(s)

submitted in lieu of the Social Security Card information provided is/are complete and accurate:

1. A driver's license
2. Identification card issued by a Federal, State or local agency
3. Identification card issued by a medical insurance company or provider (including Medicare and Medicaid)
4. An identification card issued by an employer or trade union
5. An identification card issued by a medical insurance company
6. Earnings statements or payroll stubs
7. Bank Statements
8. IRS Form 1099
9. Benefit award letters from government agencies
10. Retirement benefit letter
11. Life insurance policies
12. Court records such as real estate, tax notices, marriage and divorce, judgment or bankruptcy records
13. Verification of benefits or Social Security Number from Social Security Administration

New family members ages six and older will be required to produce their Social Security Card or provide the substitute documentation described above together with their certification that the substitute information provided is complete and accurate. This information is to be provided at the time the change in family composition is reported to the PHA.

If an applicant or participant is able to disclose the Social Security Number but cannot meet the documentation requirements, the applicant or participant must sign a certification to that effect provided by the PHA. The applicant/participant or family member will have an additional thirty (30) calendar days to provide proof of the Social Security Number. If they fail to provide this documentation, the family's assistance will be terminated.

In the case of an individual at least 62 years of age, the PHA may grant an extension for an additional 60 calendar days to a total of 120 calendar days. If, at the end of this time, the elderly individual has not provided documentation, the family's assistance will be terminated.

If the family member states they have not been issued a number, the family member will be required to sign a certification to this effect.

### **Medical Need for Larger Unit**

A written certification that a larger unit is necessary must be obtained from a qualified, licensed Health professional. An applicant or participant will submit Part I – of the Request for a Reasonable Accommodation form and Part II – Verification of Need for Reasonable Accommodation form will be sent to the Care Provider by the PHA.

## **Chapter 8 VOUCHER ISSUANCE AND BRIEFINGS**

[24 CFR 982.301, 982.302]

### **INTRODUCTION**

The PHA's goals and objectives are designed to assure that families selected to participate are equipped with the tools necessary to locate an acceptable housing unit. Families are provided sufficient knowledge and information regarding the program and how to achieve maximum benefit while complying with program requirements. When eligibility has been determined, the PHA will conduct a mandatory briefing to ensure that families know how the program works. The briefing will provide a broad description of owner and family responsibilities, PHA procedures, and how to lease a unit. The family will also receive a briefing packet which provides more detailed information about the program including the benefits of moving outside areas of poverty and minority concentration. This Chapter describes how briefings will be conducted, the information that will be provided to families, and the policies for how changes in the family composition will be handled.

### **A ISSUANCE OF VOUCHERS**

[24 CFR 982.204(d), 982.54(d)(2)]

When funding is available, the PHA will issue Vouchers to applicants whose eligibility has been determined. The number of Vouchers issued must ensure that the PHA stays as close as possible to 100 percent (100%) lease-up. The PHA performs a monthly calculation electronically to determine whether applications can be processed, the number of Vouchers that can be issued, and to what extent the PHA can over-issue (issue more Vouchers than the budget allows to achieve lease-up).

The PHA may over-issue Vouchers only to the extent necessary to meet leasing goals. All Vouchers which are over-issued must be honored. If the PHA finds it is over-leased, it must adjust future issuance of Vouchers in order not to exceed the ACC budget limitations over the fiscal year.

### **B. BRIEFING TYPES AND REQUIRED ATTENDANCE**

[24 CFR 982.301]

#### **Initial Applicant Briefing**

A full HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted in groups and/or individual meetings. Families who attend group briefings and still have the need for individual assistance will be referred to the Section 8 Eligibility Manager/Eligibility Caseworker.

Briefings will be conducted in English. Briefings will also be conducted in Spanish, as necessary.



The purpose of the briefing is to explain how the program works and the documents in the Voucher holder's packet to families so that they are fully informed about the program. This will enable them to utilize the program to their advantage, and it will prepare them to discuss it with potential owners and property managers.

The PHA will not issue a Voucher to a family unless the household representative has attended a briefing and signed the Voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next briefing. Applicants who fail to attend one (1) scheduled briefing, without prior notification and approval of the PHA, may be denied admission based on failure to supply information needed for certification. The PHA will conduct individual briefings for families with disabilities at their home, upon request by the family, if required for reasonable accommodation.

### **Briefing Packet [24 CFR 982.301(b)]**

The documents and information provided in the briefing packet for the Voucher program will comply with all HUD requirements. The PHA also includes other information and/or materials that are not required by HUD.

The family is provided with the following information and materials:

- The term of the voucher, and the PHA policy for requesting extensions or suspensions of the voucher (referred to as tolling)
- A description of the method used to calculate the housing assistance payment for a family, including how the PHA determines the payment standard for a family; how the PHA determines total tenant payment for a family and information on the payment standard and utility allowance schedule; and how the PHA determines the maximum allowable rent for an assisted unit (including the rent reasonableness standard)
- Where the family may lease a unit. For family that qualifies to lease a unit outside the PHA jurisdiction under portability procedures, the information must include an explanation of how portability works
- The HUD required tenancy addendum, which must be included in the lease
- The Request for Tenancy Approval form, and a description of the procedure for requesting approval for a unit
- A statement of the PHA policy on providing information about families to prospective owners
- The PHA Subsidy Standards including when and how exceptions are made and how the voucher size relates to the unit size selected
- The HUD brochure on how to select a unit and/or the HUD brochure "A Good Place to Live" on how to select a unit that complies with HQS
- The HUD brochure on lead-based paint entitled "Protect Your Family from Lead in Your Home" and information about where blood level testing is available
- Information on federal, State and local equal opportunity laws and a copy of the housing discrimination complaint form. The PHA will also include the pamphlet "Fair Housing: It's Your Right" and other information about fair housing laws,

guidelines and the phone numbers of the local fair housing agency and the HUD enforcement office

- A list of landlords or other parties willing to lease to assisted families or help in the search and/or known units available for the voucher issued.

If the family includes a person with disabilities, notice that the PHA will provide a list of available accessible units known to the PHA, (see 8-C – Procedure for Assisting Persons with Disabilities to Find Accessible Section 8 Units.)

- The Family Obligations under the program
- The grounds on which the PHA may terminate assistance for a participant family because of family action or failure to act
- PHA informal hearing procedures including when the PHA is required to offer a participant family the opportunity for an informal hearing, and how to request the informal hearing
- Information regarding the PHA's outreach program that assists families who are interested in, or experiencing difficulty in obtaining available housing units in areas outside of minority concentrated locations

The following informational tools are also included in the briefing packet:

- PHA's sample lease for owners who do not use a lease for their unassisted tenants
- An Owner's Handbook, an HQS checklist and sample contract
- Procedures for notifying the PHA and/or HUD of program abuses such as side payments, extra charges, violations of tenant rights, and owner failure to repair
- The family's rights as a tenant and a program participant
- Requirements for reporting changes between annual Reexaminations
- Information on security deposits
- Exercising choice in residency
- Choosing a unit carefully and only after due consideration
- The Family Self Sufficiency program and its advantages

If the family includes a person with disabilities, the PHA will ensure compliance with 24 CFR 8.6 (Communications) to ensure effective communication.

### **Move Briefing**

A move briefing may be held for participants who will be reissued a Voucher to move, and who have been re-certified within the last one-hundred and twenty calendar days, and have given notice of intent to vacate to their landlord. This briefing includes incoming and outgoing portable families.

### **Owner Briefing**

Briefings are held for owners as necessary. All owners receive a personal invitation. Prospective owners are also welcome. The purpose of the briefing is to assure successful owner participation in the program. The briefing covers the responsibilities

and roles of the three parties.

### **Signature Briefing**

All new owners will be strongly encouraged to attend a signature briefing with the family head at the unit to execute contracts and leases. Other owners will also be encouraged to attend signature briefings to reduce future conflict between the owner and tenant. The PHA will provide details on the program rules and relationships and responsibilities of all parties.

Interested owners who request to sit in on scheduled family briefings to obtain information about the Voucher Program will be allowed to do so.

## ***C. PROCEDURE FOR ASSISTING PERSONS WITH DISABILITIES TO FIND ACCESSIBLE SECTION 8 UNITS***

### **Determining Need for Assistance**

Applicants who complete the line provided on the pre-application form to request accessible features will be asked by the interviewer during the pre-application meeting if they wish to request that the Housing Authority assist them to locate an available accessible unit.

When the applicant requests such assistance, the interviewer will make a note to the file in such a manner that it can be easily viewed by the caseworker who will be issuing the Voucher at the time when the family is determined to be eligible for the program and reaches the top of the waiting list.

### **Locating Accessible Units**

The Housing Authority maintains a listing of available Section 8 Units. The listing is updated weekly as landlords call the Housing Authority to add or remove units from the listing. This listing is made available to all Section 8 applicants who request it.

Landlords are routinely asked by staff about the accessibility features of the unit being listed. Many landlords are familiar with the Uniform Federal Accessibility Standards (UFA's) and are able to indicate whether or not a unit is accessible. If the landlord claims that the unit is accessible, a "Y" is inserted into the appropriate column indicating a potentially acceptable unit.

Upon receipt of a file of an applicant who requests assistance with locating an accessible unit, and immediately prior to the issuance of the Voucher, the caseworker will consult the Section 8 Unit Listing to review the units available that have been marked as potentially accessible.

If such units are listed, the caseworker (or her/his delegate) will call the landlord(s) regarding the current availability of the unit. The landlord will also be asked if there are other accessible units under his/her management that have accessible features that are

now or will soon be available.

### **Additional Procedures to Locate Accessible Units**

If no units are indicated to be potentially accessible on the current Section 8 listing, the caseworker will take the following steps to locate potentially accessible available or soon to be available units:

- Contact agencies that work with and advocate for persons with disabilities for any housing information that may be currently listed with their organizations.
- Suggest to persons requesting assistance in locating accessible units that they also contact the above organizations many of which offer personalized assistance to persons with disabilities such as transportation for apartment hunting, telephone calling, letter writing, rental application/lease completion, etc.

### ***D. ENCOURAGING PARTICIPATION IN AREAS WITHOUT LOW INCOME OR MINORITY CONCENTRATION***

At the briefing, families are encouraged to search for housing in non-impacted areas and the PHA will provide assistance to families who wish to do so. The PHA will make available any information regarding areas of poverty and minority concentration in order to provide families with information and encouragement in seeking housing opportunities outside highly concentrated areas, including information about facilities and services in neighboring areas such as schools, transportation, and supportive and social services. The PHA will investigate and analyze when Voucher holders are experiencing difficulties locating or obtaining housing units outside areas of concentration.

The assistance provided to such families includes:

- Providing families with a search record form to gather and record information
- Direct contact with landlords
- Counseling with the family
- Formal or informal discussions with social service agencies
- Meeting with rental agencies
- Meeting with fair housing groups or agencies when requested

### ***E. ASSISTANCE TO FAMILIES WHO CLAIM DISCRIMINATION***

The PHA will give participants a copy of HUD form 903 to file a complaint.

## **F. SECURITY DEPOSIT REQUIREMENTS**

[24 CFR 982.313]

The owner is not required to but may collect one (1) security deposit from the tenant.

Security deposits charged by owners may not exceed those charged to unassisted tenants (nor the maximum prescribed by State or local law.)

## **G. TERM OF VOUCHER**

[24 CFR 982.303, 982.54(d)(11)]

During the briefing session, each household will be issued a voucher which represents a contractual agreement between the PHA and the Family specifying the rights and responsibilities of each party. Admission to the program occurs when the HAP contract between the owner and the Housing Authority become effective.

### **Expirations**

The Voucher is valid for a period of at least sixty (60) calendar days from the date of issuance. The family must submit a Request for Approval of the Tenancy and Lease within the sixty (60)-day period unless an extension has been granted by the PHA. If the Voucher has expired, and has not been extended by the PHA or expires after an extension, the family will be denied assistance. The family will not be entitled to a review or hearing. If the family is currently assisted, they may remain as a participant in their unit if there is an assisted lease/contract in effect.

### **Suspensions**

When a Request for Tenancy Approval is received, the PHA will not deduct the number of days required to process the request from the sixty (60)-day term of the voucher.

### **Extensions**

A family may submit a written request for an extension of the Voucher time period. All requests for extensions must be received prior to the expiration date of the Voucher. Extensions are permissible at the discretion of the PHA up to a maximum of one additional increment of thirty (30) calendar days primarily for these reasons:

1. Extenuating circumstances such as hospitalization or a family emergency for an extended period of time that has affected the family's ability to find a unit within the initial sixty-day period. Verification is required.
2. The PHA is satisfied that the family has made a reasonable effort to locate a unit, including seeking the assistance of the PHA, throughout the initial sixty-day period. A completed search record is required.
3. The family was prevented from finding a unit due to disability accessibility requirements or large size bedroom unit requirement. The Search Record is part of the required verification.

### **Assistance to Voucher Holders**

Families who require additional assistance during their search may call the PHA Office to request assistance. Voucher holders will be notified at their briefing session that the PHA periodically updates the listing of available units and how the updated list may be obtained. The PHA will assist families with negotiations with owners and provide other assistance related to the families' search for housing.

### ***H. VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS***

[24 CFR 982.315]

In those instances when a family assisted under the Section 8 program becomes divided into two otherwise eligible families due to divorce, legal separation, or the division of the family, and the new families cannot agree as to which new family unit should continue to receive the assistance, and there is no determination by a court, the Section 8 Caseworker shall consider the following factors to determine which of the families will continue to be assisted:

1. Which of the two new family units has custody of dependent children
2. Which family member was the head of household when the Voucher was initially issued (listed on the initial application)
3. The composition of the new family units, and which unit contains elderly or disabled members
4. Whether domestic violence was involved in the breakup
5. Which family members remain in the unit
6. Recommendations of social service professionals

Documentation of these factors will be the responsibility of the requesting parties. If documentation is not provided, the PHA will terminate assistance on the basis of failure to provide information necessary for a Reexamination.

### ***I. REMAINING MEMBER OF TENANT FAMILY - RETENTION OF VOUCHER***

[24 CFR 982.315]

To be considered the remaining member of the tenant family, the person must have been previously approved by the PHA to be living in the unit. A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the family.

In order for a minor child to continue to receive assistance as a remaining family member:

1. The court has to have awarded emancipated minor status to the minor, or
2. The PHA has to have verified that social services and/or the Juvenile Court has

arranged for another adult to be brought into the assisted unit to care for the child(ren) for an indefinite period.

A reduction in family size may require a reduction in the voucher family unit size.

## **Chapter 9 REQUEST FOR TENANCY APPROVAL AND CONTRACT EXECUTION** [24 CFR 982.302]

### **INTRODUCTION** [24 CFR 982.305(a)]

The PHA's program operations are designed to utilize available resources in a manner that is efficient and provides eligible families timely assistance based on the number of units that have been budgeted. The PHA's objectives include maximizing HUD funds by providing assistance to as many eligible families and for as many eligible units as the budget will allow.

After families are issued a voucher, they may search for a unit anywhere within the jurisdiction of the PHA, or outside of the PHA's jurisdiction if they qualify for portability. The family must find an eligible unit under the program rules, with an owner/landlord who is willing to enter into a Housing Assistance Payments Contract with the PHA. This Chapter defines the types of eligible housing, the PHA's policies that pertain to initial inspections, lease requirements, owner disapproval, and the processing of Requests For Tenancy Approval (RFTA).

### **A. REQUEST FOR TENANCY APPROVAL**

[24 CFR 982.302, 982.305(b)]

The Request for Tenancy Approval (RFTA) and a copy of the proposed Lease, including the HUD prescribed tenancy addendum, must be submitted by the family during the term of the Voucher. The family must submit the Request for Tenancy Approval in the form and manner required by the PHA. The Request for Tenancy Approval must be signed by both the owner and Voucher holder. The PHA will not permit the family to submit more than one RFTA at a time. The PHA will review the proposed lease and the Request for Tenancy Approval documents to determine whether or not they are approvable. The Request will be approved if:

1. The unit is an eligible type of housing
2. The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan)
3. The rent is reasonable
4. The Security Deposit is approvable in accordance with any limitations in this plan
5. The proposed lease complies with HUD and PHA requirements (See "Lease Review" section below)
6. The owner is approvable, and there are no conflicts of interest (See "Owner Disapproval" section below).

In addition to the above, at the time a family initially receives assistance in a unit (new admissions and moves), the family share of rent may not exceed 40 percent of the family monthly adjusted income (See "Owner Rents, Rent Reasonableness and Payment Standards" chapter of this Administrative Plan).



The PHA shall not accept or include as income additional amounts reported by the applicant or participant as gifts for family support which are reported to the Housing Authority after the family has found a potential unit to lease for which a Request for Tenancy Approval has already been submitted to the PHA when such reports of additional income are made solely for the purpose of the family qualifying under the 40% rule [Chapter 11, Section E 'Assisted Families' Rent Burdens'] unless the PHA can verify that the family has been receiving such child and/or family support for at least six (6) months prior to the Request for Tenancy Approval.

### **Disapproval of RFTA**

If the PHA determines that the Request cannot be approved for any reason, the landlord and the family will be notified in writing. The PHA will instruct the owner and family of the steps that are necessary to approve the Request. The owner will be given fourteen (14) days to submit an approvable RFTA from the date of disapproval. When, for any reason, an RFTA is not approved, the PHA will furnish another RFTA form to the family along with the notice of disapproval so that the family can continue to search for eligible housing.

### **B. ELIGIBLE TYPES OF HOUSING**

[24 CFR 982.353]

The PHA will approve any of the following types of housing in the Voucher program:

1. All structure types can be utilized
2. Manufactured homes where the tenant leases the mobile home and the pad
3. Group Homes
4. Congregate facilities (only the shelter rent is assisted)
5. Single Room Occupancy
6. Units owned (but not subsidized) by the PHA (following HUD-prescribed requirements)

A family can own a rental unit but cannot reside in it while being assisted, except in the case when the tenant owns the mobile home and leases the pad. A family may lease and have an interest in a cooperative housing development. The PHA may not permit a Voucher holder to lease a unit which is receiving Project-Based Section 8 assistance or any duplicative rental subsidies.

### **C. LEASE REVIEW**

[24 CFR 982.308]

The PHA will review the lease, particularly noting the approvability of optional charges and compliance with regulations and State and local law. The tenant also must have legal capacity to enter a lease under State and local law. Responsibility for utilities,

appliances and optional services must correspond to those provided on the Request for Tenancy Approval.

The family and owner must submit a standard-form lease used in the locality by the owner and that is generally used for other unassisted tenants in the premises. The terms and conditions of the lease must be consistent with State and local law.

The lease must specify:

1. The names of the owner and tenant, and
2. The address of the unit rented (including apartment number, if any, and
3. The amount of the monthly rent to owner, and
4. The utilities and appliances to be supplied by the owner, and
5. The utilities and appliances to be supplied by the family

The HUD prescribed tenancy addendum must be included in the lease word-for-word or attached thereto before the lease is executed. Effective September 15, 2000, the owner's lease must include the Lead Warning Statement and disclosure information required by 24 CFR 35.92(b). The lease must provide that drug-related criminal activity engaged in by the tenant, any household member, or any guest on or near the premises, or any person under the tenant's control on the premises is grounds to terminate tenancy.

The lease must also provide that owner may evict family when the owner determines that:

- Any household member is illegally using a drug; or
- A pattern of illegal use of drug by any household member interferes with the health, safety or right to peaceful enjoyment of the premises by other residents.

The lease must provide that the following types of criminal activity by a "covered person" are grounds to terminate tenancy:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents (including property management staff residing on the premises);
- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises; or
- Any violent criminal activity on or near the premises by a tenant, household member, or guest; or
- Any violent criminal activity on the premises by any other person under the tenant's control.

The lease must provide that the owner may terminate tenancy if a tenant is:

- Fleeing to avoid prosecution or custody or confinement after conviction for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees (high misdemeanor in NJ); or
- Violating a condition of probation or parole imposed under Federal or State law.
- House Rules of the owner may be attached to the lease as an addendum, provided they are approved by the PHA to ensure they do not violate any fair housing provisions and do not conflict with the tenancy addendum.

### **Actions Before Lease Term**

All of the following must always be completed before the beginning of the initial term of the lease for a unit:

1. The PHA has inspected the unit and has determined that the unit satisfies the HQS;
2. The PHA has determined that the rent charged by the owner is reasonable;
3. The landlord and the tenant have executed the lease, including the HUD-prescribed tenancy addendum;
4. The PHA has approved leasing of the unit in accordance with program requirements;
5. When the gross rent exceeds the applicable payment standard for the family, the PHA must determine that the family share (total family contribution) will not be more than 40% of the family's monthly adjusted income.

### **D. SEPARATE AGREEMENTS**

Separate agreements are not necessarily illegal side agreements. Families and owners will be advised of the prohibition of illegal side payments for additional rent, or for items normally included in the rent of unassisted families, or for items not shown on the approved lease. The family is not liable under the lease for unpaid charges for items covered by separate agreements and nonpayment of these agreements cannot be cause for eviction.

Owners and families may execute separate agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease if the agreement is in writing and approved by the PHA. Any appliances, services or other items that are routinely provided to unassisted families as part of the lease (such as air conditioning, dishwasher or garage) or are permanently installed in the unit, cannot be put under separate agreement and must be included in the lease. For there to be a separate agreement, the family must have the option of not utilizing the service, appliance or other item.

If the family and owner have come to a written agreement on the amount of allowable charges for a specific item, so long as those charges are reasonable and not a

substitute for higher rent, they will be allowed. All agreements for special items or services must be attached to the lease approved by the PHA. If agreements are entered into at a later date, they must be approved by the PHA and attached to the lease.

**E. INITIAL INSPECTIONS**

[24 CFR 982.305(a) & (b)]

See "Housing Quality Standards and Inspections" chapter of this Administrative Plan.

**F. RENT LIMITATIONS**

[24 CFR 982.507]

The PHA will make a determination as to the reasonableness of the proposed rent in relation to comparable units available for lease on the private unassisted market, and the rent charged by the owner for a comparable unassisted unit in the building or premises. By accepting each monthly housing assistance payment from the PHA, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner is required to provide the PHA with information requested on rents charged by the owner on the premises or elsewhere. At all times during the tenancy, the rent to owner may not be more than the most current reasonable rent as determined by the PHA.

