

SECTION 8

ADMINISTRATIVE PLAN

**HOUSING AUTHORITY
OF THE
COUNTY OF BUTTE**

2010



HOUSING AUTHORITY OF THE COUNTY OF BUTTE
ADMINISTRATIVE PLAN
SECTION 8 HOUSING CHOICE 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 (HACB) through its Section 8 housing office.

Administration of the Section 8 Program and the functions and responsibilities of the HACB's staff shall be in compliance with the HACB'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 HACB is 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 HACB'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 HACB'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.

HACB Goal: Increase assisted housing choices

Objectives:

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

HACB 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 HACB 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 HACB'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

Throughout this document The Housing Authority of the County of Butte is referred to as:

- the Public Housing Authority (PHA), or
- "Housing Authority" (HA) or

- The Housing Authority of the County of Butte (HACB)

"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 HACB.

"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. NON-DISCRIMINATION POLICY

It is the policy and intention of the HACB to comply in all of its policies and procedures affecting all of its programs and activities, including employment and housing in compliance with all federal, state and local regulations prohibiting discrimination on the basis of race, ethnicity, religion, color, national origin, age, sex, familial status, source of income, sexual orientation, disability, marital status, ancestry, medical condition, or veteran status.

If an applicant or participant has a documented physical, mental or developmental impairment that substantially limits one or more major life activities; has a record of such impairment; or regarded as having such impairment, the HACB would like to know what the special needs are so that they can be readily addressed. The HACB should be notified of any special needs, at the time of interview or eligibility.

It is the policy of the HACB to provide reasonable accommodations to those persons with disabilities so that they can participate in its housing programs. To request a reasonable accommodation, you may contact the Section 504 Coordinator Larry Guanzon, in writing at the Housing Authority of the County of Butte office located at 2039 Forest Avenue, Chico CA 95928 or by telephone at (530) 895-4474 Ext. 226 or email at larryg@butte-housing.com.

The PHA will not directly or through contractual, licensing or other arrangements permit or engage in discrimination in admission or access to, or treatment or employment in its federally assisted programs and activities.

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 HACB 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, ethnicity, color, national origin, sex, religion, age, familial status, disability, sexual orientation, source of income, marital status, ancestry, medical condition or veteran status.

To further its commitment to full compliance with applicable Civil Rights laws, the HACB 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 HACB's facilities are inaccessible to or unusable by persons with disabilities. Posters and housing information are displayed in locations throughout the HACB'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 HACB 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 HACB will treat a person differently than anyone else. Such request for policy or practice change as an accommodation to a disability can be made orally, or in writing. Once the need for a reasonable accommodation has been made known, the HACB will require written verification from a qualified professional of both the existence of a disability and the need for the corresponding accommodation. Should the participant require assistance in the completion of accommodation documentation, the HACB shall provide such assistance, or refer the participant to the services of an advocate qualified to assist the participant in provision and completion of the accommodation documentation.

The HACB's policies and practices will be designed to provide assurances that persons with disabilities will be given reasonable accommodations, upon request, so that they may fully access and utilize the housing program and related services.

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 American Disability Act (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 HACB will give the participant A Request for a Reasonable Accommodation form to be filled out by the participant. The HACB will forward the Request for a Reasonable Accommodation form to a professional third party qualified to make the assessment. The HACB 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 HACB finds that the requested accommodation creates an undue administrative or financial burden, the HACB 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 HACB.

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 HACB.

The HACB will provide a written decision to the person requesting the accommodation within fourteen (14) calendar days. If the HACB denies the request because it finds it unreasonable, it may suggest an alternative accommodation that it does find reasonable and if necessary engage in an interactive process to explore a feasible alternative accommodation.

If the person is denied the accommodation or feels the alternative suggestions are inadequate, they may request an informal review (applicant) or informal hearing (participant) within fourteen (14) days of the review of the HACB's decision. The appeal process or grievance procedure available to a participant who was denied a reasonable

accommodation request is in Chapter 19. Applicants and/or participants may contact the Section 504 Coordinator Larry Guanzon directly at (530) 895-4474 Ext. 226.

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 HACB 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 HACB 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 HACB's programs must submit a 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 HACB 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 person 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 HACB operates its housing assistance program with efficiency and can demonstrate to HUD auditors that the HACB is using its resources in a manner that reflects its commitment to quality and service. The HACB 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
- Fair Market Rate (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 HACB PERFORMANCE

In order to demonstrate compliance with HUD and other pertinent regulations, the HACB 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 HACB'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/HACB will release family information.

The HACB'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 Housing Manager/Housing Director.

The HACB'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.

HACB 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 HACB 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 HACB'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 HACB 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 HACB 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 HACB encourages owners of decent, safe and sanitary housing units to lease to Section 8 families.

The HACB conducts periodic meetings with participating owners to improve owner relations and to recruit new owners.

The HACB maintains a list of units available for the Section 8 Program. When listings from owners are received, they will be compiled by the HACB staff by bedroom size.

The HACB will maintain lists of available housing submitted by owners 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 HACB 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 HACB has active participation in a community-based organization(s) comprised of private property and apartment owners and managers.

The HACB encourages program participation by owners of units located outside areas of poverty or minority concentration. The HACB 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 choices 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 HACB 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 HACB's criteria for admission and denial of admission to the program. The policy of this HACB is to strive for objectivity and consistency in applying these criteria to evaluate the eligibility of families who apply. The HACB 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 HACB pertaining to their eligibility.

A. ELIGIBILITY FACTORS

[982.201(B)] [24 CFR 5.612]

The HACB accepts applications only from:

- Families (including a single person) whose head or spouse is at least eighteen (18) years of age;
- emancipated minors recognized as such under State law;
- or from minors in foster care that will be aging out within twelve (12) months of the date of application.

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

The HUD eligibility criteria are:

- An applicant must be a "family"
- An applicant must be within the appropriate Income Limits
- An applicant must furnish Social Security Numbers for all family members.
- An applicant must furnish declaration of Citizenship or Eligible Immigrant Status and verification where required.
- At least one member of the applicant must be either a U.S. citizen or have eligible immigration status before the HACB 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 HACB 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 twenty-four (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 HACB does not need to consider the parents income.

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

- be at least twenty-four (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 eighteen (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 absences 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 (1) 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 (2) or more elderly persons or disabled persons living together, or one (1) or more elderly or disabled persons living with one (1) or more live-in aides is a family. The HACB determines if any other group of persons qualifies