**G. DISAPPROVAL OF PROPOSED RENT**

[24 CFR 982.502]

In any of the programs, if the proposed Gross Rent is not reasonable, at the family's request, the PHA will negotiate with the owner to reduce the rent to a reasonable rent. If the rent is not affordable because the family's share would be more than 40% of the family's monthly adjusted income, the PHA will negotiate with the owner to reduce the rent to an affordable rent for the family. At the family's request, the PHA will negotiate with the owner to reduce the rent or include some or all of the utilities in the rent to owner. If the rent can be approved after negotiations with the owner, the PHA will continue processing the Request for Tenancy Approval and Lease. If the revised rent involves a change in the provision of utilities, a new Request for Tenancy Approval must be submitted by the owner. If the owner does not agree on the Rent to Owner after the PHA has tried and failed to negotiate a revised rent, the PHA will inform the family and owner that the lease is disapproved.

## **H. INFORMATION TO OWNERS**

[24 CFR 982.307(b), 982.54(d)(7)]

In accordance with HUD requirements, the PHA will furnish prospective owners who request the family's address information in writing from the PHA with the family's current address as shown in the PHA's records and, if known to the PHA, the name and address of the landlord at the family's current and prior address. The PHA will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection. The PHA will inform owners that it is the responsibility of the landlord to determine the suitability of prospective tenants. Owners will be encouraged to screen applicants for rent payment history, payment of utility bills, eviction history, respecting the rights of other residents, damage to units, drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

A statement of the PHA's policy on release of information to prospective landlords will be included in the briefing packet that is provided to the family. Upon written request from the landlord, the PHA will provide the following information, when available, based on documentation in its possession:

1. Eviction history
2. Damage to rental units
3. Other aspects of tenancy history (housekeeping and lease violations)
4. Drug Trafficking by family members

The information will be provided to the extent that the information is available. The information will be provided in writing. Only the Section 8 caseworkers or Manager may provide this information. The PHA's policy on providing information to owners is included in the briefing packet and will apply uniformly to all families and owners.

## **I. OWNER DISAPPROVAL**

[24 CFR 982.306]

See Chapter on "Owner Disapproval and Restriction."

## **J. CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HAP EFFECTIVE DATE**

When the family reports changes in factors that will affect the Total Family Share prior to the effective date of the HAP contract at admission, the information will be verified and the Total Family Share will be recalculated. If the family does not report any change, the PHA need not obtain new verifications before signing the HAP Contract, even if verifications are more than sixty (60) calendar days old.

## **K. CONTRACT EXECUTION PROCESS**

[24 CFR 982.305(c)]

The PHA prepares the Housing Assistance Contract for execution. The family and the owner will execute the Lease agreement, and the owner and the PHA will execute the HAP Contract. Copies of the documents will be furnished to the parties who signed the respective documents. The PHA will retain a copy of all signed documents.

The PHA makes every effort to execute the HAP Contract before the commencement of the lease term. The HAP Contract may not be executed more than sixty (60) calendar days after commencement of the lease term and no payments will be made until the contract is executed.

The following PHA representative(s) are authorized to execute a HAP contract on behalf of the PHA:

- Occupancy/Eligibility Specialist
- Section 8 Housing Manager
- Housing Director

Owners must provide the current address of their residence (not a Post Office box). If families lease properties owned by relatives (where such relationship is allowed by HUD), the owner's current address will be compared to the subsidized unit's address. Owners must provide an Employer Identification Number or Social Security Number. Owners must also submit a copy of the Management Agreement if the property is managed by a management agent.

The owner must provide a home telephone number and business number if applicable.

Unless their lease was effective prior to June 17, 1998, a family may not lease properties owned by a parent, child, grandparent, grandchild, sister or brother of any family member. The PHA will waive this restriction as a reasonable accommodation for a family member who is a person with a disability.

## **L. CHANGE IN OWNERSHIP**

See "Owner Disapproval and Restriction" chapter.

## **Chapter 10 HOUSING QUALITY STANDARDS AND INSPECTIONS**

[24 CFR 982.401]

### **INTRODUCTION**

Housing Quality Standards (HQS) are the HUD minimum quality standards for tenant-based programs. HQS standards are required both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, as well as the unit. Newly leased units must pass the HQS inspection before the beginning date of the assisted lease and HAP contract.

The PHA will inspect each unit under contract at least annually. The PHA will also have an inspection supervisor perform quality control inspections on the number of files required for file sampling by SEMAP annually to maintain the PHA's required standards and to assure consistency in the PHA's program. This Chapter describes the PHA's procedures for performing HQS and other types of inspections, and PHA standards for the timeliness of repairs. It also explains the responsibilities of the owner and family, and the consequences of non-compliance with HQS requirements for both families and owners. The use of the term "HQS" in this Administrative Plan refers to the combination of both HUD and PHA requirements. (See the additions to HQS listed under "Acceptability Criteria and Exceptions to HQS" later in this chapter.)

### **A. GUIDELINES/TYPES OF INSPECTIONS**

[24 CFR 982.401(a), 982.405]

The PHA has adopted local requirements of acceptability in addition to those mandated by the HUD Regulations. Efforts will be made at all times to encourage owners to provide housing above HQS minimum standards. The PHA will not promote any additional acceptability criteria which are likely to adversely affect the health or safety of participant families, or severely restrict housing choice. All utilities must be in service when the unit is inspected. If the utilities are not in service at the time of inspection, the Inspector will notify the tenant or owner (whomever is responsible for the utilities according to the RFTA) to have the utilities turned on. The Inspector will schedule a re-inspection.

If the tenant is responsible for supplying the stove and/or the refrigerator, the PHA will allow the stove and refrigerator to be placed in the unit after the unit has passed all other HQS criteria. The family must then certify that the appliances are in the unit and working. The PHA may conduct a re-inspection. The Landlord and Client must be present (or represented) at all inspections.

If the landlord is supplying the stove and/or the refrigerator the appliance(s) must be present and working at the time of the inspection.

There are four types of inspections the PHA will perform:

1. Initial/Move-in: Conducted upon receipt of Request for Tenancy Approval.
2. Annual: Must be conducted within twelve months of the last annual inspection.
3. Special/Complaint: At request of owner, family or an agency or third-party.
4. Quality Control

## **B. INITIAL HQS INSPECTION**

[24 CFR 982.401(a), 982.305(b)(2)]

### **Timely Initial HQS Inspection**

The PHA will inspect the unit, determine whether the unit satisfies the HQS and notify the family and owner of the determination within fifteen (15) calendar days unless the Section 8 Manager/Housing Director/Deputy Executive Director determines that it is unable to do so in the stated time frame, in which case the file will be appropriately documented. If the family is unable to be present, they must make arrangements for a responsible adult to be present to allow entry to the Housing Inspector.

\* The PHA will make every reasonable effort to conduct initial HQS inspections for the family and owner in a manner that is time efficient and indicative of good customer service.

For file audit purposes, the PHA will note in each tenant file, the date on which the unit first became available for inspection according to information obtained from the RFTA. The Initial Inspection will be conducted to:

1. Determine if the unit and property meet the HQS defined in this Plan.
2. Document the current condition of the unit as to assist in future evaluations whether the condition of the unit exceeds normal wear and tear.
3. Document the information to be used for determination of rent-reasonableness.

If the unit fails the initial Housing Quality Standards inspection, the owner will be advised to notify the PHA once repairs are completed. On an initial inspection the owner will be allowed up to one (1) re-inspection for repair work to be completed. If maximum number of failed re-inspections has occurred, the family must select another unit.

## **C. ANNUAL HQS INSPECTIONS**

[24 CFR 982.405(a)]

The PHA conducts an inspection in accordance with Housing Quality Standards at least annually, no later than one (1) calendar day prior to the anniversary date of the last annual inspection, so that the inspections are conducted at least annually, as required by SEMAP. Special inspections may be scheduled between anniversary dates. In any case, all units will be inspected within ninety (90) to one hundred and twenty (120) calendar days prior to the anniversary date of the contract. HQS deficiencies which



cause a unit to fail must be corrected by the landlord unless it is a fail for which the tenant is responsible. The family must allow the PHA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551 (d)]. Inspections will normally be conducted on business days. Reasonable hours to conduct an inspection are normally between 8:00 and 5:00. The PHA will notify the family in writing or by phone to schedule an inspection. When the inspection is a special inspection or is being scheduled in response to a complaint. A notice of not less than 24 (twenty-four) hours will be given to families prior to a special/complaint inspection.

### **Inspection**

The family and owner will be notified of the date and time of the inspection appointment by mail or by phone. If the family is unable to be present, they must make arrangements for a responsible adult to be present to allow entry to the Housing Inspector or they must reschedule the appointment so that the inspection is completed within five (5) business days. The PHA will consider the family to have violated a Family Obligation and the families assistance will be terminated in accordance with the termination procedure in the plan if:

1. The family does not contact the PHA to reschedule the inspection after a missed appointment, or
2. The family misses two consecutive scheduled or rescheduled appointments

The PHA is under no obligation to automatically reschedule a missed appointment.

### **Reinspection**

The family and owner are provided a notice of the inspection appointment by mail or by phone. If the family or the family's representative is not at home for the inspection appointment, a card will be left at the unit instructing the tenant to contact the Housing Inspector to reschedule the appointment. The owner will be notified by the Housing Inspector of the rescheduled inspection date. The family is also notified that it is a Family Obligation to allow the PHA to inspect the unit. If the family was responsible for a breach of HQS identified in the "Denial or Termination of Assistance" chapter of this Administrative Plan, they will be advised of their responsibility to correct.

### **Time Standards for Repairs**

Emergency items which endanger the family's health or safety must be corrected by the owner (or family, if applicable) within 24 hours of notification. (See Emergency Repair Items section.) For non-emergency items, minor repairs must be made within fourteen (14) calendar days and major repairs must be made within thirty (30) calendar days. Designation of what constitutes minor or major will be up to the discretion of the inspector. For major repairs, the inspector may consider granting an extension beyond thirty (30) calendar days.

### **Rent Increases**

Increase in rent to owner may not be approved if the unit is in a failed condition.

**D. MOVE OUT / VACATE**

The Housing Authority does not perform move-out inspections.

**E. SPECIAL/COMPLAINT INSPECTIONS**

[24 CFR 982.405(c)]

If at any time the family or owner notifies the PHA that the unit does not meet Housing Quality Standards, the PHA will conduct an inspection. The PHA may also conduct a special inspection based on information from third parties such as neighbors or public officials. The PHA will inspect only the items which were reported, but if the Inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs. If the annual inspection date is within one-hundred and twenty (120) calendar days of a special inspection, and as long as all items are inspected that are included in an annual inspection, the special inspection will be categorized as annual and all annual procedures will be followed. A notice of not less than 24 (twenty-four) hours will be given to families prior to a special/complaint inspection.

**F. QUALITY CONTROL INSPECTIONS**

[24 CFR 982.405(b)]

Quality Control inspections will be performed by either the Housing Director or other designee on the number of files required by SEMAP. The purpose of Quality Control inspections is to ascertain that each inspector is conducting accurate and complete inspections, and to ensure that there is consistency among inspectors in application of the HQS. The sampling of files will include recently completed inspections (within the prior 3 months), a cross-section of neighborhoods, and a cross-section of inspectors.

**G. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS**

[24 CFR 982.401(a)]

The HACB adheres to the acceptability criteria in the program regulations and HUD Inspection Booklet with the additions described below.

**ADDITIONS:**

Walls:

In areas where plaster or drywall is sagging, severely cracked or otherwise damaged, it must be repaired or replaced.

Windows:

All windows sashes and glass must be in good condition, solid and intact, and fit properly in the window frame. Damaged or deteriorated sashes or glass must be replaced.

Doors:

All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.

All interior doors must have trim intact, and be able to open without the use of a key.

All exterior doors must have dead bolt locks installed in accordance with State law requirements.

Floors:

Any loose or warped boards must be resecured and made level. If they cannot be leveled, they must be replaced.

All floors must be in a finished state.

Sinks:

All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.

All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

Security:

If window security bars or security screens are present on emergency exit window, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

Owners are responsible for assuring that batteries are replaced for battery powered smoke detectors. Tenants will be instructed not to tamper with smoke detectors or remove batteries.

Bedrooms:

Bedrooms in basements or attics are not allowed unless they meet local code requirements and must have adequate ventilation and emergency exit capability.

Minimum bedroom sizes will be 70 square feet.

Modifications:

Modifications or adaptations to a unit due to a disability must meet all applicable HQS and building codes.

Extensions for repair items not required by HQS will be granted for modifications/adaptations to the unit if agreed to by the tenant and landlord. HACB will allow execution of the HAP contract if unit meets all requirements and the modifications do not affect the livability of the unit.

#### **H. EMERGENCY REPAIR ITEMS**

[24 CFR 982.404(a)]

The following items are considered of an emergency nature and must be corrected by the owner or tenant (whoever is responsible) within 24 hours of notice by the Inspector:

1. Lack of ability to secure the unit (i.e. locks not working, door will not close, windows do not lock, etc.)
2. Waterlogged ceiling in imminent danger of falling
3. Major plumbing leaks or flooding
4. Natural gas leak or fumes
5. Electrical problem which could result in shock or fire
6. Air conditioning unit, heater, or swamp cooler is not functioning
7. Utilities not in service
8. No running hot water
9. Broken glass where someone could be injured
10. Obstacle which prevents tenant's entrance or exit
11. Lack of functioning toilet

In those cases where there is leaking gas or potential of fire or other threat to public health or safety, and the responsible party cannot be notified or it is impossible to make the repair, proper authorities will be notified by the PHA and/or the PHA will effect immediate repairs and deduct the cost of same, plus applicable administrative costs, from the Housing Assistance Payment. If the emergency repair item(s) are not corrected in the time period required by the PHA, and the owner is responsible, the housing assistance payment will be abated and the HAP contract will be terminated. If the emergency repair item(s) are not corrected in the time period required by the PHA, and it is an HQS breach, which is a family obligation, the PHA will terminate the assistance to the family.

#### **Smoke Detectors**

Inoperable smoke detectors are a serious health threat and will be treated by the PHA as an emergency (24-hour) fail item. If the smoke detector is not operating properly the PHA will contact the owner by phone and request the owner to repair the smoke detector within twenty-four (24) hours. The PHA will re-inspect the unit the following day. Owners are responsible for providing and replacing old batteries for battery powered units. Tenants will be instructed not to tamper with smoke detectors or remove batteries. If the PHA determines that the family has purposely disconnected the smoke detector (by removing batteries or other means), the family will be required to repair the smoke detector within twenty-four (24) hours and the PHA will re-inspect the unit the

following day.

The PHA will issue a Notice of Default to any family determined to have purposely disconnected the unit's smoke detector. The warning will state that deliberate disconnection of the unit's smoke detector is a health and fire hazard and is considered a violation of the HQS.

**I. CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS)**

[24 CFR 982.405, 982.453]

When it has been determined that a unit on the program fails to meet Housing Quality Standards, and the owner is responsible for completing the necessary repair(s) in the time period specified by the PHA, the assistance payment to the owner will be abated.

**Abatement**

A Notice of Abatement will be sent to the owner, and the abatement will be effective from the day after the date of the failed inspection. The PHA will inspect abated units within five (5) business days of the owner's notification that the work has been completed. If the owner makes repairs during the abatement period, payment will resume on the day the unit passes inspection. The PHA will advise owners of their responsibility to notify the tenant of when the re-inspection will take place. No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS. The notice of abatement states that the tenant is not responsible for the PHA's portion of rent that is abated.

**Termination of Contract**

If the owner fails to correct the default or respond to the Notice of Abatement, the owner will be sent a HAP Contract Proposed Termination Notice. Prior to the effective date of the termination, the abatement will remain in effect. If repairs are completed before the effective termination date, the termination may be rescinded by the PHA if the tenant chooses to remain in the unit. Only one Housing Quality Standards inspection will be conducted after the termination notice is issued.

**J. DETERMINATION OF RESPONSIBILITY**

[24 CFR 982.404, 982.54(d)(14)]

Certain HQS deficiencies are considered the responsibility of the family:

1. Tenant-paid utilities not in service
2. Failure to provide or maintain family-supplied appliances
3. Damage to the unit or premises caused by a household member or guest beyond normal wear and tear

"Normal wear and tear" is defined as items that could be charged against the tenant's

security deposit under state law or court practice. The owner is responsible for all other HQS violations. The owner is responsible for vermin infestation even if caused by the family's living habits. However, if such infestation is serious and repeated, it may be considered a lease violation and the owner may evict for serious or repeated violation of the lease. The PHA may terminate the family's assistance on that basis. The inspector will make a determination of owner or family responsibility during the inspection. The owner or tenant may appeal this determination to a mediator within fourteen (14) days of the inspection. If the family is responsible but the owner carries out the repairs, the owner will be encouraged to bill the family for the cost of the repairs and the family's file will be noted.

***K. CONSEQUENCES IF FAMILY IS RESPONSIBLE***

[24 CFR 982.404(b)]

If emergency or non-emergency violations of HQS are determined to be the responsibility of the family, the PHA will require the family make any repair(s) or corrections within thirty (30) calendar days (or twenty-four (24) hours in cases of emergency). If the repair(s) or correction(s) are not made in this time period, the PHA will terminate assistance to the family, after providing an opportunity for an informal hearing. The owner's rent will not be abated for items which are the family's responsibility.

If the tenant is responsible and corrections are not made, the HAP Contract will terminate when assistance is terminated.

## **Chapter 11 OWNER RENTS, RENT REASONABLENESS, & PAYMENT STANDARDS**

[24 CFR 982.502, 982.503, 982.504, 982.505, 982.507]

### **INTRODUCTION**

The policies in this chapter reflect the amendments to the HUD regulations, which were implemented by the Quality Housing and Work Responsibility Act of 1998 for the Section 8 Tenant-Based Assistance Program. These amendments became effective on October 1, 1999, which is referred to as the “merger date”. These amendments complete the merging of the Section 8 Certificate and Voucher Programs into one program, called the Housing Choice Voucher Program.

All Section 8 participant families have been transitioned to the Housing Choice Voucher Program on or before October 1, 2001. Rent calculation methods for the Housing Choice Voucher Program are described at 24 CFR 982.505. The rent calculation formula is specific and is not subject to interpretation.

The PHA will determine rent reasonableness in accordance with 24 CFR 982.507(a). It is the PHA's responsibility to ensure that the rents charged by owners are reasonable based upon unassisted comparables in the rental market, using the criteria specified in 24 CFR 982.507(b).

This Chapter explains the PHA's procedures for determination of rent-reasonableness, payments to owners, adjustments to the Payment Standards, and rent adjustments.

### **A. RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM**

The Rent to Owner is limited only by rent reasonableness. The PHA must demonstrate that the Rent to Owner is reasonable in comparison to rent for other comparable unassisted units.

The only other limitation on rent to owner is the maximum rent standard at initial occupancy (24 CFR 982.508). At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, whether it is a new admission or a move to a different unit, if the gross rent for the unit exceeds the applicable payment standard for the family, the family share may not exceed forty percent (40%) of the family's monthly adjusted income. During the initial term of the lease, the owner may not raise the rent.

### **B. MAKING PAYMENTS TO OWNERS**

[24 CFR 982.451]

Once the HAP Contract is executed, the PHA begins processing payments to the landlord. A HAP Register will be used as a basis for monitoring the accuracy and

timeliness of payments. Changes are made automatically to the HAP Register for the following month. Checks are disbursed by the finance department to the owner each month. Checks may be picked up by owner at the PHA. Checks will only be disbursed on the first and the middle of the month. Exceptions may be made with the approval of the Chief Financial Officer in cases of hardship. Checks that are not received will not be replaced until a written request has been received from the payee and a stop payment has been put on the check.

### **Excess Payments**

The total of rent paid by the tenant plus the PHA housing assistance payment to the owner may not be more than the rent to owner. The owner must immediately return any excess payment to the PHA. Owners who do not return excess payments will be subject to penalties as outlined in the "Owner or Family Debts to the PHA" chapter of this Administrative Plan.

## **C. RENT REASONABLENESS DETERMINATIONS**

[24 CFR 982.507]

The PHA will determine and document on a case-by-case basis that the approved rent is reasonable in comparison to rent for other comparable unassisted units in the market. This applies to all programs. The PHA will not approve a lease until the PHA determines that the initial rent to owner is a reasonable rent. The PHA must re-determine the reasonable rent before any increase in the rent to owner, and if there is a five percent (5%) decrease in the published FMR in effect for sixty (60) calendar days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect one (1) year before the contract anniversary. The PHA must re-determine rent reasonableness if directed by HUD and based on a need identified by the PHA's auditing system. The PHA may elect to re-determine rent reasonableness at any other time. At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or re-determined by the PHA.

The owner will be advised that by accepting each monthly housing assistance payment s/he will be certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. If requested, the owner must give the PHA information on rents charged by the owner for other units in the premises or elsewhere. The PHA will only request information on the owner's units elsewhere if the PHA has cause to demonstrate that the owner has a tendency to charge higher rents to program participants or it needed for rent reasonableness comparables.

The data for other unassisted units will be gathered from newspapers, Realtors, professional associations, inquiries of owners, market surveys, and other available sources. The market areas for rent reasonableness are neighborhoods within the PHA's jurisdiction. Subject units within a defined housing market area will be compared to similar units within the same area. The following items will be used for rent reasonableness documentation:



1. Size (number of Bedrooms/square footage)
2. Location
3. Quality
4. Amenities (bathrooms, dishwasher, air conditioning, etc.)
5. Housing Services
6. Age of unit
7. Unit Type
8. Maintenance
9. Utilities

***D. PAYMENT STANDARDS FOR THE VOUCHER PROGRAM***

[24 CFR 982.503]

The Payment Standard is used to calculate the housing assistance payment for a family. In accordance with HUD regulations, and at the PHA's discretion, the Voucher Payment Standard amount is set by the PHA between 90 percent (90%) and 110 percent (110%) of the HUD published FMR. This is considered the basic range. The PHA reviews the appropriateness of the Payment Standard annually when the FMR is published. In determining whether a change is needed, the PHA will ensure that the Payment Standard is always within the range of 90 percent (90%) to 110 percent (110%) of the new FMR, unless an exception payment standard has been approved by HUD.

The PHA will establish a single voucher payment standard amount for each FMR area in the PHA jurisdiction. For each FMR area, the PHA will establish payment standard amounts for each "unit size". The PHA may have a higher payment standard within the PHA's jurisdiction if needed to expand housing opportunities outside areas of minority or poverty concentration, as long as the payment standard is within the 90-110% of FMR range.

On a case-by case basis, as a reasonable accommodation, the PHA may approve a higher payment standard up to 110 percent (110%) of the FMR if the payment standards are set below 110 percent (110%) of the FMR. Such higher payment standards must be requested by the family and subsequently approved, as necessary, by the PHA after a family with a disabled person or individual with disabilities locates a unit.

To facilitate the review for a payment standard as a reasonable accommodation, the PHA will request the following documentation in its request:

- A. A statement from a health care provider regarding the need for the reasonable accommodation and the features of the unit (which may include its location) which meets the person's needs.

- B. The contract rent and utility allowance for the unit.
- C. A statement from the PHA that it has determined the rent for the unit is reasonable, and that the unit has the feature/s required to meet the needs of the persons with disabilities as noted in the statement from the health care provider.
- D. The household's monthly adjusted income.
- E. The FMR for the unit size for which the family is eligible.
- F. Proposed effective date of the new lease or actual effective date of the lease renewal.

The family's share of rent is capped at 40 percent (40%) of monthly adjusted income at initial occupancy. Exception payment standards may remain in effect until or unless a higher exception payment standard is warranted, requested and subsequently approved.

The PHA will follow HUD guidelines if the reasonable accommodation request is over 110 percent (110%).

#### ***E. ADJUSTMENTS TO PAYMENT STANDARDS***

[24 CFR 982.503]

Payment Standards may be adjusted, within HUD regulatory limitations, to increase Housing Assistance Payments in order to keep families' rents affordable. The PHA will not raise Payment Standards solely to make "high end" units available to Voucher holders. The PHA may use some or all of the measures below in making its determination whether an adjustment should be made to the Payment Standards.

#### **Assisted Families' Rent Burdens**

The PHA will review its voucher payment standard amounts at least annually to determine whether more than forty percent (40%) of families in a particular unit size are paying more than thirty percent (30%) of their annual adjusted income for rent. If it is determined that particular unit sizes in the PHA's jurisdiction have payment standard amounts that are creating rent burdens for families, the PHA will modify its payment standards for those particular unit sizes.

The PHA will increase its payment standard within the basic range for those particular unit sizes to help reduce the percentage of annual income that participant families in the PHA's jurisdiction are paying. The PHA will establish a separate voucher payment standard, within the basic range, for designated parts in its jurisdiction if it determines that a higher payment standard is needed in these designated areas to provide families

with quality housing choices and to give families an opportunity to move outside areas of high poverty and low income.

### **Quality of Units Selected**

The PHA will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that Payment Standard increases are only made when needed to reach the mid-range of the market.

### **PHA Decision Point**

The PHA will review the average percent of income that families on the program are paying for rent. If more than forty percent (40%) of families are paying more than thirty percent (30%) of monthly adjusted income for a particular unit size, the PHA will determine whether families are renting units larger than their voucher size, and whether families are renting units which exceed HUD's HQS and any additional standards added by the PHA in this Administrative Plan.

If families are paying more than thirty percent (30%) of their income for rent due to the selection of larger bedroom size units or luxury units, the PHA may decline to increase the payment standard. If these are not the primary factors for families paying higher rents, the PHA will continue increasing the payment standard.

### **Rent to Owner Increases**

The PHA may review a sample of the units to determine how often owners are increasing rents and the average percent of increase by bedroom size.

### **Time to Locate Housing**

The PHA may consider the average time period for families to lease up under the Voucher program. If more than fifty percent (50%) of voucher holders are unable to locate suitable housing within the term of the voucher and the PHA determines that this is due to ninety percent (90%) of rents in the jurisdiction being unaffordable for families, even with the presence of a voucher, the Payment Standard may be adjusted.

### **Lowering of the Payment Standard**

Lowering of the FMR may require an adjustment of the Payment Standard. Additionally, statistical analysis may reveal that the Payment Standard should be lowered. In any case, the Payment Standard will not be set below 90 percent (90%) of the FMR without authorization from HUD.

### **Financial Feasibility**

Before increasing the Payment Standard, the PHA may review the budget to determine the impact projected subsidy increases would have on funding available for the program and number of families served. For this purpose, the PHA will compare the number of families who could be served under a higher Payment Standard with the number assisted under current Payment Standards.

**File Documentation**

A file will be retained by the PHA for at least three (3) years to document the analysis and findings to justify whether or not the Payment Standard was changed.

***F. EXCEPTION PAYMENT STANDARDS***

If the dwelling unit is located in an exception area, the PHA must use the appropriate payment standard amount established by the PHA for the exception area in accordance with regulation 24 CFR 982.503.

## **Chapter 12 RECERTIFICATIONS**

[24 CFR 982.516]

### **INTRODUCTION**

In accordance with HUD requirements, the PHA will reexamine the income and household composition of all families at least annually. Families will be provided accurate annual and interim rent adjustments. Recertifications and interim certifications will be processed in a manner that ensures families are given reasonable notice of rent increases. All annual activities will be coordinated in accordance with HUD regulation. It is a HUD requirement that families report all changes in household composition. This Chapter defines the PHA's policy for conducting annual Reexaminations and coordinating annual activities. It also explains the interim reporting requirements for families, and the standards for timely reporting.

#### **A. ANNUAL ACTIVITIES**

[24 CFR 982.516, 982.405]

There are two activities the PHA must conduct on an annual basis. These activities will be coordinated whenever possible:

1. Recertification of Income and Family Composition
2. HQS Inspection

The PHA produces a monthly listing of units under contract to ensure that timely reviews of housing quality, and factors related to Total Tenant Payment/Family Share can be made. Reexamination of the family's income and composition must be conducted at least annually.

#### **Annual inspections**

See "Housing Quality Standards and Inspections" chapter.

#### **Rent Adjustments**

See "Owner Rents, Rent Reasonableness and Payment Standards" chapter.

#### **B. ANNUAL RECERTIFICATION**

[24 CFR 982.516]

Families are required to be re-certified at least annually.

#### **Moves Between Recertifications**

When families move to another dwelling unit, an annual Recertification will be scheduled (unless a Recertification has occurred in the last one-hundred and twenty (120) calendar days) and the anniversary date will be changed. Income limits are not

used as a test for continued eligibility at Recertification.

### **Recertification Notice to the Family**

The PHA will maintain a Recertification tracking system and the household will be notified by mail of the date and time for their interview at least ninety (90) calendar days in advance of the anniversary date. If requested as an accommodation by a person with a disability, the PHA will provide the notice in an accessible format, when feasible. The PHA will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities.

### **Procedure**

The PHA's procedure for conducting annual Recertification will be to schedule the date and time of appointments and mail a notification to the family.

### **Completion of Annual Recertification**

The PHA will have all Recertification for families completed before the anniversary date. This includes notifying the family of any changes in rent at least thirty (30) calendar days before the scheduled date of the change in family rent.

### **Persons with Disabilities**

Persons with disabilities who are unable to come to the PHA's office will be granted an accommodation by conducting the interview over the telephone or by mail or at the person's home.

### **Collection of Information [24 CFR 982.516(f)]**

The PHA has established appropriate Recertification procedures necessary to ensure that the income data provided by families is complete and accurate.

### **Requirements to Attend**

The following family members will be required to attend Recertification interviews:

- All adult household members

If the head of household is unable to attend the interview any adult family member may re-certify for the family, provided that the head of household and all other adult family members come in within fourteen (14) days to re-certify.

### **Failure to Respond to Notification to Re-certify**

The written notification must state which family members are required to attend the interview. The family may call to request another appointment date prior to the interview. If the family does not appear for the Recertification interview, and has not rescheduled or made prior arrangements with the PHA, the family is responsible for scheduling second appointment within fourteen (14) days. If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, no further appointments will be made and the family will be sent a notice of termination and be offered an informal hearing. Exceptions to these policies may be made by the

Eligibility Caseworker if the family is able to document an emergency situation that prevented them from canceling or attending the appointment or if requested as a reasonable accommodation for a person with a disability.

### **Documents Required From the Family**

In the notification letter to the family, the PHA will include instructions for the family to bring the following:

1. Documentation of all assets
2. Documentation of any deductions/allowances
3. Personal Declaration Form completed by head of household
4. Documentation of Income
5. Verification of Information

The PHA will follow the verification procedures and guidelines described in this Plan. Verifications for Recertification must be less than ninety (90) calendar days old.

### **Tenant Rent Increase**

If tenant rent increases, a thirty (30)-day notice is mailed to the family prior to the scheduled effective date of the annual Recertification. If less than thirty (30) calendar days are remaining before the scheduled effective date of the annual Recertification, the tenant rent increase will be effective on the first of the month following the thirty (30)-day notice. If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the Recertification processing, there will be a retroactive increase in rent to the scheduled effective date of the annual Recertification.

### **Tenant Rent Decreases**

If tenant rent decreases, it will be effective on the anniversary date. If the family causes a delay so that the processing of the Recertification is not complete by the anniversary date, rent change will be effective on the first day of the month following completion of the Recertification processing by the PHA.

## **C. REPORTING INTERIM CHANGES**

[24 CFR 982.516]

Between annual Recertification, program participants must report all changes in household composition and income, in writing, to the PHA within fourteen (14) days of the change. This includes additions due to birth, adoption and court-awarded custody, or children under temporary guardianship, for not less than six (6) months provided it is verifiable. The family must obtain PHA approval prior to all other additions to the household.

If any new family member is added, family income must include any income of the new family member. The PHA will conduct a Recertification to determine such additional income and will make the appropriate adjustments in the housing assistance payment

and family unit size.

The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified as required at the first interim or regular Recertification after moving into the unit.

### **Increases in Income - Interim Recertification Policy**

The PHA will conduct interim Recertifications when families have an increase in income of \$200.00 or more per month. If the increase is less than \$200.00 per month, the PHA will defer the rent increase until the family's next annual Recertification. The family will be given a 30-day notice before increasing the rent. Families will be required to report all increases in income/assets within fourteen (14) days of the increase.

### **Decreases in Income**

Participants may report a decrease in income and other changes which would reduce the amount of tenant rent, such as an increase in allowances or deductions. The PHA must calculate the change if a decrease in income is reported (see next paragraph). The change will be effective the following month in which the decrease was reported. The PHA will process the rent adjustment unless the PHA confirms that the decrease in income will last less than thirty (30) calendar days.

### **PHA Errors**

If the PHA makes a calculation error at admission to the program or at an annual Recertification resulting in an increase in rent, an interim Recertification will be conducted, if necessary, to correct the error, but the family will not be charged retroactively. The increase to the tenant's portion of the rent will be effective on the first day of the month after the thirty-day notice to tenant. Families will be given decreases, when applicable, retroactive to when the decrease for the change would have been effective if calculated correctly.

## ***D. OTHER INTERIM REPORTING ISSUES***

An interim recertification does not affect the date of the annual Reexamination.

An interim recertification will be scheduled for families with zero/unstable income every three (3) months.

In the following circumstances, the PHA may conduct the interim recertification by mail:

- Changes that will not result in a change in tenant rent or voucher size.
- As a reasonable accommodation when requested. (See "Statement of Policies and Objectives" chapter)

Any changes reported by participants other than those listed in this section, and Section C: REPORTING INTERIM CHANGES will be noted in the file by the staff person but will not be processed between regularly-scheduled annual Reexaminations.



## ***E. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS***

The PHA will not reduce the family share of rent for families whose welfare assistance is reduced due to a “specified welfare benefit reduction”, which is a reduction in benefits by the welfare agency specifically because of:

1. fraud in connection with the welfare program, or
2. noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program

However, the PHA will reduce the rent if the welfare assistance reduction is a result of:

1. The expiration of a lifetime time limit on receiving benefits, or
2. A situation where the family has complied with welfare program requirements but cannot or has not obtained employment, or
3. A situation where a family member has not complied with other welfare agency requirements.

### **Definition of Covered Family**

A household that receives benefits for welfare or public assistance from a State or public agency program which requires, as a condition of eligibility to receive assistance, the participation of a family member in an economic self-sufficiency program.

### **Definition of "Imputed Welfare Income"**

The amount of annual income, not actually received by a family, as a result of a specified welfare benefit reduction, that is included in the family's income for purposes of determining rent. The amount of imputed welfare income is determined by the PHA, based on written information supplied to the PHA by the welfare agency, including:

- The amount of the benefit reduction
- The term of the benefit reduction
- The reason for the reduction
- Subsequent changes in the term or amount of the benefit reduction

The family's annual income will include the imputed welfare income, as determined at the family's annual or interim recertification, during the term of the welfare benefits reduction (as specified by the welfare agency). The amount of imputed welfare income will be offset by the amount of additional income the family receives that commences after the sanction was imposed. When additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income will be reduced to zero. If the family was not an assisted resident when the welfare sanction began, imputed welfare income will not be included in annual income.

If the family claims the amount of imputed welfare income has been calculated incorrectly, the Eligibility Caseworker will review the calculation for accuracy. If the imputed welfare income amount is correct, the PHA will provide a written notice to the family that includes:

- A brief explanation of how the amount of imputed welfare income was determined;
- A statement that the family may request an informal hearing if they do not agree with the PHA determination.

### **Verification Before Denying a Request to Reduce Rent**

The PHA will obtain written verification from the welfare agency stating that the family's benefits have been reduced due to fraud or noncompliance with welfare agency economic self-sufficiency or work activities requirements before denying the family's request for rent reduction. The PHA will rely on the welfare agency's written notice to the PHA regarding welfare sanctions.

### **Cooperation Agreements**

The PHA has taken a proactive approach to culminating an effective working relationship between the PHA and the local welfare agency for the purpose of targeting economic self-sufficiency programs throughout the community that are available to Section 8 tenant-based assistance families. The PHA has executed a written Cooperation Agreement with the local welfare agency to ensure timely and accurate verification of noncompliance. The PHA and the local welfare agency have mutually agreed to exchange information regarding any economic self-sufficiency and/or other appropriate programs or services that would benefit Section 8 tenant-based assistance families.

### **Family Dispute of Amount of Imputed Welfare Income**

If the family disputes the amount of imputed income and the PHA denies the family's request to modify the amount, the PHA will provide the tenant with a notice of denial, which will include:

- An explanation for the PHA's determination of the amount of imputed welfare income
- A statement that the tenant may request an informal hearing.
- A statement that the grievance information received from the welfare agency cannot be disputed at the informal hearing, and the issue to be examined at the informal hearing will be the PHA's determination of the amount of imputed welfare income, not the welfare agency's determination to sanction the welfare benefits.

**F. NOTIFICATION OF RESULTS OF RECERTIFICATIONS**

[HUD Notice PIH 98-6]

The HUD form 50058 will be completed and transmitted as required by HUD. The Notice of Rent Change is mailed to the owner and the tenant. Signatures are not required by the PHA. If the family disagrees with the rent adjustment, they may request an informal hearing.

**G. TIMELY REPORTING OF CHANGES IN INCOME AND ASSETS**

[24 CFR 982.516(c)]

**Standard for Timely Reporting of Changes**

The PHA requires that all families report interim changes, in writing, to the PHA within fourteen (14) days of when the change occurs. Any information, document or signature needed from the family which is needed to verify the change must be provided within fourteen (14) days of the change. If the change is not reported within the required time period, or if the family fails to provide documentation or signatures, it will be considered untimely reporting.

**Procedures when the Change is Reported in a Timely Manner**

The PHA will notify the family and the owner of any change in the Housing Assistance Payment to be effective according to the following guidelines:

- Increases in the Tenant Rent are effective on the first of the month following at least thirty (30) calendar days' notice.
- Decreases in the Tenant Rent are effective the first of the month following that in which the change is reported. However, no rent reductions will be processed until all the facts have been verified, even if a retroactive adjustment results.
- The change will not be made until the third party or other form of verification is received.

**Procedures when the Change is Not Reported by the Family in a Timely Manner**

If the family does not report the change as described under Timely Reporting, the family will have caused an unreasonable delay in the interim recertification processing and the following guidelines will apply:

- Increase in Tenant Rent will be effective retroactive to the date it would have been effective had it been reported on a timely basis. The family will be liable for any overpaid housing assistance and the guidelines for Family Debts to the PHA as outlined in Chapter 18 will be followed.
- Decrease in Tenant Rent will be effective on the first of the month following the month that the change was reported.

### **Procedures when the Change is Not Processed by the PHA in a Timely Manner**

"Processed in a timely manner" means that the change goes into effect on the date it should when the family reports the change in a timely manner. If the change cannot be made effective on that date, the change is not processed by the PHA in a timely manner. In this case, an increase will be effective after the required thirty (30) calendar days' notice prior to the first of the month after completion of processing by the PHA. If the change resulted in a decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be credited for the amount.

### ***H. CHANGES IN VOUCHER SIZE DUE TO FAMILY COMPOSITION CHANGES***

[24 CFR 982.516(c)]

(See "Subsidy Standards" Chapter 5.)

### ***I. CONTINUANCE OF ASSISTANCE FOR "MIXED" FAMILIES***

[24 CFR 5.518]

Under the Non-citizens Rule, "Mixed" families are families that include at least one citizen or eligible immigrant and any number of ineligible members. The Non-citizens Rule was implemented on or after November 29, 1996, and mixed families may receive prorated assistance only.

### ***J. MISREPRESENTATION OF FAMILY CIRCUMSTANCES***

If any participant deliberately misrepresents the information on which eligibility or tenant rent is established, the PHA may terminate assistance and may refer the family file/record to the proper authorities for appropriate disposition (See Program Integrity Chapter 21).

## **Chapter 13 MOVES WITH CONTINUED ASSISTANCE/PORTABILITY**

[24 CFR 982.314, 982.353, 982.355(a)]

### **INTRODUCTION**

HUD regulations permit families to move with continued assistance to another unit within the PHA's jurisdiction, or to a unit outside of the PHA's jurisdiction under Portability procedures. The regulations also allow the PHA the discretion to develop policies which define any limitations or restrictions on moves. This Chapter defines the procedures for moves, both within and outside of, the PHA's jurisdiction, and the policies for restriction and limitations on moves.

#### **A. ALLOWABLE MOVES**

A family may move to a new unit with continued assistance if:

1. The assisted lease for the old unit has terminated because the PHA has terminated the HAP contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family.
2. The owner has given the family a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the family (unless assistance to the family will be terminated).
3. The family has given proper notice of lease termination (and if the family has a right to terminate the lease on notice to owner).

#### **B. RESTRICTIONS ON MOVES**

[24 CFR 982.314, 982.552(a)]

Families will not be permitted to move within the PHA's jurisdiction during the initial year of assisted occupancy. Families will not be permitted to move outside the PHA's jurisdiction under portability procedures during the initial year of assisted occupancy. Families will not be permitted to move more than once in a twelve (12) month period. The PHA will deny permission to move if:

1. The family has violated a Family Obligation.
2. The family owes the PHA money.
3. The family has moved or been issued a Voucher within the last twelve (12) months.
4. There is insufficient funding for continued assistance.

The Section 8 Eligibility Manager or his/her designee may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control such as in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably

believes he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit as outlined in the Violence Against Women Act.

### **C. PROCEDURE FOR MOVES**

[24 CFR 982.314]

#### **Issuance of Voucher**

Subject to the restrictions on moves, if the family has not been re-certified within the last ninety (90) calendar days, the PHA will issue the voucher to move after conducting the Reexamination. If the family does not locate a new unit, they may remain in the current unit so long as the owner permits. The annual Reexamination date will be changed to coincide with the new lease-up date.

#### **Notice Requirements**

The family must give the owner the required number of day's written notice of intent to vacate specified in the lease and must give a copy to the PHA simultaneously. When the notice to vacate is received by the Housing Authority the family will be issued a voucher to move provided the last re-certification was conducted within the last ninety (90) days. If the family fails to sign a new voucher at that time, a new voucher will have to be signed by the family before vacating the current unit.

#### **Time of Contract Change**

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move except that there will be no overlapping assistance. In a move, assistance stops at the old unit at the end of the month in which the tenant ceased to occupy, unless proper notice was given to end a lease mid-month. Assistance will start on the new unit on the effective date of the lease and contract. Assistance payments may overlap for the month in which the family moves.

### **D. PORTABILITY**

[24 CFR 982.353]

Portability applies to families moving out of or into the PHA's jurisdiction within the United States and its territories.

### **E. OUTGOING PORTABILITY**

[24 CFR 982.353, 982.355]

Within the limitations of the regulations and this policy, a participant family has the right to receive tenant-based voucher assistance to lease a unit outside the PHA's jurisdiction, anywhere in the United States, in the jurisdiction of a PHA with a tenant-based program. When a family requests to move outside of the PHA's jurisdiction, the request must specify the area to which the family wants to move.

## **Restrictions on Portability**

### **Applicants**

If neither the head nor spouse had a domicile (legal residence) in the PHA's jurisdiction at the date of their initial application for assistance, the family will not be permitted to exercise portability upon initial issuance of a voucher, unless the PHA approves such move. [NOTE: Legal domicile is defined by local government.] Upon initial issuance of a voucher the family must be income eligible under the receiving PHA income limits during the initial 12-month period after admission to the program.

### **Participants**

After an applicant has leased-up in the jurisdiction of the initial housing agency, they cannot exercise portability during the first year of assisted occupancy, unless the receiving and initial PHA agree to allow the move.

In any case, the PHA will not permit families to exercise portability:

1. If the family is in violation of a family obligation
2. If the family owes money to the PHA
3. If the family has moved out of its assisted unit in violation of the lease

Receiving PHA's will be required to submit hearing determinations to the PHA within fourteen (14) days.

## ***F. INCOMING PORTABILITY***

[24 CFR 982.354, 982.355]

### **Absorption or Administration**

The PHA will accept a family with a valid Voucher from another jurisdiction and administer or absorb the Voucher. If administering, the family will be issued a "Portable" Voucher by the PHA. The term of the voucher will not expire before the expiration date of any initial PHA voucher. The family must submit a request for Tenancy Approval for an eligible unit to the receiving PHA during the term of the receiving PHA voucher. The receiving PHA may grant extensions in accordance with this Administrative Plan. However, if the Family decides not to lease-up in the PHA's jurisdiction, they must contact the initial PHA to request an extension.

The PHA may absorb Vouchers if such absorption does not exceed fifteen percent (15%) of households assisted. The PHA may absorb all incoming portable families provided that there is funding available. When the PHA does not absorb the incoming Voucher, it will administer the initial PHA's Voucher and the receiving PHA's policies will prevail.

For admission to the program a family must be income eligible in the area where the family initially leases a unit with assistance under the program. The receiving PHA does

not re-determine eligibility for a portable family that was already receiving assistance in the initial PHA Section 8 tenant-based program. The PHA will issue a "Portability Voucher" according to its own Subsidy Standards. If the Family has a change in family composition which would change the Voucher size, the PHA will change to the proper size based on its own Subsidy Standards.

### **Income and Total Tenant Payment of Incoming Portables [982.353(d)]**

As receiving PHA, the PHA will conduct a Reexamination interview but only verify the information provided if the documents are missing or are over ninety (90) calendar days old, whichever is applicable, or there has been a change in the family's circumstances. If the PHA conducts a Reexamination of the family it will not cause a delay in the issuance of a voucher.

If the family's income is such that a zero dollars (\$0) subsidy amount is determined prior to lease-up in the PHA's jurisdiction, the PHA will refuse to enter into a contract on behalf of the family at zero dollars (\$0) assistance.

### **Requests for Tenancy Approval**

A briefing will be mandatory for all portability families. When the family submits a Request for Tenancy Approval, it will be processed using the PHA's policies. If the Family does not submit a Request for Tenancy Approval or does not execute a lease, the initial PHA will be notified within fourteen (14) days by the PHA. If the Family leases up successfully, the PHA will notify and bill the initial PHA within fourteen (14) days. The PHA will notify and bill the initial PHA within fourteen (14) days if the family fails to submit a request for Tenancy Approval for an eligible unit within the term of the voucher. If the PHA denies assistance to the family, the PHA will notify the Initial PHA within fourteen (14) days and the family will be offered a review or hearing. The PHA will notify the Family of its responsibility to contact the Initial PHA if the Family wishes to move outside the PHA's jurisdiction under continued portability.

### **Regular Program Functions**

The PHA will perform all program functions applicable to the tenant-based assistance program, such as:

1. Annual reexaminations of family income and composition
2. Annual inspection of the unit

Interim Examinations when requested or deemed necessary by the PHA

### **Terminations**

The PHA will notify the Initial PHA in writing of any termination of assistance within fourteen (14) days of the termination. If an Informal Hearing is required and requested by the Family, the hearing will be conducted by the PHA, using the regular hearing procedures included in this Plan. A copy of the hearing decision will be furnished to the Initial PHA. The Initial PHA will be responsible for collecting amounts owed by the Family for claims paid and for monitoring repayment. If the Initial PHA notifies the PHA



that the Family is in arrears or the Family has refused to sign a Payment Agreement, the PHA will terminate assistance to the family.

**Required Documents**

As Receiving PHA, the PHA will require the documents listed on the HUD Portability Billing Form from the Initial PHA.

**Billing Procedures**

As Receiving PHA, the PHA will bill the Initial PHA monthly for Housing Assistance Payments. The billing cycle for other amounts, including Administrative Fees and Special Claims will be monthly unless otherwise requested by the Initial PHA. The PHA will bill one hundred percent (100%) of the Housing Assistance Payment, one hundred percent (100%) of Special Claims and eighty (80%) of the Administrative Fee (at the Initial PHA's rate) for each "Portability" Voucher leased as of the first day of the month. The PHA will notify the Initial PHA of changes in subsidy amounts and will expect the Initial PHA to notify the PHA of changes in the Administrative Fee amount to be billed.

## **Chapter 14 CONTRACT TERMINATIONS**

[24 CFR 982.311, 982.314]

### **INTRODUCTION**

The Housing Assistance Payments (HAP) Contract is the contract between the owner and the PHA which defines the responsibilities of both parties. This Chapter describes the circumstances under which the contract can be terminated by the PHA and the owner, and the policies and procedures for such terminations.

#### **A. CONTRACT TERMINATION**

[24 CFR 982.311]

The term of the HAP Contract is the same as the term of the lease. The Contract between the owner and the PHA may be terminated by the PHA, or by the owner or tenant terminating the lease. No future subsidy payments on behalf of the family will be made by the PHA to the owner after the month in which the Contract is terminated. The owner must reimburse the PHA for any subsidies paid by the PHA for any period after the contract termination date. If the family continues to occupy the unit after the Section 8 contract is terminated, the family is responsible for the total amount of rent due to the owner. The owner will have no right to claim compensation from the PHA for vacancy loss under the provisions of Certificate HAP contracts effective before October 2, 1995. After a contract termination, if the family meets the criteria for a move with continued assistance, the family may lease-up in another unit. The contract for the new unit may begin during the month in which the family moved from the old unit.

#### **B. TERMINATION BY THE FAMILY: MOVES**

[24 CFR 982.314(c)(2)]

Family termination of the lease must be in accordance with the terms of the lease.

#### **C. TERMINATION OF TENANCY BY THE OWNER: EVICTIONS**

[24 CFR 982.310, 982.455]

If the owner wishes to terminate the lease, the owner is required under the lease to provide proper notice as stated in the lease. During the term of the lease, the owner may not terminate the tenancy except for the grounds stated in the HUD regulations. During the term of the lease the owner may only evict for:

1. Serious or repeated violations of the lease, including but not limited to failure to pay rent or other amounts due under the lease, or repeated violation of the terms and conditions of the lease;

2. Violations of federal, state or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises; or criminal activity by the tenant, any member of the household, a guest or another person under the tenant's control that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, or persons residing in the immediate vicinity of the premises or any drug-related criminal activity on or near the premises.
3. Other good cause.

During the initial term of the lease, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do (see 24 CFR 982.310).

### **Evidence of Criminal Activity**

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity:

- Regardless of arrest or conviction
- Without satisfying the standard of proof used for a criminal conviction

### **Termination of Tenancy Decisions**

If the law and regulation permit the owner to take an action but don't require action to be taken, the owner can decide whether to take the action. Relevant circumstances for consideration include:

- The seriousness of the offense
- The effect on the community
- The extent of participation by household members
- The effect on uninvolved household members
- The demand for assisted housing by families who will adhere to responsibilities
- The extent to which leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action
- The effect on the integrity of the program

### **Exclusion of culpable household member**

The owner may require a tenant to exclude a household member in order to continue to reside in the assisted unit.

### **Consideration of Rehabilitation**

When determining whether to terminate the tenancy for illegal drug use or alcohol abuse, the owner may consider whether the member:

- Is no longer participating
- Has successfully completed a supervised drug or alcohol rehab program
- Has otherwise been successfully rehabilitated

The owner may require the tenant to submit evidence of any of the three (above). Actions of termination by the owner must be consistent with the fair housing and equal opportunities as stated in 24 CFR 5.105. The owner must provide the tenant a written notice specifying the grounds for termination of tenancy, at or before the commencement of the eviction action. The notice may be included in, or may be combined with, any owner eviction notice to the tenant. The owner eviction notice means a notice to vacate, or a complaint, or other initial pleading used under State or local law to commence an eviction action.

The PHA requires that the owner specify the section of the lease that has been violated (if applicable) and cite some or all of the ways in which the tenant has violated that section as documentation for the PHA's decision regarding termination of assistance. Housing assistance payments are paid to the owner under the terms of the HAP Contract. If the owner has begun eviction and the family continues to reside in the unit, the PHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

The PHA will continue housing assistance payments until the family moves or is evicted from the unit. If the action is finalized in court, the owner must provide the PHA with the documentation, including notice of the lock-out date. The PHA must continue making housing assistance payments to the owner in accordance with the Contract as long as the tenant continues to occupy the unit and the Contract is not violated. By endorsing the monthly check from the PHA, the owner certifies that the tenant is still in the unit, the rent is reasonable and s/he is in compliance with the contract.

If an eviction is not due to a serious or repeated violation of the lease, and if the PHA has no other grounds for termination of assistance, the PHA may issue a new certificate or voucher so that the family can move with continued assistance.

#### ***D. TERMINATION OF THE CONTRACT BY PHA***

[24 CFR 982.404(a), 982.453, 982.454, 982.552(a)(3)]

The term of the HAP contract terminates when the lease terminates, when the PHA terminates program assistance for the family, or when the owner has breached the HAP contract (See "Owner Disapproval and Restriction" chapter).

The PHA may also terminate the contract if:

1. The PHA terminates assistance to the family.
2. The family is required to move from a unit when the unit does not meet the HQS space standards because of an increase in family size or a change in family composition.
3. Funding is no longer available under the ACC.

The contract will terminate automatically if one hundred and eighty (180) calendar days have passed since the last housing assistance payment to the owner.

### **Notice of Termination**

When the PHA terminates the HAP contract under the violation of HQS space standards, the PHA will provide the owner and family written notice of termination of the contract, and the HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives such notice to the owner.

### ***E. PROTECTIONS FOR VICTIMS OF ABUSE***

1. An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as serious or repeated violations of the lease or other “good cause” for termination of the assistance, tenancy, or occupancy rights of such a victim.
2. Criminal activity directly relating to abuse, engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control, shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant’s family is the victim or threatened victim of domestic violence, dating violence, or stalking.
3. Notwithstanding any restrictions on admission, occupancy, or terminations of occupancy or assistance, or any Federal, State or local law to the contrary, a PHA, owner or manager may “bifurcate” a lease, or otherwise remove a household member from a lease, without regard to whether a household member is a signatory to the lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others. This action may be taken without evicting, removing, terminating assistance to, or otherwise penalizing the victim of the violence who is also a tenant or lawful occupant. Such eviction, removal termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the public housing program.
4. Nothing in this section may be construed to limit the authority of a public housing agency, or manager, when notified, to honor court orders addressing rights of access or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up.
5. Nothing in this section limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant

for any violation of a lease of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate.

6. Nothing in this section may be construed to limit the authority or manager to evict, or the public housing agency to terminate assistance, to any tenant if the manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if the tenant is not evicted or terminated from assistance.

### **Certification of Domestic Violence, Dating Violence and Stalking**

When an individual seeks to assert VAWA's protections, the PHA may request that the individual provide one of any of the following three types of documentation:

1. A HUD-approved certification form verifying that the individual is a victim of domestic violence, dating violence, or stalking, and that the incident or incidents in question are bona fide incidents of actual or threatened abuse. Such certification shall include the name of the perpetrator; or
2. Documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, or stalking, or the effects of the abuse, in which the professional attests under penalty of perjury (28 USC 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation; or
3. A Federal, State, tribal, territorial, or local police or court record.

The individual shall provide certification within 14 business days after the individual receives a written request for such certification from the PHA. If the individual does not provide the certification within 14 business days after the individual has received a request in writing for such certification, the PHA may evict any tenant who commits violations of a lease. The PHA may extend the 14-day deadline at its discretion if good cause is demonstrated.

The PHA is not required to demand that an individual produce official documentation or physical proof of the individual's status as a victim of domestic violence, dating violence or stalking in order to receive any of VAWA's protections. At its discretion, the PHA may provide benefits to the individual based solely on the individual's statement or other corroborating evidence.

## **Confidentiality**

The PHA shall keep confidential any information an individual provides regarding his or her status as a victim of domestic violence, dating violence, or stalking, except if the disclosure is: (1) requested in writing by the individual; (2) required for use in an eviction proceeding; or (3) otherwise required by law. See 42 USC 1437d(u)(2)(A); 42 USC 1437 f(ee)(2)(A).

## **Definitions of Domestic Violence, Dating Violence, and Stalking**

[VAWA; 42 USC 13925(a)(6), (8); 42 USC 1437f(f)(10); Cal Family Code 6211]

VAWA defines “domestic violence” as felony or misdemeanor crimes of violence committed by:

- (1) a current or former spouse of the victim;
- (2) a person with whom the victim shares a child in common;
- (3) a person who is cohabiting with or has cohabited with the victim as a spouse;
- (4) a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies;
- (5) any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction (i.e., California).

California law defines “domestic violence” as abuse perpetrated against the victim by:

- (1) The victim’s spouse or former spouse.
- (2) Someone the victim lives with or lived with in the past.
- (3) Someone the victim is dating or has dated.
- (4) Someone the victim has a child with.
- (5) Someone to whom the victim is related by blood, marriage, or adoption (including the victim’s parent, grandparent, child, grandchild, brother, or sister).

VAWA defines “dating violence” as violence committed by a person:

- (1) who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - a. The length of the relationship.
  - b. The type of relationship.
  - c. The frequency of interaction between the persons involved in the relationship.

VAWA defines “stalking” as:

- (1) To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass or intimidate another person; or
- (2) To place under surveillance with the intent to kill, injure, harass, or intimidate another person,

AND

- (3) In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to:
  - a. That person;
  - b. A member of the immediate family of that person; or
  - c. The spouse or intimate partner of that person.



## **Chapter 15 DENIAL OR TERMINATION OF ASSISTANCE**

[24 CFR 5.902, 5.903, 5.905, 982.4, 982.54, 982.552, 982.553]

### **INTRODUCTION**

The PHA may deny or terminate assistance for a family because of the family's action or failure to act. The PHA will provide families with a written description of the Family Obligations under the program, the grounds under which the PHA can deny or terminate assistance, and the PHA's informal hearing procedures. This Chapter describes when the PHA is required to deny or terminate assistance, and the PHA's policies for the denial of a new commitment of assistance and the grounds for termination of assistance under an outstanding HAP contract.

#### **A. GROUND FOR DENIAL/TERMINATION**

[24 CFR 982.54, 982.552, 982.553]

If denial or termination is based upon behavior resulting from a disability, the PHA will delay the denial or termination in order to determine if there is an accommodation, which would negate the behavior resulting from the disability.

#### **Form of Denial/Termination**

Denial of assistance for an applicant may include any or all of the following:

1. Denial for placement on the PHA waiting list
2. Denying a voucher or withdrawing a certificate or voucher
3. Refusing to enter into a HAP contract or approve a tenancy
4. Refusing to process or provide assistance under portability procedures.

Termination of assistance for a participant may include any or all of the following:

1. Refusing to enter into a HAP contract or approve a tenancy
2. Terminating housing assistance payments under an outstanding HAP contract
3. Refusing to process or provide assistance under portability procedures

#### **Mandatory Denial and Termination** [24 CFR 982.54(d), 982.552(b), 982.553(a), 982.553(b)]

The PHA must deny assistance to applicants, and terminate assistance for participants if the family is under contract and 180 days have elapsed since the PHA's last housing assistance payment was made. (See "Contract Terminations" chapter.)

The PHA must permanently deny assistance to applicants, and terminate the assistance of persons convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing.

The PHA must deny admission to the program for applicants, and terminate assistance

for program participants if the PHA determines that any household member is currently engaging in illegal use of a drug. See section B of this chapter for the PHA's established standards.

The PHA deny admission to the program for applicants, and terminate assistance for program participants if the PHA determines that it has reasonable cause to believe that a household member's illegal drug use or a pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents. See Section B of this chapter for the PHA's established standards.

The PHA must deny admission to an applicant if the PHA determines that any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. See section B of this chapter for the PHA's established standards regarding criminal background investigation and determining whether a member of the household is subject to a lifetime registration requirement under a State sex offender registration program.

The PHA must terminate program assistance for a family evicted from housing assisted under the program for serious violation of the lease.

The PHA must deny admission to the program for an applicant or terminate program assistance for a participant if any member of the family fails to sign and submit consent forms for obtaining information in accordance with Part 5, subparts B and F.

The PHA must deny admission or terminate assistance when required under the regulations to establish citizenship or eligible immigration status.

**Grounds for Denial or Termination of Assistance [24 CFR 982.552(c)]**

The PHA will deny program assistance for an applicant, or terminate program assistance for a participant, for any of the following reasons:

1. The family violates any family obligation under the program as listed in 24 CFR 982.551.
2. If any family member has violated the family obligation under 24 CFR 982.551 not to engage in any drug-related criminal activity.
3. If any family member has violated the family obligation under 24 CFR 982.551 not to engage in any violent criminal activity.
4. Any member of the family has ever been evicted from federally assisted housing in the last five (5) years.
5. If any PHA has ever terminated assistance under the program for any member of the family.
6. If any member of the family commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
7. The family currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.
8. The family has not reimbursed any PHA for amounts paid to an owner under a

- HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
9. The family breaches an agreement with a PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA
  10. The family has engaged in or threatened abusive or violent behavior toward PHA personnel.
  11. "Abusive or violent behavior towards PHA personnel" includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate, may be cause for termination or denial.
  12. "Threatening" refers to oral or written threats or physical gestures that communicate an intent to abuse or commit violence.
  13. Actual physical abuse or violence will always be cause for termination.
  14. If any member of the family whose drug or alcohol abuse interferes with the health, safety or peaceful enjoyment of other residents. See Section B of this chapter.
  15. If any member of the family commits drug-related criminal activity, or violent criminal activity. (See Section B of this chapter and 982.553 of the regulations).

Refer to "Eligibility for Admission" chapter, "Other Criteria for Admission" section for further information.

## ***B. SCREENING AND TERMINATION FOR DRUG ABUSE AND OTHER CRIMINAL ACTIVITY***

### **Purpose**

All federally assisted housing is intended to provide a place to live and raise families, not a place to commit crime, to use or sell drugs or terrorize neighbors. It is the intention of the Housing Authority of the County of Butte to fully endorse and implement a policy designed to:

1. Help create and maintain a safe and drug-free community
2. Keep our program participants free from threats to their personal and family safety
3. Support parental efforts to instill values of personal responsibility and hard work
4. Help maintain an environment where children can live safely, learn and grow up to be productive citizens
5. Assist families in their vocational/educational goals in the pursuit of self-sufficiency

### **Administration**

All screening and termination of assistance procedures shall be administered fairly and in such a way as not to violate rights to privacy or discriminate on the basis of race, age, political opinions or affiliations, color, national origin, religion, familial status, disability, sexual preference, sex, or other legally protected groups. To the maximum extent

possible, the PHA will involve other community and governmental entities in the promotion and enforcement of this policy. This policy will be posted on the PHA's bulletin board and copies made readily available to applicants and participants upon request.

### **Screening of Applicants**

In an effort to prevent future drug related and other criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents, and as required by 24 CFR 982, Subpart L and CFR Part 5, Subpart J, the PHA will endeavor to screen applicants as thoroughly and fairly as possible for drug-related and violent criminal behavior. Such screening will apply to any member of the household who is 18 years of age or older.

### **HUD Definitions**

*Covered person*, for purposes of 24 CFR Part 982 and this chapter, means a tenant, any member of the tenant's household, a guest or another person under the tenant's control.

*Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

*Drug-related criminal activity* means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

*Guest*, for purposes of this chapter and 24 CFR part 5, subpart A and 24 CFR Part 982, means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. The requirements of part 982 apply to a guest as so defined.

*Household*, for the purposes of 24 CFR Part 982 and this chapter, means the family and PHA-approved live-in aide.

*Other person under the tenant's control*, for the purposes of the definition of covered person and for 24 CFR Parts 5 and 982 and for this chapter, means that the person, although not staying as a guest (as defined in this chapter) in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the tenant's control.

*Violent criminal activity* means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

### **Standard for Violation**

The PHA will deny participation in the program to applicants and terminate assistance to participants in cases where the PHA determines there is reasonable cause to believe that a household member is illegally using a drug or if the person abuses alcohol in a way that may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents, including cases where the PHA determines that there is a pattern of illegal use of a controlled substance or pattern of alcohol abuse. The PHA will consider the use of a controlled substance or alcohol to be a pattern if there is more than one incident during the previous twelve (12) months.

“Engaged in or engaging in” violent criminal activity means any act within the past five (5) consecutive years by an applicant or participant or household member which involved criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause or be reasonably likely to cause, serious bodily injury or property damage, which did or did not result in the arrest and/or conviction of the applicant, participant, or household member.

The existence of the above-referenced behavior by any household member, regardless of the applicant or participant’s knowledge of the behavior, shall be grounds for denial or termination of assistance. In evaluating evidence of negative past behavior, the PHA will give fair consideration to the seriousness of the activity with respect to how it would affect other residents, and/or likelihood of favorable conduct in the future which could be supported by evidence of rehabilitation.

### **Drug Related and Violent Criminal Activity**

Ineligibility for admission if Evicted for Drug-Related Activity: Persons evicted from federally assisted housing, because of drug-related criminal activity are ineligible for admission to the Section 8 program for a five (5)-year period beginning on the date of such eviction. However, the household may be admitted if, after considering the individual circumstances of the household, the PHA determines that the circumstances leading to eviction no longer exist because:

- The criminal household member has died.
- The criminal household member is imprisoned.

Applicants will be denied assistance if they have been arrested, convicted, or evicted from Federally assisted housing for violent criminal activity within the five (5) consecutive years prior to the date of the certification interview.

### **Denial of Assistance for Sex Offenders**

The PHA will deny admission if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. In screening applicants, the PHA will perform criminal history background checks to determine whether any household member is subject to a lifetime sex offender registration requirement.

## **Termination of Assistance for Participants**

### **Termination of Assistance for Drug-related Criminal Activity or Violent Criminal Activity:**

Under the family obligations listed at 24 CFR 982.551, the members of the household must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. HUD regulations at 24 CFR 982.553(b) requires the PHA to establish standards for termination of assistance when this family obligation is violated.

The Housing Authority of the County of Butte has established the following standards for termination of assistance for the family when a household member has violated the family obligation to refrain from participating in drug-related or violent criminal activity. Assistance will be terminated for participants who have been arrested/ convicted/evicted from a unit assisted under any Federally assisted housing program for drug-related or violent criminal activity during participation in the program, and within the last five (5) years prior to the date of the notice to terminate assistance. If any member of the household violates the family obligations by engaging in drug-related or violent criminal activity, the PHA will terminate assistance. In appropriate cases, the PHA may permit the family to continue receiving assistance provided that family members determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the PHA may consider individual circumstances with the advice of Juvenile Court officials.

The PHA will waive the requirement regarding drug-related criminal activity if the circumstances leading to the violation no longer exist because the person who engaged in drug-related criminal activity or violent criminal activity is no longer in the household due to death or incarceration.

### **Fugitive felon or parole violator**

The PHA may terminate the tenancy if a tenant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees; or violating a condition of probation or parole imposed under Federal or State law.

### **Terminating Assistance for Alcohol Abuse by Household Members**

Under the family obligations listed at 24 CFR 982.551, the members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. Assistance will be terminated due to violation of a family obligation if the PHA determines that a member of the household has demonstrated a pattern of alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

Assistance will be terminated if a household member is arrested/convicted/incarcerated

for any alcohol-related criminal activity on or near the premises within any six (6) month period. In appropriate cases, the PHA will permit the family to continue receiving assistance provided that household members determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the PHA may consider individual circumstances with the advice of Juvenile Court officials.

**Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation [24 CFR 966.4(1)(5)(vi)(B)]**

The PHA will terminate the lease if the PHA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers. The PHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs or the abuse of alcohol, and any records or other documentation (or lack of records or documentation) supporting claims of rehabilitation of illegal drug users or alcohol abusers.

**Notice of Termination of Assistance**

In any case where the PHA decides to terminate assistance to the family, the PHA must give the family written notice which states:

1. The reason(s) for the proposed termination
2. The effective date of the proposed termination
3. The family's right, if they disagree, to request an Informal Hearing to be held before termination of assistance
4. The date by which a request for an informal hearing must be received by the PHA

If the PHA proposes to terminate assistance for criminal activity as shown by a criminal record, the PHA will provide the subject of the record and the tenant with a copy of the criminal record. The PHA will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the Termination of Assistance. The Notice to the owner will not include any details regarding the reason for termination of assistance.

**Required Evidence**

*Preponderance of evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which, as a whole, shows that the fact sought to be proved is more probable than not. The intent is not to prove criminal liability, but to establish that the act(s) occurred. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

*Credible evidence* may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants.

The PHA will pursue fact-finding efforts as needed to obtain credible evidence. The PHA will terminate assistance for criminal activity by a household member, as described in this chapter, if the PHA determines, based on a preponderance of the evidence, that the household member has engaged in the activity, regardless of whether the household member has been arrested or convicted for such activity.

### **Confidentiality of Criminal Records**

The PHA will ensure that any criminal record received is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which it was requested is accomplished. All criminal reports, while needed, will be housed in a locked file with access limited to individuals responsible for screening and determining eligibility for initial and continued assistance. Misuse of the above information by any employee will be grounds for termination of employment. Legal penalties for misuses are contained in NRS 179A.900.

### **NRS 179A.900 - Unlawful acts**

Any person who:

1. Willfully requests, obtains or seeks to obtain records of criminal history under false pretenses; or
2. Willfully communicates or seeks to communicate records of criminal history to any agency or person except pursuant to this chapter; or
3. Willfully falsifies any record of criminal history or any record relating to records of criminal history, is guilty of a misdemeanor.

If the family is determined eligible for initial or continued assistance, the criminal history, if such exists, shall be kept in a secured locked location for five (5) years and shredded as soon as possible thereafter or as soon as the information is no longer needed for eligibility or continued assistance determination, whichever is later.

### **C. FAMILY OBLIGATIONS**

[24 CFR 982.551]

The family must supply any information that the PHA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR 982.551). "Information" includes any requested certification, release or other documentation.

The family must supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.

The family must disclose and verify Social Security Numbers (as provided by 24 CFR 5.216) and must sign and submit consent forms for obtaining information in accordance



with 24 CFR 5.230.

All information supplied by the family must be true and complete.

The family is responsible for an HQS breach caused by the family as described in 982.404(b). The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice.

The family may not commit any serious or repeated violations of the lease.

The family must notify the owner and, at the same time, notify the PHA before the family moves out of the unit or terminates the lease upon notice to the owner.

The family must promptly give the PHA a copy of any owner eviction notice.

The family must use the assisted unit for residence by the family. The unit must be the family's only residence.

The composition of the assisted family residing in the unit must be approved by the PHA. The family must promptly inform the PHA of the birth, adoption or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit.

The family must promptly notify the PHA if any family member no longer resides in the unit.

If the PHA has given approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or PHA approval is denied, the family may not allow a foster child or live-in aide to reside with the assisted family.

Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit as a residence by members of the family.

The family must not sublease or let the unit.

The family must not assign the lease or transfer the unit.

The family must not own or have any interest in the unit.

The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with any Federal housing program.

The members of the family may not engage in drug-related criminal activity or violent criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. The members

of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

An assisted family, or members of the family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) federal, State or local housing assistance program.

### **Housing Authority Discretion**

[24 CFR 982.552(c)]

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the PHA has discretion to consider all of the circumstances in each case, including the seriousness of the case. The PHA will use its discretion in reviewing the extent of participation or culpability of individual family members and the length of time since the violation occurred. The PHA may also review the family's more recent history and record of compliance, and the effects that denial or termination of assistance may have on other family members who were not involved in the action or failure to act.

The PHA may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in, or were culpable for the action or failure to act, will not reside in the unit. The PHA may permit the other members of a family to continue in the program.

### **Enforcing Family Obligations**

#### **Explanations and Terms**

The term "Promptly" when used with the Family Obligations always means "within fourteen (14) days." Denial or termination of assistance is always optional except where this Plan or the regulations state otherwise.

#### **HQS Breach**

The Housing Inspector will determine if an HQS breach, as identified in 24 CFR 982.404 (b), is the responsibility of the family. Families may be given extensions to cure HQS breaches by the Section 8 Manager or his/her designee.

#### **Lease Violations**

The following criteria will be used to decide if a serious or repeated violation of the lease will result in termination of assistance:

If the owner terminates tenancy through court action for serious or repeated violation of the lease.

If the owner notifies the family of termination of tenancy assistance for serious or repeated lease violations, and the family moves from the unit prior to the completion of

court action, and the PHA determines that the cause is a serious or repeated violation of the lease based on available evidence.

If there are police reports, neighborhood complaints or other third party information, that have been verified by the PHA.

Nonpayment of rent is considered a serious violation of the lease.

### **Notification of Eviction**

If the family requests assistance to move and they did not notify the PHA of an eviction within fourteen (14) days of receiving the Notice of Lease Termination, the move will be denied.

### **Proposed Additions to the Family**

The PHA will deny a family's request to add additional family members who are:

1. Persons who have been evicted from public housing
2. Persons who have previously violated a family obligation listed in 24CFR 982.551 of the HUD regulations
3. Persons who have been part of a family whose assistance has been terminated under the Certificate or Voucher program
4. Persons who commit drug-related criminal activity or violent criminal activity
5. Persons who do not meet the PHA's definition of family
6. Persons who commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
7. Persons who currently owe rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act
8. Persons who have engaged in or threatened abusive or violent behavior toward PHA personnel

### **Family Member Moves Out**

Families are required to notify the PHA if any family member leaves the assisted household. When the family notifies the PHA, they must furnish the following information:

1. The date the family member moved out.
2. The new address, if known, of the family member.
3. A statement as to whether the family member is temporarily or permanently absent.

### **Limitation on Profit-making Activity in Unit**

If the business activity area results in the inability of the family to use any of the critical living areas, such as a bedroom utilized for a business which is not available for sleeping, it will be considered a violation. If the PHA determines that the use of the unit as a business is not incidental to its use as a dwelling unit, it will be considered a program violation. If the PHA determines the business is not legal, it will be considered

a program violation.

### **Interest in Unit**

The owner may not reside in the assisted unit regardless of whether (s) he is a member of the assisted family, unless the family owns the mobile home and rents the pad under the Voucher Program.

### **Fraud**

In each case, the PHA will consider which family members were involved, the circumstances, and any hardship that might be caused to innocent members. In the event of false citizenship claims, see section below.

## ***D. PROCEDURES FOR NON-CITIZENS***

[24 CFR 5.514, 5.516, 5.518]

### **Denial or Termination due to Ineligible Immigrant Status**

Applicant or participant families in which all members are neither U.S. citizens nor eligible immigrants are not eligible for assistance and must have their assistance terminated. The PHA must offer the family an opportunity for a hearing (See "Eligibility for Admission", Chapter 2, Section 3 on Citizenship/Eligible Immigration Status). Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

### **False or Incomplete Information**

When the PHA has clear, concrete, or substantial documentation (such as a permanent resident card or information from another agency) that contradicts the declaration of citizenship made by an applicant or participant, an investigation will be conducted and the individual will be given an opportunity to present relevant information. If the individual is unable to verify their citizenship, the PHA will give him/her an opportunity to provide a new declaration as an eligible immigrant or an opportunity to elect not to contend their status. The PHA will then verify eligible status, deny, terminate, or prorate as applicable. The PHA will deny or terminate assistance based on the submission of false information or misrepresentation.

### **Procedure for Denial or Termination**

If the family (or any member) claimed eligible immigrant status and the INS primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with the PHA either after the INS appeal or in lieu of the INS appeal. After the PHA has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable).

**E. ZERO (\$0) ASSISTANCE TENANCIES**

[24 CFR 982.455 (a)]

The family may remain in the unit at (\$0) assistance for up to one hundred and eighty (180) calendar days after the last HAP payment. If the family is still in the unit after one hundred and eighty (180) calendar days, the assistance will be terminated. If, within the one hundred and eighty (180) day time-frame, an owner rent increase or a decrease in the Total Tenant Payment causes the family to be eligible for a housing assistance payment, the PHA will resume assistance payments for the family. In order for a family to move to another unit during the one hundred and eighty (180) days, the rent for the new unit would have to be high enough to necessitate a housing assistance payment.

**F. OPTION NOT TO TERMINATE FOR MISREPRESENTATION**

[24 CFR 982.551, 982.552(c)]

If the family has misrepresented any facts that caused the PHA to overpay assistance, the PHA may choose not to terminate and may offer to continue assistance provided that the family reimburses the PHA in full within thirty (30) calendar days.

**G. MISREPRESENTATION IN COLLUSION WITH OWNER**

[24 CFR 982.551, 982.552 (c)]

If the family intentionally, willingly, and knowingly commits fraud or is involved in any other illegal scheme with the owner, the PHA will deny or terminate assistance. In making this determination, the PHA will carefully consider the possibility of overt or implied intimidation of the family by the owner and the family's understanding of the events.

**H. MISSED APPOINTMENTS AND DEADLINES**

[24 CFR 982.551, 982.552 (c)]

It is a Family Obligation to supply information, documentation, and certification as needed for the PHA to fulfill its responsibilities. The PHA schedules appointments and sets deadlines in order to obtain the required information. The Obligations also require that the family allow the PHA to inspect the unit, and appointments are made for this purpose. An applicant or participant who fails to keep an appointment, or to supply information required by a deadline without notifying the PHA, may be sent a Notice of Denial or Termination of Assistance for failure to provide required information, or for failure to allow the PHA to inspect the unit. The family will be given information about the requirement to keep appointments and the number of times appointments will be rescheduled, as specified in this Plan.

Appointments will be scheduled and time requirements will be imposed for the following

events and circumstances:

1. Eligibility for Admissions
2. Verification Procedures
3. Voucher Issuance and Briefings
4. Housing Quality Standards and Inspections
5. Reexaminations
6. Appeals

Acceptable reasons, for which the PHA may require documentation, for missing appointments or failing to provide information by deadlines are:

1. Medical emergency
2. Incarceration
3. Family emergency

**Procedure when Appointments are Missed or Information not Provided**

For most purposes in this Plan, the family will be given one (1) additional opportunity after the missed appointment or failure to provide information before being issued a notice of termination or denial for breach of a family obligation. After issuance of the termination notice, if the family offers to correct the breach within the time allowed to request a hearing the termination will be rescinded after the family cures the breach.

## **Chapter 16 OWNER DISAPPROVAL AND RESTRICTION**

[24 CFR 982.54, 982.306, 982.453]

### **INTRODUCTION**

It is the policy of the PHA to recruit owners to participate in the Voucher program. The PHA will provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout the jurisdiction of the PHA. The regulations define when the PHA must disallow an owner participation in the program, and they provide the PHA discretion to disapprove or otherwise restrict the participation of owners in certain categories. This Chapter describes the criteria for owner disapproval, and the various penalties for owner violations.

### **A. DISAPPROVAL OF OWNER**

[24 CFR 982.306, 982.54(d)(8)]

The owner does not have a right to participate in the program. For purposes of this section, "owner" includes a principal or other interested party. The PHA will disapprove the owner for the following reasons:

1. HUD, or other agency directly related, has informed the PHA that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24
2. HUD has informed the PHA that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending
3. HUD has informed the PHA that a court or administrative agency has determined that the owner has violated the Fair Housing Act or other federal equal opportunity requirements
4. Unless their lease was effective prior to June 17, 1998, the owner may not be a parent, child, grandparent, grandchild, sister or brother of any family member. The PHA will waive this restriction as a reasonable accommodation for a family member who is a person with a disability
5. In cases where the owner and tenant bear the same last name, the PHA may, at its discretion, require the family and or owner to certify whether they are related to each other in any way.
6. The owner has violated obligations under a housing assistance payments contract under Section 8 of the 1937 Act (42 U.S.C. 1437f)
7. The owner has committed fraud, bribery or any other corrupt act in connection with any federal housing program

8. The owner has engaged in drug-related criminal activity or any violent criminal activity
9. The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program
10. The owner has a history or practice of renting units that fail to meet State or local housing codes
11. The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity by the tenant, any member of the household, a guest or another person under the control of any member of the household that:
  - a. Threatens the right to peaceful enjoyment of the premises by other residents
  - b. Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of the housing
12. Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises
13. Is involved in drug-related criminal activity or violent criminal activity
14. The owner has not paid State or local real estate taxes, fines or assessments
15. The owner has failed to comply with regulations, the mortgage or note, or the regulatory agreement for projects with mortgages insured by HUD or loans made by HUD

**B. OWNER RESTRICTIONS AND PENALTIES**

[24 CFR 982.453]

If an owner has committed fraud or abuse or is guilty of frequent or serious contract violations, the PHA will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. The PHA may also terminate some or all contracts with the owner. Before imposing any penalty against an owner the PHA will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance and the number of violations. See Program Integrity (Chapter 21) for guidance as to how owner fraud will be handled.



**C. CHANGE IN OWNERSHIP**

A change in ownership requires execution of a new contract and lease or lease addendum (if applicable). The PHA will process a change of ownership only upon the written request of the new owner and only if accompanied by a copy of the escrow statement or other document showing the transfer of title, recorded deed and the Employee Identification Number or Social Security number of the new owner. The PHA will terminate the HAP contract with the old owner, since they are no longer the owner. The new owner may offer the family a new assisted lease. The family may elect to enter into the new lease or move to another unit.

## **Chapter 17 CLAIMS, MOVE-OUT AND CLOSE-OUT INSPECTIONS** (For HAP Contracts Effective Before October 2, 1995)

### **INTRODUCTION**

***This Chapter has been removed.***

The Quality Housing and Work Responsibility Act of 1998 provided that families assisted under the pre-merger certificate program would be transferred to the Housing Choice Voucher Program no later than the second annual reexamination on or after the merger date (October 1, 1999). Families assisted under the pre-merger voucher program were transferred to the Housing Choice Voucher Program as of October 1, 1999. Under pre-merger voucher contracts, owner claims against the PHA were limited to the amount the owner was allowed to collect as the family's security deposit. This meant that the amount the owner could collect from the PHA was zero. Under the Housing Choice Voucher Program, the PHA is not responsible for owner claims against the family. If the security deposit is not sufficient to cover amounts the family owes under the lease, the owner may collect the balance from the family.

## **Chapter 18 OWNER OR FAMILY DEBTS TO THE PHA**

[24 CFR 982.552]

### **INTRODUCTION**

This Chapter describes the PHA's policies for the recovery of monies which have been overpaid for families, and to owners. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts. It is the PHA's policy to meet the informational needs of owners and families, and to communicate the program rules in order to avoid owner and family debts. Before a debt is assessed against a family or owner, the file must contain documentation to support the PHA's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the owner, the family or other interested parties.

When families or owners owe money to the PHA, the PHA will make every effort to collect it, no delay or omission by the PHA to collect will be construed as a waiver of debt due. The PHA will use a variety of collection tools to recover debts including, but not limited to:

1. Request a lump sum payment.
2. Repayment agreements.
3. Turning debt over to Collection Agency and/or Franchise Tax Board.
4. Pursue collections through the judicial system.

#### **A. DEBTS OWED FOR CLAIMS**

[24 CFR 792.103, 982.552 (b)(6-8)]

If a family owes money to the PHA for claims paid to an owner. The PHA will require the family to pay the amount in full.

#### **B. PAYMENT AGREEMENT FOR FAMILIES**

[24 CFR 792.103, 982.552 (b)(6-8)]

It is the PHA's policy not to provide Rental Assistance to a family who has indebtedness to the PHA until either the balance is paid in full or a Repayment Agreement has been executed. A Repayment Agreement as used in this Plan is a document entered into between the PHA and persons who owes a debt to the PHA. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of payment and any special provisions of the agreement and the remedies available to the PHA upon default of the agreement.

A minimum down-payment of one-third of the balance is required at the time of the Agreement is executed. The head of household and spouse/co-head (if applicable)

must sign the Agreement.

- Amounts under \$1,500 must be repaid within 12 months.
- Amounts between \$1,501 and \$2,999 must be repaid within twenty four (24) months.
- Amounts between \$3,000 and \$5,000 must be paid within thirty six (36) months.

The maximum amount for which the PHA will enter into a Payment Agreement with a family is \$5000. Amounts above will be referred to the District Attorney's office or Office of Inspector General, unless the family is able to pay with in three (3) years.

The maximum length of time the PHA will enter a Payment Agreement with a family is three (3) years.

The minimum monthly amount of a monthly Payment Agreement is \$25.00.

Monthly payment amount will be established after a review of relevant family income information. The tenant will remain in good standing with the PHA as long as all the payments are received by the due date stated on the Repayment Agreement. The Agreement will be considered default if two or more payments are late with the terms of the agreement. Failure to abide by the Repayment Agreement will result in one or more of the following actions:

1. Require the family to pay the balance in full;
2. Application withdrawn from the wait list until payment in full has been received.
3. Debt will be turned over to Collection Agency and/or the Franchise Tax Board.
4. Termination of rental assistance.
5. Pursue legal remedy for remaining unpaid balance.

There are some circumstances in which the PHA will not enter into a Repayment Agreement. They are:

- If the family already has a Repayment Agreement in Place.
- If the PHA determines that the family has committed program fraud in excess of \$5,000.

### ***C. DEBTS DUE TO MISREPRESENTATIONS AND NON-REPORTING OF INFORMATION***

[24 CFR 982.163]

HUD's definition of program fraud and abuse is a single act or pattern of actions that constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead, and that results in payment of Section 8 program funds in violation of Section 8 program requirements.

### **Family Error/Late Reporting**

Families who owe money to the PHA due to the family's failure to report increases in income will be required to pay in a lump sum within thirty (30) calendar days. If the family pays the amount in full within this time period, the PHA may continue assistance to the family. If the amount owed exceeds five hundred dollars (\$500) the Housing Authority will have the option of extending the time period to sixty (60) calendar days or entering into a Repayment Agreement. Terms of the payment arrangement will be at the discretion of the Housing Authority and will require a minimum down payment, dependent on the amount owed, with the remaining balance being paid in equal monthly installments for a time period not to exceed thirty-six (36) months.

### **Program Fraud**

Families who owe money to the PHA due to program fraud will be required to pay the amount in full within thirty (30) calendar days. If the full amount is paid within this time period, and the family is still eligible, the PHA may continue assistance to the family. If a family owes an amount which equals or exceeds five thousand dollars (\$5,000) as a result of program fraud, the case may be referred to the District Attorney or the Office of Inspector General. Where appropriate, the PHA will refer the case for criminal prosecution.

### ***D. OWNER DEBTS TO THE PHA***

[24 CFR 982.453(b)]

If the PHA determines that the owner has retained Housing Assistance or Claim Payments the owner is not entitled to, the PHA may reclaim the amounts from future Housing Assistance Payments owed the owner for any units under contract. If future Housing Assistance Payments are insufficient to reclaim the amounts owed, the PHA will:

1. Require the owner to pay the amount in full within thirty (30) calendar days.
2. Turn unpaid balance to the Franchise Tax Board and/or Collection Agency.
3. Pursue collections through the judicial system.
4. Restrict the owner from future participation.

### ***E. WRITING OFF DEBTS***

Debts shall be written off if:

1. After four (4) years all methods of collection have been exhausted and the debtor's whereabouts are unknown.
2. Four (4) years have passed.
3. The debtor is deceased and there is no estate.
4. The debtor is confined to an institution indefinitely or for more than four (4) years.
5. An effort has been made to collect and the Debt is less than or equal to the authorized write off amount established by Board Resolution.

Regardless of the method used; debts may not be formally written off unless the debtor has vacated or cannot be located and all methods of collection have been exhausted.

## **Chapter 19 COMPLAINTS AND APPEALS**

### **INTRODUCTION**

The informal hearing requirements defined in HUD regulation are applicable to participating families who disagree with an action, decision, or inaction of the PHA. This Chapter describes the policies, procedures and standards to be used when families disagree with a PHA decision. The procedures and requirements are explained for informal reviews and hearings. It is the policy of the PHA to ensure that all families have the benefit of all protections due to them under the law.

#### **A. COMPLAINTS TO THE PHA**

The PHA will respond promptly to complaints from families, owners, employees, and members of the public. Complaints reported by telephone must be followed up via written documentation. All complaints must be in writing from the client, landlord, and/or a third party; and all complaints will be documented by PHA staff. The PHA hearing procedures will be provided to families in the briefing packet.

#### **Categories of Complaints**

##### **Complaints from Families**

If a family disagrees with an action or inaction of the PHA or owner, they will be referred to the Section 8 Housing Manager. If a complaint is not resolved, it will be referred to the Housing Director.

##### **Complaints from Owners**

If an owner disagrees with an action or inaction of the PHA or a family, they will be referred to the Section 8 Housing Manager. If a complaint is not resolved, it will be referred to the Housing Director.

##### **Complaints from Staff**

If a staff person reports an owner or family either violating or not complying with program rules, the complaint will be referred to the Section 8 Housing Manager.

##### **Complaints from the General Public**

Complaints or referrals from persons in the community in regard to the PHA or a family will be referred to the Section 8 Housing Manager and/or Housing Director.

#### **B. INFORMAL REVIEW PROCEDURES FOR APPLICANTS**

[24 CFR 982.54(d)(12), 982.554]

Reviews are provided for applicants who are denied assistance before the effective date of the HAP Contract. The exception is that when an applicant is denied assistance for

citizenship or eligible immigrant status, the applicant is entitled to an informal hearing. When the PHA determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain:

1. The reason(s) they are ineligible
2. The procedure for requesting a review if the applicant does not agree with the decision
3. The time limit for requesting a review

When denying admission for criminal activity as shown by a criminal record, the PHA will provide the subject of the record and the applicant with a copy of the criminal record upon which the decision to deny was based.

The PHA must provide applicants with the opportunity for an Informal Review of decisions denying:

1. Issuance of a Voucher
2. Participation in the program

Informal Reviews are not required for established policies and procedures and PHA determinations such as:

1. Discretionary administrative determinations by the PHA
2. General policy issues or class grievances
3. A determination of the family unit size under the PHA subsidy standards
4. Refusal to extend or suspend a Voucher
5. A PHA determination not to grant approval of the tenancy
6. Determination that unit is not in compliance with HQS
7. Determination that unit is not in accordance with HQS due to family size or composition

### **Procedure for Informal Review**

A request for an Informal Review must be received in writing by the close of the business day, no later than fourteen (14) days from the date of the PHA's notification of denial of assistance. The informal review will be scheduled within fourteen (14) days from the date the request is received. The Informal Review may not be conducted by the person who made or approved the decision under review, nor a subordinate of such person. The Review may be conducted by a staff person who is the assigned PHA Hearing Officer.

The applicant will be given the option of presenting oral or written objections to the decision. Both the PHA and the family may present evidence and witnesses. The family may use an attorney or other representative to assist them at their own expense. A Notice of the Review findings will be provided in writing to the applicant within thirty (30) calendar days after the review. It shall include the decision of the review officer, and an explanation of the reasons for the decision. All requests for a review, supporting



documentation, and a copy of the final decision will be retained in the family's file.

### **C. *INFORMAL HEARING PROCEDURES***

[24 CFR 982.555(a-f), 982.554(d)(13)]

When the PHA makes a decision regarding the eligibility and/or the amount of assistance, applicants and participants must be notified in writing. The PHA will give the family prompt notice of such determinations which will include:

1. The proposed action or decision of the PHA
2. The date the proposed action or decision will take place
3. The family's right to an explanation of the basis for the PHA's decision
4. The procedures for requesting a hearing if the family disputes the action or decision
5. The time limit for requesting the hearing
6. When terminating assistance for criminal activity as shown by a criminal record, the PHA will provide the subject of the record and the tenant/participant with a copy of the criminal record upon which the decision to terminate was based.
7. To whom the hearing request should be addressed
8. A copy of the PHA's Hearing Procedures

The PHA must provide participants with the opportunity for an Informal Hearing for decisions related to any of the following PHA determinations:

1. Determination of the family's annual or adjusted income and the computation of the housing assistance payment
2. Appropriate utility allowance used from schedule
3. Family unit size determination under PHA subsidy standards
4. Determination to terminate assistance for any reason
5. Determination to terminate a family's FSS Contract, withhold supportive services, or propose forfeiture of the family's escrow account

The PHA must always provide the opportunity for an informal hearing before termination of assistance. Informal Hearings are not required for established policies and procedures and PHA determinations such as:

1. Discretionary administrative determinations by the PHA
2. General policy issues or class grievances
3. Establishment of the PHA schedule of utility allowances for families in the program
4. A PHA determination not to approve an extension or suspension of a voucher term
5. A PHA determination not to approve a unit or lease
6. A PHA determination that an assisted unit is not in compliance with HQS (PHA must provide hearing for family breach of HQS because that is a family obligation)

- determination)
7. A PHA determination that the unit is not in accordance with HQS because of the family size
  8. A PHA determination to exercise or not exercise any right or remedy against the owner under a HAP contract

### **Notification of Informal Hearing**

It is the PHA's objective to resolve disputes at the lowest level possible, and to make every effort to avoid the most severe remedies. However, if this is not possible, the PHA will ensure that applicants and participants will receive all of the protections and rights afforded by the law and the regulations.

When the PHA receives a request for an informal hearing, a hearing shall be scheduled within fifteen (15) business days. The notification of hearing will contain:

1. The date and time of the hearing
2. The location where the hearing will be held
3. The family's right to bring evidence, witnesses, legal or other representation at the family's expense
4. The right to view any documents or evidence in the possession of the PHA upon which the PHA based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing. Requests for such documents or evidence must be received no later than five (5) business days before the hearing date.
5. A notice to the family that the PHA will request a copy of any documents or evidence the family will use at the hearing.

### **The PHA's Hearing Procedures**

After a hearing date is agreed to, the family may request to reschedule only upon showing "good cause," which is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

Families have the right to:

1. Present written or oral objections to the PHA's determination
2. Examine the documents in the file which are the basis for the PHA's action, and all documents submitted to the Hearing Officer
3. Copy any relevant documents at their expense
4. Present any information or witnesses pertinent to the issue of the hearing
5. Request that PHA staff be available or present at the hearing to answer questions pertinent to the case
6. Be represented by legal counsel, advocate, or other designated representative at their own expense.

If the family requests copies of documents relevant to the hearing, the PHA will make the copies for the family and assess a charge of fifty cents (50¢) per copy. In no case will the family be allowed to remove the file from the PHA's office.

In addition to other rights contained in this Chapter, the PHA has a right to:

1. Present evidence and any information pertinent to the issue of the hearing
2. Be notified if the family intends to be represented by legal counsel, advocate, or another party
3. Examine and copy any documents to be used by the family prior to the hearing
4. Have its attorney present
5. Have staff persons and other witnesses familiar with the case present

The Informal Hearing shall be conducted by the Hearing Officer appointed by the PHA who is neither the person who made or approved the decision, nor a subordinate of that person. The PHA appoints hearing officers who:

1. Are managers and/or supervisors of the public or other assisted housing programs
2. Are managers from other departments in the government of the jurisdiction
3. Are managers from other PHAs
4. Are professional mediators or arbitrators

The hearing shall concern only the issues for which the family has received the opportunity for hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings. No documents may be presented which have not been provided to the other party before the hearing if requested by the other party. "Documents" includes records and regulations. The Hearing Officer may ask the family for additional information and/or might adjourn the Hearing in order to reconvene at a later date, before reaching a decision.

If the family misses an appointment or deadline ordered by the Hearing Officer, the action of the PHA shall take effect and another hearing will not be granted.

The Hearing Officer will determine whether the action, inaction or decision of the PHA is legal in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

A notice of the Hearing Findings shall be provided in writing to the PHA and the family within thirty (30) calendar days and shall include:

1. A clear summary of the decision and reasons for the decision
2. If the decision involves money owed, the amount owed. The date the decision goes into effect

The PHA is not bound by hearing decisions:

1. Which concern matters in which the PHA is not required to provide an

- opportunity for a hearing
2. Which conflict with or contradict to HUD regulations or requirements
3. Which conflict with or contradict Federal, State or local laws
4. Which exceed the authority of the person conducting the hearing

The PHA shall send a letter to the participant if it determines the PHA is not bound by the Hearing Officer's determination within thirty (30) calendar days. The letter shall include the PHA's reasons for the decision. All requests for a hearing, supporting documentation, and a copy of the final decision will be retained in the family's file.

#### ***D. HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS"***

[24 CFR Part 5, Subpart E]

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the INS appeal. Assistance to a family may not be terminated or denied while the PHA hearing is pending but assistance to an applicant may be delayed pending the PHA hearing.

#### **INS Determination of Ineligibility**

If a family member claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, the PHA notifies the applicant or participant within ten business days of their right to appeal to the INS within thirty calendar days or to request an informal hearing with the PHA either in lieu of or subsequent to the INS appeal. If the family appeals to the INS, they must give the PHA a copy of the appeal and proof of mailing or the PHA may proceed to deny or terminate. The time period to request an appeal may be extended by the PHA for good cause.

The request for a PHA hearing must be made within fourteen (14) calendar days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within fourteen calendar days of receipt of that notice. After receipt of a request for an informal hearing, the hearing is conducted as described in this chapter for both applicants and participants. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members the PHA will:

1. Deny the applicant family
2. Defer termination if the family is a participant and qualifies for deferral
3. Terminate the participant if the family does not qualify for deferral

If there are eligible members in the family, the PHA will offer to prorate assistance or give the family the option to remove the ineligible members.

#### **All Other Complaints Related to Eligible Citizen/Immigrant Status**

If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide

documentation or certification, the family will be denied or terminated for failure to provide. Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination. Participants whose assistance is prorated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of tenant rent and Total Tenant Payment. Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same manner as families whose assistance is terminated for any other type of fraud.

***E. MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES***

[24 CFR 982.204, 982.552(c)]

When applicants are denied placement on the waiting list, or the PHA is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal review process.

## **Chapter 20 SPECIAL HOUSING TYPES**

[24 CFR 982.601]

### **INTRODUCTION**

The PHA will permit the use of any special housing types in its program only if the applicant/participant can demonstrate that it is needed as a reasonable accommodation for a person with a disability. Acceptable demonstration will include documentation from one or more knowledgeable professionals who are familiar with the applicant/participant and or the type of special housing requested as accommodation. The PHA will not set aside any program funding for special housing types, or for a special housing type.

#### **Verification of Need for Reasonable Accommodation.**

Acceptable documentation as verification of the need for reasonable accommodation would be a letter to the PHA describing how the special housing type requested provides the accommodation of which the person is in need. The request and documentation will be reviewed by the Section 8 Eligibility Manager and a written response stating approval or disapproval will be sent to the applicant/participant within thirty (30) calendar days of receipt of the request.

A copy of the PHA's response with supporting documentation will be maintained in the applicant/participant's file. The requested housing type must be approvable by all other HUD standards and HQS requirements in accordance with 24 CFR 982 Section M - Special Housing Types.

#### **A. SINGLE ROOM OCCUPANCY**

[24 CFR 982.602]

The PHA will use a separate lease and housing assistance payment contract for each assisted person residing in a SRO. [24 CFR 982.603]

#### **SRO Rent and Housing Assistance Payment [24 CFR 982.604]**

##### **Pre-merger Regular Certificate Program**

The payment standard for SRO housing is 75 percent (75%) of the zero bedroom FMR.

##### **Voucher Program**

The PHA SRO payment standard is 75 percent (75%) of the zero bedroom payment standard schedule. For a person residing in an exception area the payment standard is 75 percent (75%) of the HUD-approved zero bedroom exception payment standard amount. While an assisted person resides in SRO housing, the SRO payment standard must be used to calculate the housing assistance payment.

##### **Utility Allowance**

The utility allowance for an assisted person residing in SRO housing is 75 percent

(75%) of the zero bedroom utility allowance.

### **Housing Quality Standards**

The PHA will ensure that all SRO units approved for the program are in compliance with all of the Housing Quality Standards for SROs as regulated in 24 CFR 982.605.

### **B. CONGREGATE HOUSING**

[24 CFR 982.606]

An elderly person or a person with disabilities may reside in a congregate housing unit. The PHA may approve a family member or live-in aide to reside with the elderly person or person with disabilities. The PHA will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

#### **Congregate Housing Lease and HAP Contract [24 CFR 982.607]**

For congregate housing there will be a separate lease and HAP contract for each assisted family. Unless there is a live-in aide, the payment standard for a family that resides in a congregate housing unit is the zero-bedroom payment standard on the PHA payment standard schedule. However, if there are two or more rooms in the unit (not including kitchen or sanitary facilities), the payment standard for a family that resides in a congregate housing unit is the one bedroom payment standard amount. If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

### **Housing Quality Standards**

The PHA will ensure that all congregate housing units approved for the program are in compliance with all of the Housing Quality Standards for congregate housing as regulated in 24 CFR 982.609.

### **C. GROUP HOMES**

[24 CFR 982.610, 982.612]

A group home must be licensed, certified, or otherwise approved in writing by the State, or the State's licensing department. An elderly person or a person with disabilities may reside in a State-approved group home. If approved by the PHA, a live-in aide may reside with a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. Except for a live-in aide, all residents of a group home must be elderly persons or persons with disabilities. The PHA will not approve assistance for a person to live in a group home if file documentation indicates that the person is in need of continual medical or nursing care. No more than twelve persons may reside in a group home. This limit covers all persons who reside in the unit, including assisted and unassisted residents and any live-in aide.

**Group Home Lease and HAP Contract [24 CFR 982.611]**

There will be a separate HAP contract and lease for each assisted person living in a group home. For a group home the term "pro-rata portion" means that which is derived by dividing the number of persons in the assisted household by the total number of residents (assisted and unassisted) residing in the group home. The number of persons in the assisted household equals one assisted person plus any PHA-approved live-in Aide.

**Group Home Rent and HAP Contract [24 CFR 982.613]**

The rent to owner for an assisted person may not exceed the pro-rata portion of the reasonable rent for the group home. The reasonable rent for a group home is determined in accordance with 24 CFR 982.503. In determining reasonable rent the PHA will consider whether sanitary facilities, and facilities for food preparation and service, are common facilities or private.

**Maximum Subsidy**

Unless there is a live-in aide, the family unit size is one (1) bedroom. If there is a live-in aide, the live-in aide will be counted in determining the family unit size. The payment standard for a person who resides in a group home is the lower of the payment standard for the family unit size; or the pro-rata portion of the payment standard amount on the PHA payment standard schedule for the group home size.

**Utility Allowance**

The utility allowance for each assisted person residing in a group home is the pro-rata portion of the utility allowance for the group home unit size.

**Housing Quality Standards**

The PHA will ensure that all group home units approved for the program are in compliance with all of the Housing Quality Standards for group homes as regulated in 24 CFR 982.614.

***D. SHARED HOUSING***

[24 CFR 982.615]

**Occupancy**

An assisted family may reside in shared housing. In shared housing, an assisted family may share a unit with another resident or residents of a unit. The unit may be a house or an apartment. The PHA may approve a live-in aide to reside with a family in order to care for a person with a disability. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. Other persons who are assisted or not assisted under the tenant-based program may reside in a shared housing unit. The owner of a shared housing unit may reside in the unit. A resident owner may enter into a HAP contract with the PHA. However, housing assistance may not be paid on behalf of an owner. The PHA will not approve assistance for a person or family that is related by blood or



marriage to a resident owner. There will be a separate housing assistance payment contract and lease for each assisted family residing in a shared housing unit.

### **Rent and HAP Contract**

For shared housing, the term "pro-rata portion" means the ratio derived by dividing the number of bedrooms in the private space available for occupancy by a family by the total number of bedrooms in the unit. For example, for a family entitled to occupy three bedrooms in a five bedroom unit, the ratio would be 3/5. The rent to owner for the family may not exceed the pro-rata portion of the reasonable rent for the shared housing dwelling unit. The reasonable rent must be in accordance with the guidelines set in the "Owner Rents, Rent Reasonableness, and Payment Standards" chapter.

### **Maximum Subsidy**

For a family that resides in a shared housing unit the payment standard is the lower of the payment standard amount on the PHA payment standard schedule for the family unit size or the pro-rata portion of the payment standard amount on the PHA payment standard for the shared housing unit size. If the PHA approves a live-in aide, the live-in aide will be counted in determining the family unit size.

### **Utility Allowance**

The utility allowance for an assisted family living in shared housing is the pro-rata portion of the utility allowance for the shared housing unit.

### **Housing Quality Standards**

The PHA will ensure that all shared housing units approved for the program are in compliance with all of the Housing Quality Standards for shared housing as regulated in 24 CFR 982.618.

## ***E. COOPERATIVE HOUSING***

[24 CFR 982.619]

The PHA will approve a family living in cooperative housing if it is determined that assistance under the program will help maintain affordability of the cooperative unit for low-income families. The PHA will not approve assistance for a family in cooperative housing until the PHA has also determined that the cooperative has adopted requirements to maintain continued affordability for low-income families after transfer of a cooperative member's interest in a cooperative unit (such as a sale of the resident's share in a cooperative corporation).

The reasonable rent in cooperative housing is determined in accordance with "Owner Rents, Rent Reasonableness, and Payment Standards" chapter. For cooperative housing, the rent to owner is the monthly carrying charge under the occupancy agreement/lease between the member and the cooperative. The carrying charge consists of the amount assessed to the member by the cooperative for occupancy of the housing. It includes the member's share of the cooperative's debt service, operating

expenses, and necessary payments to cooperative reserve funds. However, the carrying charge does not include down-payments or other payments to purchase the cooperative unit, or to amortize a loan to the family for this purpose. Gross rent is the carrying charge plus any utility.

For a cooperative, rent adjustments are applied to the carrying charge as determined in "Owner Rents, Rent Reasonableness, and Payment Standards" chapter. The lease and other appropriate documents will stipulate that the monthly carrying charge is subject to Section 8 limitations on rent to owner. The housing assistance payment will be determined in accordance with the guidelines in "Owner Rents, Rent Reasonableness, and Payment Standards" chapter.

The PHA may approve a live-in aide to reside with the family to care for a person with disabilities. The PHA will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. If the PHA approves a live-in aide, the live-in aide will be counted when determining the family unit size.

### **Housing Quality Standards**

The PHA will ensure that all cooperative housing units approved for the program are in compliance with all of the Housing Quality Standards outlined in the "Housing Quality Standards and Inspections" (Chapter 10), and regulated by 24 CFR 982.401.

## ***F. MANUFACTURED HOMES***

[24 CFR 982.620]

The PHA will permit a family to lease a manufactured home and space with assistance under the program. The PHA will provide assistance for a family that owns the manufactured home and leases only the space. The PHA may approve a live-in aide to reside with a family to care for a person with disabilities. The PHA will approve a live-in aide if needed as a reasonable accommodation so that the program is accessible to and usable by persons with disabilities. If the PHA approves a live-in aide, the live-in aide must be counted when determining the family unit size.

### **Housing Quality Standards [24 CFR 982.621]**

A manufactured home must meet all the HQS requirements outlined in the "Housing Quality Standards and Inspections" (Chapter 10) and regulated by 24 CFR 982.401. In addition the manufactured home also must meet the following requirements:

1. A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage
2. A manufactured home (year) must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist wind overturning and sliding

### **Manufactured Home Space Rental [24 CFR 982.622]**

Rent to owner for a manufactured home space will include payment for maintenance services that the owner must provide to the tenant under the lease for the space. Rent to owner does not include the cost of utilities and trash collection for the manufactured home. However, the owner may charge the family a separate fee for the cost of utilities or trash collection provided by the owner.

### **Reasonable Rent**

During the assisted tenancy, the rent to owner for the manufactured home space may not exceed a reasonable rent as determined by the PHA. The PHA will not approve a lease for a manufactured home space until the PHA has determined that the initial rent to owner for the space is a reasonable rent. At least annually during the assisted tenancy, the PHA will re-determine that the rent is reasonable. The PHA will determine whether the rent to owner for a manufactured home space is a reasonable rent in comparison to rents for other comparable manufactured home spaces. The PHA will consider the size and location of the space and any services and maintenance provided by the owner in accordance with the lease.

By accepting each monthly housing assistance payment from the PHA, the owner of the manufactured home space certifies that the rent to owner for the space is not more than rent charged by the owner for unassisted rental of comparable spaces in the same manufactured home park or elsewhere. If requested by the PHA, the owner must provide the PHA information on rents for other manufactured home space.

### **Housing Assistance Payments for Manufactured Home Space [24 CFR 982.623]**

#### **HAP for the Voucher Tenancy**

There is a separate FMR for a family renting a manufactured home space. The payment standard is used to calculate the monthly housing assistance payment for a family. The FMR for rental of a manufactured home space is generally 40 percent (40%) of the published FMR for a two-bedroom unit.

#### **Subsidy Calculation for the Voucher Program**

During the term of a Voucher tenancy, the amount of the monthly housing assistance payment for a family will equal the lesser of the payment standard minus the total tenant payment; OR the rent paid for rental of the real property on which the manufactured home owned by the family is located (the space rent) minus the total tenant payment.

The space rent is the sum of the following as determined by the PHA:

1. Rent to owner for the manufactured home space;
2. Owner maintenance and management charges for the space;
3. The utility allowance for tenant paid utilities.

#### **Utility Allowance Schedule for Manufactured Home Space Rental [24 CFR 982.624]**

The PHA will establish utility allowances for manufactured home space rental. For the

first twelve months of the initial lease term only, the allowances will include a reasonable amount for utility hook-up charges payable by the family, if the family actually incurs the expenses because of a move. Allowances for utility hook-up charges do not apply to a family that leases a manufactured home space in place. Utility allowances for manufactured home space will not be applied to cover the costs of digging a well or installation of a septic system.

## **Chapter 21 PROGRAM INTEGRITY** [24 CFR 792.101 to 792.204, 982.54]

### **INTRODUCTION**

The US Department of HUD conservatively estimates that 200 million dollars is paid annually to program participants who falsify or omit material facts in order to gain more rental assistance than they are entitled to under the law. HUD further estimates that 12% of all HUD-assisted families are either totally ineligible, or are receiving benefits which exceed their legal entitlement. The PHA is committed to assuring that the proper level of benefits is paid to all participating families, and that housing resources reach only income-eligible families so that program integrity can be maintained. The PHA will take all steps necessary to prevent fraud, waste, and mismanagement so that program resources are utilized judiciously. This Chapter outlines the PHA's policies for the prevention, detection and investigation of program abuse and fraud.

#### **A. CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD**

Under no circumstances will the PHA undertake an inquiry or an audit of a participating family arbitrarily. The PHA's expectation is that participating families will comply with HUD requirements, provisions of the voucher, and other program rules. The PHA staff will make every effort (formally and informally) to orient and educate all families in order to avoid unintentional violations. However, the PHA has a responsibility to HUD, to the Community, and to eligible families in need of housing assistance, to monitor participants and owners for compliance and, when indicators of possible abuse come to the PHA's attention, to investigate such claims. The PHA will initiate an investigation of a participating family only in the event of one or more of the following circumstances:

##### **Referrals, Complaints, or Tips**

The PHA will follow up on referrals from other agencies, companies or persons which are received by mail, by telephone or in person, which allege that a family is in non-compliance with, or otherwise violating the family obligations or any other program rules. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable. A copy of the allegation will be retained in the family's file.

##### **Internal File Review**

A follow-up will be made if PHA staff discovers (as a function of a certification or Reexamination, an interim re-determination, or a quality control review), information or facts which conflict with previous file data, the PHA's knowledge of the family, or is discrepant with statements made by the family.

##### **Verification of Documentation**

A follow-up will be made if the PHA receives independent verification or documentation which conflicts with representations in the family's file (such as public record information

or credit bureau reports, reports from other agencies).

## ***B. STEPS THE PHA WILL TAKE TO PREVENT PROGRAM ABUSE AND FRAUD***

The PHA management and staff will utilize various methods and practices (listed below) to prevent program abuse, non-compliance, and willful violations of program rules by applicants and participating families. This policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by families.

### **“Things You Should Know” Bulletin**

This program integrity bulletin (created by HUD's Inspector General) will be furnished and explained to all applicants to promote understanding of program rules, and to clarify the PHA's expectations for cooperation and compliance.

### **Program Orientation Session**

Mandatory orientation sessions will be conducted by the PHA staff for all prospective program participants, either prior to or upon issuance of a voucher. At the conclusion of all Program Orientation Sessions, the family representative will be required to sign a "Program Briefing Certificate" to confirm that all rules and pertinent regulations were explained to them.

### **Resident Counseling**

The PHA will routinely provide participant counseling as a part of every Reexamination interview in order to clarify any confusion pertaining to program rules and requirements.

### **Review and explanation of Forms**

Staff will explain all required forms and review the contents of all (re)-certification documents prior to signature.

### **Use of Instructive Signs and Warnings**

Instructive signs will be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse.

### **Participant Certification**

All family representatives will be required to sign a "Participant Certification" form, as contained in HUD's Participant Integrity Program Manual.

## ***C. STEPS THE PHA WILL TAKE TO DETECT PROGRAM ABUSE AND FRAUD***

The PHA Staff will maintain a high level of awareness to indicators of possible abuse and fraud by assisted families.

### **Quality Control File Reviews**

Prior to initial certification, and at the completion of all subsequent Reexaminations, five percent (5%) of participants' files will be reviewed. Such reviews shall include, but are not limited to:

1. Assurance that verification of all income and deductions is present.
2. Changes in reported Social Security Numbers or dates of birth.
3. Authenticity of file documents.
4. Ratio between reported income and expenditures.
5. Review of signatures for consistency with previously signed file documents.
6. All forms are correctly dated and signed.

### **Observation**

The PHA Management and Occupancy Staff (to include inspection personnel) will maintain high awareness of circumstances which may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income. Observations will be documented in the family's file. Public Record Bulletins may be reviewed by Management and Staff.

### **State Wage Data Record Keepers**

Inquiries to State Wage and Employment record keeping agencies as authorized under Public Law 100-628, the Stewart B. McKinley Homeless Assistance Amendments Act of 1988, may be made annually in order to detect unreported wages or unemployment compensation benefits.

### **Credit Bureau Inquiries**

Credit Bureau inquiries may be made (with proper authorization by the participant) in the following circumstances:

1. At the time of final eligibility determination
2. When an allegation is received by the PHA wherein unreported income sources are disclosed.
3. When a participant's expenditures exceed his /her reported income and no plausible explanation is given.

### ***D. THE PHA'S HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD***

The PHA staff will encourage all participating families to report suspected abuse to the Section 8 Housing Manager/Housing Director or HUD's telephone fraud Hot Line. All such referrals, as well as referrals from community members and other agencies, will be thoroughly documented and placed in the participant's file. All allegations, complaints and tips will be carefully evaluated in order to determine if they warrant follow-up. The Section 8 Housing Manager/Housing Director will not follow up on allegations which are vague or otherwise non-specific. They will only review allegations which contain one or more independently verifiable facts.

**File Review**

An internal file review will be conducted to determine if the subject of the allegation is a client of the PHA and, if so, to determine whether or not the information reported has been previously disclosed by the family. It will then be determined if the PHA is the most appropriate authority to do a follow-up (more so than police or social services). Any file documentation of past behavior as well as corroborating complaints will be evaluated.

**Conclusion of Preliminary Review**

If at the conclusion of the preliminary file review there is/are fact(s) contained in the allegation which conflict with file data, and the fact(s) are independently verifiable, the Section 8 Eligibility Manager/Housing Director will initiate an investigation to determine if the allegation is true or false.

**E. OVERPAYMENTS TO OWNERS**

If the landlord has been overpaid as a result of fraud, misrepresentation or violation of the Contract, the PHA may terminate the Contract and arrange for restitution to the PHA and/or family as appropriate. The PHA will make every effort to recover any overpayments made as a result of landlord fraud or abuse. Payments otherwise due to the owner may be debited in order to repay the PHA or the tenant, as applicable.

**F. HOW THE PHA WILL INVESTIGATE ALLEGATIONS OF ABUSE AND FRAUD**

If the PHA determines that an allegation or referral warrants follow-up, either the staff person who is responsible for the file, or a person designated by the Housing Director to monitor the program compliance will conduct the investigation. The steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below. In all cases, the PHA will secure the written authorization from the program participant for the release of information.

**Credit Bureau Inquiries**

In cases involving previously unreported income sources, a CBI inquiry may be made to determine if there is financial activity that conflicts with the reported income of the family.

**Verification of Credit**

In cases where the financial activity conflicts with file data, a *Verification of Credit* form may be mailed to the creditor in order to determine the unreported income source.

**Employers and Ex-Employers**

Employers or ex-employers may be contacted to verify wages that may have been previously undisclosed or misreported.



### **Neighbors/Witnesses**

Neighbors and/or other witnesses may be interviewed who are believed to have direct or indirect knowledge of facts pertaining to the PHA's review.

### **Other Agencies**

Investigators, caseworkers or representatives of other benefit agencies may be contacted.

### **Public Records**

If relevant, the PHA will review public records kept in any jurisdictional courthouse. Examples of public records which may be checked are: real estate, marriage, and divorce, uniform commercial code financing statements, voter registration, judgments, court or police records, state wage records, utility records and postal records.

### **Interviews with Head of Household or Family Members**

The PHA will discuss the allegation (or details thereof) with the Head of Household or family member by scheduling an appointment at the appropriate PHA office. A high standard of courtesy and professionalism will be maintained by the PHA staff person who conducts such interviews. Under no circumstances will inflammatory language, accusation, or any unprofessional conduct or language be tolerated by the management. If possible, an additional staff person will attend such interviews.

## ***G. PLACEMENT OF DOCUMENTS, EVIDENCE, AND STATEMENTS OBTAINED BY THE PHA***

Documents and other evidence obtained by the PHA during the course of an investigation will be kept in the tenant's file." Such cases under review will not be discussed among PHA Staff unless they are involved in the process, or have information which may assist in the investigation.

## ***H. CONCLUSION OF THE PHA'S INVESTIGATIVE REVIEW***

At the conclusion of the investigative review, the reviewer will report the findings to the Housing Director . It will then be determined whether a violation has occurred, a violation has not occurred, or if the facts are inconclusive.

## ***I. EVALUATION OF THE FINDINGS***

If it is determined that a program violation has occurred, the PHA will review the facts to determine:

1. The type of violation (procedural, non-compliance, fraud).
2. Whether the violation was intentional or unintentional.

3. What amount of money (if any) is owed by the family.
4. If the family is eligible for continued occupancy.

#### **J. ACTION PROCEDURES FOR DOCUMENTED VIOLATIONS**

Once a program violation has been documented, the PHA will propose the most appropriate remedy based upon the type and severity of the violation.

##### **Procedural Non-compliance**

This category applies when the family "fails to" observe a procedure or requirement of the PHA, but does not misrepresent a material fact, and there is no retroactive assistance payments owed by the family. Examples of non-compliance violations are:

1. Failure to appear at a pre-scheduled appointment
2. Failure to return verification in time period specified by the PHA

##### **Warning Notice to the Family**

In such cases a notice will be sent to the family which contains the following:

1. A description of the non-compliance and the procedure, policy or obligation which was violated
2. The date by which the violation must be corrected, or the procedure complied with
3. The action which will be taken by the PHA if the procedure or obligation is not complied with by the date specified by the PHA
4. The consequences of repeated (similar) violations

##### **Procedural Non-compliance - Overpaid Assistance**

When the family owes money to the PHA for failure to report changes in income or assets, the PHA will issue a Notification of Overpayment of Assistance. This Notice will contain the following:

1. A description of the violation and the date(s)
2. Any amounts owed to the PHA
3. A ten business day response period
4. The right to disagree and to request an informal hearing with instructions for the request of such hearing

##### **Participant Fails to Comply with PHA's Notice**

If the Participant fails to comply with the PHA's notice, and a family obligation has been violated, the PHA will initiate termination of assistance.

##### **Participant Complies with PHA's Notice**

When a family complies with the PHA's notice, the staff person responsible will meet with him/her to discuss and explain the Family Obligation or program rule which was

violated. The staff person will complete a Participant Counseling Report, give one copy to the family and retain a copy in the family's file.

### **Intentional Misrepresentations**

When a participant falsifies, misstates, omits or otherwise misrepresents a material fact which results (or would have resulted) in an overpayment of housing assistance by the PHA, the PHA will evaluate whether or not:

1. The participant had knowledge that his/her actions were wrong, and
2. The participant willfully violated the family obligations or the law.
3. Knowledge that the action or inaction was wrong. This will be evaluated by determining if the participant was made aware of program requirements and prohibitions. The participant's signature on various certifications, briefing certificate, Personal Declaration and Things You Should Know are adequate to establish knowledge of wrong-doing.

### **The participant willfully violated the law**

Any of the following circumstances will be considered adequate to demonstrate willful intent:

1. An admission by the participant of the misrepresentation
2. That the act was done repeatedly
3. If a false name or Social Security Number was used
4. If there were admissions to others of the illegal action or omission
5. That the participant omitted material facts which were known to him/her (e.g., employment of self or other household member)
6. That the participant falsified, forged or altered documents
7. That the participant uttered and certified to statements at an interim (re)determination which were later independently verified to be false

### **Dispositions of Cases Involving Misrepresentations**

In all cases of misrepresentations involving efforts to recover monies owed, the PHA may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

1. Criminal Prosecution: If the PHA has established criminal intent, and the case meets the criteria for prosecution, the PHA will:
  - a) Refer the case to the local law enforcement, notify HUD's OIG, and terminate rental assistance.
  - b) Refer the case to HUD's OIG, and terminate rental assistance.
2. Administrative Remedies: The PHA will:
3. Terminate assistance and demand payment of restitution in full.
4. Terminate assistance and pursue restitution through civil litigation.
5. Continue assistance at the correct level upon repayment of restitution in full within sixty (60) calendar days in accordance with PHA's payment guidelines.

### **The Case Conference for Serious Violations and Misrepresentations**

When the PHA has established that material misrepresentation(s) have occurred, a Case Conference will be scheduled with the family representative and the PHA staff person who is most knowledgeable about the circumstances of the case. This conference will take place prior to any proposed action by the PHA. The purpose of such conference is to review the information and evidence obtained by the PHA with the participant, and to provide the participant an opportunity to explain any document findings which conflict with representations in the family's file. Any documents or mitigating circumstances presented by the family will be taken into consideration by the PHA. The family will be given ten business days to furnish any mitigating evidence.

A secondary purpose of the Participant Conference is to assist the PHA in determining the course of action most appropriate for the case. Prior to the final determination of the proposed action, the PHA will consider:

1. The duration of the violation and number of false statements.
2. The family's ability to understand the rules.
3. The family's willingness to cooperate, and to accept responsibility for his/her actions
4. The amount of money involved.
5. The family's past history
6. Whether or not criminal intent has been established.
7. The number of false statements.

### **Notification to Participant of Proposed Action**

The PHA will notify the family of the proposed action no later than fourteen (14) days after the case conference by certified mail.

### ***K. FAMILY DEBTS TO THE PHA***

This Section describes the PHA's policies for the recovery of monies that have been underpaid by families. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts. It is the PHA's policy to meet the informational needs of families, and to communicate the program rules in order to avoid family debts. Before a debt is assessed against a family, the file must contain documentation to support the PHA's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the family or other interested parties.

When families owe money to the PHA, the PHA will make every effort to collect it. The PHA will use a variety of collection tools to recover debts including, but not limited to:

1. Requests for lump sum payments
2. Pursue legal remedy
3. Payment agreements

4. Debt to be turned over to collection agencies
5. Debt to be turned over to Franchise Tax Board

### **Payment Agreement for Families**

A Payment Agreement as used in this Plan is a document entered into between the PHA and a person who owes a debt to the PHA. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of payment, and special provisions of the agreement, and the remedies available to the PHA upon default of the agreement.

The maximum length of the PHA will enter into a payment agreement with a family is thirty-six (36) months in accordance with guidelines in Chapter 18.

### **Late Payments**

A payment will be considered to be in arrears if the payment has not been received by the close of the business day on which the payment was due. If the due date is on a weekend or holiday, the due date will be at the close of the next business day.

If the family's payment agreement is in arrears, the PHA will:

1. Require the family to pay the arrears balance in a lump sum
2. Require the family to pay the balance in full
3. Pursue civil collection of the balance due
4. Terminate tenancy

If the family requests a transfer to another unit and has a payment agreement in place and the payment agreement is not in arrears, the family will be required to pay the balance in full prior to the unit transfer.

There are some circumstances in which the PHA will not enter into a payment agreement. They are:

1. If the family already has a payment agreement in place.
2. If the PHA determines that the debt is so large that it would take more than thirty-six (36) months to repay in accordance with PHA's payment agreement guidelines.

### **Guidelines for Payment Agreements**

Payment agreements will be executed between the PHA and the head of household and spouse. Monthly payments may be decreased in cases of hardship with the prior notice of the family, verification of the hardship, and the approval of the Section 8 Housing Manager or Housing Director. No transfer will be approved until the debt is paid in full unless the transfer is the result of the following causes, and the payment agreement is current:

1. Family size exceeds the maximum occupancy guidelines

2. A natural disaster

### **Additional Monies Owed**

If the family has a payment agreement in place and incurs an additional debt to the PHA, the PHA will not enter into more than one payment agreement at a time with the same family.

### **Debts Due to Fraud/Non-Reporting of Information**

HUD's definition of program fraud and abuse is a single act or pattern of actions that constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead.

### **Family Error/Late Reporting**

Families who owe money to the PHA due to the family's failure to report increases in income will be required to repay in accordance with the guidelines in the Payment Section of this Chapter.

### **Program Fraud**

Families who owe money to the PHA due to program fraud will be required to repay in accordance with the guidelines in Section A of this Chapter.

If a family owes an amount that equals or exceeds five thousand dollars (\$5,000) as a result of program fraud, the case will be referred to the District Attorney and/or Inspector General. Where appropriate, the PHA will refer the case for criminal prosecution.

### **Payment Procedures for Program Fraud**

Families who commit program fraud will be subject to repayment in full and termination of tenancy.

Debts shall be written off if:

1. After four (4) years all methods of collection have been exhausted and the debtor's whereabouts are unknown.
2. Four (4) years have passed.
3. The debtor is deceased and there is no estate.
4. The debtor is confined to an institution indefinitely or for more than four (4) years.
5. An effort has been made to collect and the Debt is less than or equal to the authorized write off amount established by Board Resolution.

Regardless of the method used; debts may not be formally written off unless the debtor has vacated or cannot be located and all methods of collection have been exhausted.

## **GLOSSARY A      ACRONYMS USED IN SUBSIDIZED HOUSING**

**AAF** Annual Adjustment Factor. A factor published by HUD in the Federal Register which is used to compute annual rent adjustment.

**ACC Annual** Contributions Contract

**BR** Bedroom

**CDBG** Community Development Block Grant

**CFR** Code of Federal Regulations. Commonly referred to as "the regulations". The CFR is the compilation of Federal rules which are first published in the Federal Register and define and implement a statute.

**CPI** Consumer Price Index. CPI is published monthly by the Department of Labor as an inflation indicator.

**ELI Extremely** low income

**FDIC** Federal Deposit Insurance Corporation

**FHA** Federal Housing Administration

**FICA** Federal Insurance Contributions Act - Social Security taxes

**FHA** Farmers Home Administration

**FMR** Fair Market Rent

**FY** Fiscal Year

**FYE** Fiscal Year End

**GAO** Government Accounting Office

**GFC** Gross Family Contribution. Note: Has been replaced by the term Total Tenant Payment (TTP).

**GR** Gross Rent

**HAP** Housing Assistance Payment

**HAP Plan** Housing Assistance Plan

**HCDA** Housing and Community Development Act

**HQS** Housing Quality Standards

**HUD** The Department of Housing and Urban Development or its designee.

**HURRA** Housing and Urban/Rural Recovery Act of 1983; resulted in most of the 1984 HUD regulation changes to definition of income, allowances, rent calculations

**IG** Inspector General

**IGR** Independent Group Residence

**IPA** Independent Public Accountant

**IRA** Individual Retirement Account

**MSA** Metropolitan Statistical Area established by the U.S. Census Bureau

**PHA** Public Housing Agency

**PMSA** A Primary Metropolitan Statistical Area established by the U.S. Census Bureau

**PS** Payment Standard

**QC** Quality Control

**RFTA** Request for Tenancy Approval

**RFP** Request for Proposals

**RRP** Rental Rehabilitation Program

**SRO** Single Room Occupancy

**SSMA** Standard Statistical Metropolitan Area. Has been replaced by MSA, Metropolitan Statistical Area.

**TR** Tenant Rent

**TTP** Total Tenant Payment

**UA** Utility Allowance

**URP** Utility Reimbursement Payment



## **GLOSSARY B      TERMS IN SUBSIDIZED HOUSING**

**1937 ACT.** The United States Housing Act of 1937 (42 U.S.C.1437 et seq.)

**ADMINISTRATIVE PLAN.** The HUD required written policy of the PHA governing its administration of the Section 8 Certificate and Voucher program. The Administrative Plan and any revisions must be approved by the PHA's board and a copy submitted to HUD.

**ABSORPTION.** In portability, the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

**ACC RESERVE ACCOUNT (FORMERLY "PROJECT RESERVE").** Account established by HUD from amounts by which the maximum payment to the PHA under the consolidated ACC (during a PHA fiscal year) exceeds the amount actually approved and paid. This account is used as the source of additional payments for the program.

**ADA.** Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)

**ADJUSTED INCOME.** Annual income, less allowable HUD deductions.

**ADMINISTRATIVE FEE.** Fee paid by HUD to the PHA for administration of the program.

**ADMINISTRATIVE FEE RESERVE (Formerly "Operating reserve").** Account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes.

**ADMISSION.** The effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program. This is the point when the family becomes a participant in the program.

**ANNUAL BUDGET AUTHORITY.** The maximum annual payment by HUD to a PHA for a funding increment.

**ANNUAL CONTRIBUTIONS CONTRACT (ACC).** A written contract between HUD and a PHA. Under the contract HUD agrees to provide funding for operation of the program, and the PHA agrees to comply with HUD requirements for the program

**ANNUAL INCOME.** The anticipated total Annual Income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

**ANNUAL INCOME AFTER ALLOWANCES.** The Annual Income (described above) less the HUD-approved allowances.

**APPLICANT (or applicant family).** A family that has applied for admission to a program, but is not yet a participant in the program.

**AREA EXCEPTION RENT.** Rent based on a HUD-approved payment standard amount that is higher than the basic range for a designated part of the fair market rent area ("exception area").

**"AS-PAID" STATES.** States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

**ASSETS.** (See Net Family Assets.)

**ASSISTED TENANT.** A tenant who pays less than the market rent as defined in the regulations. Includes tenants receiving rent supplement, Rental Assistance Payments, or Section 8 assistance and all other 236 and 221 (d) (3) BMIR tenants, except those paying the 236 market rent or 120% of the BMIR rent, respectively.

**BUDGET AUTHORITY.** An amount authorized and appropriated by the Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

**CERTIFICATE.** A Certificate issued by the PHA under the Section 8 pre-merger Certificate Program, declaring a family to be eligible for participation in this program and stating the terms and conditions for such participation. Will no longer be issued after October 1, 1999.

**CERTIFICATE PROGRAM.** Pre-merger Rental certificate program.

**CHILD CARE EXPENSES.** Amounts paid by the family for the care of minors under 13 years of age where such care is necessary to enable a family member to be employed or for a household member to further his/her education.

**CO-HEAD.** An individual in the household who is equally responsible for the lease with the Head of Household. (A family never has a Co-head and a Spouse and; a Co-head is never a Dependent).

**COMMON SPACE.** In shared housing: Space available for use by the assisted family and other occupants of the unit.

**CONGREGATE HOUSING.** Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing.

**COOPERATIVE.** A dwelling unit owned and or shared by a group of individuals who have individual sleeping quarters and share common facilities such as kitchen, living

room and some bathrooms.

**CONSOLIDATED ANNUAL CONTRIBUTIONS CONTRACT.** (Consolidated ACC). See 24 CFR 982.151.

**CONTIGUOUS MSA.** In portability, an MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

**CONTINUOUSLY ASSISTED.** An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the certificate or voucher program.

**CONTRACT.** (See Housing Assistance Payments Contract.)

**COOPERATIVE.** (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: See 24 CFR 982.619.,

**COVERED FAMILIES.** Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

**DEPENDENT.** A member of the family household (excluding foster children) other than the family head or spouse, who is under 18 years of age or is a Disabled Person or Handicapped Person, or is a full-time student 18 years of age or over.

**DISABILITY ASSISTANCE EXPENSE.** Anticipated costs for care attendants and auxiliary apparatus for disabled family members that enable a family member (including the disabled family member) to work.

**DISABLED FAMILY.** A family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

**DISABLED PERSON.** See Person with Disabilities.

**DISPLACED PERSON/FAMILY.** A person or family displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized under federal disaster relief laws.

**DOMICILE.** The legal residence of the household head or spouse as determined in accordance with State and local law.

**DRUG-RELATED CRIMINAL ACTIVITY.** The illegal manufacture, sale, distribution, use, or the possession with intent to manufacture, sell, distribute, or use of a controlled substance (as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802)).

**DRUG TRAFFICKING.** The illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

**ECONOMIC SELF-SUFFICIENCY PROGRAM.** Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603 (c).

**ELDERLY HOUSEHOLD.** A family whose head or spouse or whose sole member is at least 62 years of age; may include two or more elderly persons living together or one or more such persons living with another person who is determined to be essential to his/her care and well-being.

**ELDERLY PERSON.** A person who is at least 62 years old.

**ELIGIBILITY INCOME.** May 10, 1984, regulations deleted Eligibility Income, per se, because Annual Income is now for eligibility determination to compare to income limits.

**ELIGIBLE FAMILY (Family).** A family is defined by the PHA in the administrative Plan, which is approved by HUD.

**EXCEPTIONAL MEDICAL OR OTHER EXPENSES.** Prior to the regulation change in 1982, this meant medical and/or unusual expenses as defined in Part 889 which exceeded 25% of the Annual Income. It is no longer used.

**EXCEPTION RENT.** In the pre-merger certificate program, an initial rent (contract rent plus any utility allowance) in excess of the published FMR. See Area Exception rent.

**EXCESS MEDICAL EXPENSES.** Any medical expenses incurred by elderly or disabled families only in excess of three percent (3%) of Annual Income which are not reimbursable from any other source.

**EXTREMELY LOW-INCOME FAMILY.** A family whose annual income does not exceed 30 percent (30%) of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30% of medial income for an area if HUD finds such variations are

necessary due to unusually high or low family incomes.

**FAIR MARKET RENT (FMR).** The rent including the cost of utilities (except telephone) that would be required to be paid in the housing market area to obtain privately owned existing decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. Fair market rents for existing housing are established by HUD for housing units of varying sizes (number of bedrooms) and are published in the *Federal Register*.

**FAMILY.** "Family" includes but is not limited to:

A family with or without children (the temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size);

- An elderly family;
- A near-elderly family;
- A displaced family
- The remaining member of a tenant family; and
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.
- ("Family" can be further defined by the PHA).

**FAMILY OF VETERAN OR SERVICE PERSON.** A family is a "family of veteran or service person" when:

- The veteran or service person is:
  - either the head of household or is related to the head of the household; or
  - is deceased and was related to the head of the household, and was a family member at the time of death.
- The veteran or service person, unless deceased, is living with the family or is only temporarily absent unless s/he was (a) formerly the head of the household and is permanently absent because of hospitalization, separation, or desertion, or is divorced; provided, the family contains one or more persons for whose support s/he is legally responsible and the spouse has not remarried; or (b) not the head of the household but is permanently hospitalized; provided, that s/he was a family member at the time of hospitalization and there remain in the family at least two related persons.

**FAMILY RENT TO OWNER.** In the voucher program, the portion of the rent to owner paid by the family.

**FAMILY SELF-SUFFICIENCY PROGRAM (FSS PROGRAM).** The program established by a PHA to promote self-sufficiency of assisted families, including the provision of supportive services.

**FAMILY SHARE.** The amount calculated by subtracting the housing assistance payment from the gross rent.

**FAMILY UNIT SIZE.** The appropriate number of bedrooms for a family, as determined by the PHA under the PHA's subsidy standards. .

**FIRST TIME HOMEBUYER.** In the home ownership option: A family of which no member owned any present ownership interest in a residence of any family member during the three years before commencement of home ownership assistance for the family. The term "first-time homeowner" includes a single parent or a displaced homemaker (as those terms are defined in 12 U.S.C. 12713) who while married, owned a home with his or her spouse, or resided in a home owned by his or her spouse.

**FMR/EXCEPTION RENT LIMIT.** The fair market rent published by HUD headquarters. In the pre-merger certificate program the initial contract rent for a dwelling unit plus any utility allowance may not exceed the FMR/exception rent limit (for the dwelling unit or for the family unit size). In the Voucher program the PHA adopts a payment standard up schedule that is within 90% to 110% of the FMR for each bedroom size.

**FOSTER CHILD CARE PAYMENT.** Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

**FULL-TIME STUDENT.** A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended).

**FUNDING INCREMENT.** Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

**GROSS FAMILY CONTRIBUTION.** Changed to Total Tenant Payment.

**GROSS RENT.** The sum of the Rent to Owner and the Utility Allowance. If there is no Utility Allowance, Rent to Owner equals Gross Rent.

**GROUP HOME.** A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide).

**HAP CONTRACT.** (See Housing Assistance Payments contract.)

**HEAD OF HOUSEHOLD.** The head of household is the person who assumes legal and financial responsibility for the household and is listed on the application as head.

**HOUSING AGENCY.** A state, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. . ("PHA" and "HA" mean the same thing.)

**HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.** Act in which the U.S. Housing Act of 1937 (sometimes referred to as the Act) was recodified, and which added the Section 8 Programs.

**HOUSING ASSISTANCE PAYMENT.** The monthly assistance payment by a PHA. The total assistance payment consists of:

- A payment to the owner for rent to owner under the family's lease.
- An additional payment to the family if the total assistance payment exceeds the rent to owner. The additional payment is called a "utility reimbursement" payment.

**HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP contract).** A written contract between a PHA and an owner in the form prescribed by HUD headquarters, in which the PHA agrees to make housing assistance payments to the owner on behalf of an eligible family.

**HOUSING ASSISTANCE PLAN:**

- A Housing Assistance Plan submitted by a local government participating in the Community Development Block Program as part of the block grant application, in accordance with the requirements of 24 CFR 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD.
- A Housing Assistance Plan meeting the requirements of 24 CFR 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD.

**HOUSING QUALITY STANDARDS (HQS).** The HUD minimum quality standards for housing assisted under the tenant-based programs.

**HUD.** The Department of Housing and Urban Development.

**HUD REQUIREMENTS.** HUD requirements for the Section 8 programs. HUD requirements are issued by HUD headquarters as regulations. Federal Register notices or other binding program directives.

**IMPUTED ASSET.** Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

**IMPUTED INCOME.** HUD passbook rate x total cash value of assets. Calculation used when assets exceed five thousand dollars (\$5,000).

**IMPUTED WELFARE INCOME.** An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

**INITIAL PHA.** In portability, the term refers to both:

- A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and
- A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

**INITIAL PAYMENT STANDARD.** The payment standard at the beginning of the HAP contract term.

**INITIAL RENT TO OWNER.** The rent to owner at the beginning of the HAP contract term.

**INCOME.** Income from all sources of each member of the household as determined in accordance with criteria established by HUD.

**INCOME FOR ELIGIBILITY.** Annual Income.

**INDEPENDENT STUDENT.** A student that must meet one or more of the following criteria, must be at least 24 years old by December 31 of the award year or older for which aid is sought; be an orphan or a ward of the court thought the age of 18; be a veteran of the U.S. Armed Forces; have legal dependents other than a spouse; be a graduate or professional student; or, be married.

**INDIAN.** Any person recognized as an Indian or Alaska Native by an Indian Tribe, the federal government, or any State.

**INDIAN HOUSING AUTHORITY (IHA).** A housing agency established either:

- By exercise of the power of self-government of an Indian Tribe, independent of State law, or
- By operation of State law providing specifically for housing authorities for Indians.

**INTEREST REDUCTION SUBSIDIES.** The monthly payments or discounts made by HUD to reduce the debt service payments and, hence, rents required on Section 236 and 221 (d) (3) BMIR projects. Includes monthly interest reduction payments made to mortgagees of Section 236 projects and front-end loan discounts paid on BMIR projects.

**JURISDICTION.** The area in which the PHA has authority under State and local law to administer the program.

**LANDLORD.** This term means either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

**LARGE VERY LOW INCOME FAMILY.** Prior to the 1982 regulations, this meant a very low income family which included six or more minors. This term is no longer used.

**LEASE.** A written agreement between an owner and a tenant for the leasing of a



dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA. In cooperative housing, a written agreement between a cooperative and a member of the cooperative. The agreement establishes the conditions for occupancy of the member's family with housing assistance payments to the cooperative under a HAP contract between the cooperative and the PHA.

**LEASE ADDENDUM.** For pre-merger Certificate, pre-merger OFTO, and pre-merger Voucher tenancies, the lease language required by HUD in the lease between the tenant and the owner.

**LIVE-IN AIDE.** A person who resides with an elderly person or disabled person and who:

- Is determined to be essential to the care and well-being of the person.
- Is not obligated for the support of the person.
- Would not be living in the unit except to provide necessary supportive services.

**LOW-INCOME FAMILY.** A family whose annual income does not exceed eighty percent (80%) of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low income families.

**MANUFACTURED HOME.** A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. A special housing type. See 24 CFR 982.620 and 982.621.

**MANUFACTURED HOME SPACE.** In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See 24 CFR 982.622 to 982.624

**MARKET RENT.** The rent HUD authorizes the owner of FHA insured/subsidized multi-family housing to collect from families ineligible for assistance. For unsubsidized units in an FHA-insured multi-family project in which a portion of the total units receive project-based rental assistance, under the Rental Supplement or Section 202/Section 8 Programs, the Market Rate Rent is that rent approved by HUD and is the Contract Rent for a Section 8 Certificate holder. For BMIR units, Market Rent varies by whether the project is a rental or cooperative.

**MEDICAL EXPENSES.** Those total medical expenses, including medical insurance premiums that are anticipated during the period for which Annual Income is computed, and that are not covered by insurance. (A deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 3% of Annual Income.

**MINOR.** A member of the family household (excluding foster children) other than the family head or spouse who is under 18 years of age.

**MIXED FAMILY.** A family with citizens and eligible immigration status and without citizens and eligible immigration status as defined in 24 CFR 5.504(b) (3)

**MONTHLY ADJUSTED INCOME.** One twelfth (1/12) of the Annual Income after Allowances or Adjusted Income.

**MONTHLY INCOME.** One twelfth (1/12) of the Annual Income.

**MUTUAL HOUSING.** Included in the definition of COOPERATIVE.

**NATIONAL.** A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**NEAR-ELDERLY FAMILY.** A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62, living with one or more live-in aides.

**NEGATIVE RENT.** Now called Utility Reimbursement. A negative Tenant Rent results in a Utility Reimbursement Payment (URP).

**NET FAMILY ASSETS.** Value of equity in savings, checking, IRA and Keogh accounts, real property, stocks, bonds, and other forms of capital investment. The value of necessary items of personal property such as furniture and automobiles is excluded from the definition.

**NET FAMILY CONTRIBUTION.** Former name for Tenant Rent.

**NON CITIZEN.** A person who is neither a citizen nor a national of the United States.

**OCCUPANCY STANDARDS. (Now referred to as Subsidy Standards).** Standards established by a PHA to determine the appropriate number of bedrooms for families of different sizes and compositions.

**OVER-FMR TENANCY (OFTO).** In the pre-merger Certificate program: A tenancy for which the initial gross rent exceeds the FMR/exception rent limit.

**OWNER.** Any persons or entity having the legal right to lease or sublease a unit to a participant.

**PARENTS.** The person(s) who acts as a parent in rearing a child. (For the purposes of the student eligibility restrictions) may be the biological or adoptive parents, guardians (e.g., grandparents, aunt/uncle, godparents, etc.)

**PARTICIPANT.** A family that has been admitted to the PHA's program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (First day of initial lease term).

**PAYMENT STANDARD.** The maximum monthly assistance payment for a family (before deducting the total tenant payment by the family)

**PERSON WITH DISABILITIES.** A person who has a disability as defined in 42 U.S.C. 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means an "individual with handicaps" as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes).

**PHA PLAN.** The annual plan and the 5-year plan as adopted by the PHA and approved by HUD in accordance with part 903 of this chapter.

**PORTABILITY.** Renting a dwelling unit with Section 8 tenant-based assistance outside the jurisdiction of the initial PHA

**PROCESSING ENTITY.** Entity responsible for making eligibility determinations and for income reexaminations. In the Section 8 Program, the "processing entity" is the "responsible entity."

**PREMISES.** The building or complex in which the dwelling unit is located, including common areas and grounds.

**PRIVATE SPACE.** In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

**PROGRAM.** The Section 8 tenant-based assistance program under this part.

**PROGRAM RECEIPTS.** HUD payments to the PHA under the consolidated ACC, and any other amounts received by the PHA in connection with the program.

**PUBLIC ASSISTANCE.** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

**PUBLIC HOUSING AGENCY (PHA).** PHA includes any State, county, municipality or other governmental entity or public body which is authorized to administer the program

(or an agency or instrumentality of such an entity), or any of the following:

- A consortia of housing agencies, each of which meets the qualifications in paragraph (1) of this definition, that HUD determines has the capacity and capability to efficiently administer the program (in which case, HUD may enter into a consolidated ACC with any legal entity authorized to act as the legal representative of the consortia members):
- Any other public or private non-profit entity that was administering a Section 8 tenant-based assistance program pursuant to a contract with the contract administrator of such program (HUD or a PHA) on October 21, 1998; or
- For any area outside the jurisdiction of a PHA that is administering a tenant-based program, or where HUD determines that such PHA is not administering the program effectively, a private non-profit entity or a governmental entity or public body that would otherwise lack jurisdiction to administer the program in such area.

**REASONABLE RENT.** A rent to owner that is not more than rent charged for comparable units in the private unassisted market, and not more than the rent charged for comparable unassisted units in the premises.

**RECEIVING PHA.** In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a certificate or voucher and provides program assistance to the family.

**REEXAMINATION.** Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported. There are annual and interim Reexaminations.

**REGULAR TENANCY.** In the pre-merger Certificate program: A tenancy other than an over-FMR tenancy.

**REMAINING MEMBER OF TENANT FAMILY.** Person left in assisted housing after other family members have left and become unassisted.

**RENT TO OWNER.** The total monthly rent payable to the owner under the lease for the unit. Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

**RESIDENT ASSISTANT.** A person who lives in an Independent Group Residence and provides on a daily basis some or all of the necessary services to elderly, handicapped, and disabled individuals receiving Section 8 housing assistance and who is essential to these individuals' care or well-being. A Resident Assistant shall not be related by blood, marriage or operation of law to individuals receiving Section 8 assistance nor contribute to a portion of his/her income or resources towards the expenses of these individuals.

**RESPONSIBLE ENTITY.** For the public housing and Section 8 tenant-based

assistance, project-based certificate assistance and moderate rehabilitation program, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

**SECRETARY.** The Secretary of Housing and Urban Development.

**SECURITY DEPOSIT.** A dollar amount which can be applied to unpaid rent, damages or other amounts to the owner under the lease.

**SERVICE PERSON.** A person in the active military or naval service (including the active reserve) of the United States.

**SINGLE PERSON.** A person living alone or intending to live alone.

**SPECIAL HOUSING TYPES.** See Subpart M of 24 CFR 982, which states the special regulatory requirements for SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

**SPECIFIED WELFARE BENEFIT REDUCTION.** Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

**SPOUSE.** The husband or wife of the head of the household.

**STUDENTS.** Enrolled either full-time or part-time at an institution of higher education.

**SUBSIDIZED PROJECT.** A multi-family housing project (with the exception of a project owned by a cooperative housing mortgage corporation or association) which receives the benefit of subsidy in the form of:

- Below-market interest rates pursuant to Section 221(d)(3) and (5) or interest reduction payments pursuant to Section 236 of the National Housing Act; or
- Rent supplement payments under Section 101 of the Housing and Urban Development Act of 1965; or
- Direct loans pursuant to Section 202 of the Housing Act of 1959; or
- Payments under the Section 23 Housing Assistance Payments Program pursuant to Section 23 of the United States Housing Act of 1937 prior to amendment by the Housing and Community Development Act of 1974;
- Payments under the Section 8 Housing Assistance Payments Program pursuant to Section 8 of the United States Housing Act after amendment by the Housing and Community Development Act unless the project is owned by a Public Housing Agency;
- A Public Housing Project.

**SUBSIDY STANDARDS.** Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

**SUBSTANDARD UNIT.** Substandard housing is defined by HUD for use as a federal preference.

**SUSPENSION/TOLLING.** Stopping the clock on the term of a family's certificate or voucher, for such period as determined by the PHA, from the time when the family submits a request for PHA approval to lease a unit, until the time when the PHA approves or denies the request. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension.

**TENANCY ADDENDUM.** For the Housing Choice Voucher Program, the lease language required by HUD in the lease between the tenant and the owner.

**TENANT.** The person or persons (other than a live-in-aide) who executes the lease as lessee of the dwelling unit.

**TENANT RENT.** The amount payable monthly by the family as rent to the unit owner (Section 8 owner or PHA in public housing). For a tenancy in the pre-merger certificate program, tenant rent equals the total tenant payment minus any utility allowance.

**TOTAL TENANT PAYMENT (TTP).** The total amount that the HUD rent formula requires the tenant to pay toward rent and utilities.

**UNIT.** Residential space for the private use of a family.

**UNUSUAL EXPENSES.** Prior to the change in the 1982 regulations, this was the term applied to the amounts paid by the family for the care of minors under 13 years of age or for the care of disabled or handicapped family household members, but only where such care was necessary to enable a family member to be gainfully employed.

**UTILITIES.** Utilities mean water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection and sewage services. Telephone service is not included as a utility.

**UTILITY ALLOWANCE.** If the cost of utilities (except telephone) including range and refrigerator, and other housing services for an assisted unit is not included in the Contract Rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of a reasonable consumption of such utilities and other services for the unit by an energy conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthy

living environment.

**UTILITY REIMBURSEMENT.** In the voucher program, the portion of the housing assistance payment which exceeds the amount of the rent to owner.

**UTILITY REIMBURSEMENT PAYMENT.** In the pre-merger certificate program, the amount, if any, by which the Utility Allowance for the unit, if applicable, exceeds the Total Tenant Payment for the family occupying the unit.

**VACANCY LOSS PAYMENTS.** (For pre-merger certificate contracts effective prior to 10/2/95) When a family vacates its unit in violation of its lease, the owner is eligible for 80% of the Contract Rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies the PHA as soon as s/he learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.

**VERY LARGE LOWER-INCOME FAMILY.** Prior to the change in the 1982 regulations this was described as a lower-income family which included eight or more minors. This term is no longer used.

**VERY LOW INCOME FAMILY.** A Lower-Income Family whose Annual Income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the pre-merger Certificate and Voucher Programs.

**VETERAN.** A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

**VIOLENT CRIMINAL ACTIVITY.** Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

**VOUCHER (rental voucher).** A document issued by a PHA to a family selected for admission to the voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states the obligations of the family under the program.

**VOUCHER HOLDER.** A family holding a voucher with an unexpired term (search time).

**VOUCHER PROGRAM.** The Housing Choice Voucher program.

**WAITING LIST ADMISSION.** An admission from the PHA waiting list.

**WAITING LIST.** A list of families organized according to HUD regulations and PHA policy who are waiting for subsidy to become available.

**WELFARE ASSISTANCE.** Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. FOR THE FSS PROGRAM (984.103(b)), "welfare assistance" includes only cash maintenance payments from Federal or State programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.

**WELFARE RENT.** This concept is used ONLY for pre-merger Certificate tenants who receive welfare assistance on an "AS-PAID" basis. It is not used for the Housing Voucher Program. If the agency does NOT apply a ratable reduction, this is the maximum a public assistance agency COULD give a family for shelter and utilities, NOT the amount the family is receiving at the time the certification or Reexamination is being processed. If the agency applies a ratable reduction, welfare rent is a percentage of the maximum the agency could allow.

**WELFARE-TO-WORK (WTW) FAMILIES.** Families assisted by a PHA with voucher funding awarded to the PHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).

**ZERO INCOME FAMILY.** A family whose most recent declaration of income to the Housing Authority states that they receive no income from any source.



## **GLOSSARY C      TERMS USED IN THE NONCITIZENS RULE**

**CHILD.** A member of the family other than the family head or spouse who is under 18 years of age.

**CITIZEN.** A citizen or national of the United States.

**EVIDENCE OF CITIZENSHIP OR ELIGIBLE STATUS.** The documents which must be submitted to evidence citizenship or eligible immigration status.

**PHA.** A housing authority- either a public housing agency or an Indian housing authority or both.

**HEAD OF HOUSEHOLD.** The adult member of the family who is the head of the household for purpose of determining income eligibility and rent.

**HUD.** Department of Housing and Urban Development.

**INS.** The U.S. Immigration and Naturalization Service.

**MIXED FAMILY.** A family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status.

**NATIONAL.** A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**NONCITIZEN.** A person who is neither a citizen nor nation of the United States.

**PHA.** A housing authority who operates Public Housing.

**RESPONSIBLE ENTITY.** The person or entity responsible for administering the restrictions on providing assistance to non-citizens with ineligible immigration status (the PHA).

**SECTION 214.** Section 214 restricts HUD from making financial assistance available for non-citizens unless they meet one of the categories of eligible immigration status specified in Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a).

**SPOUSE.** Spouse refers to the marriage partner, either a husband or wife, who is someone you need to divorce in order to dissolve the relationship. It includes the partner in a common-law marriage. It does not cover boyfriends, girlfriends, significant others, or "co-heads." "Co-head" is a term recognized by some HUD programs, but not by public and Indian housing programs.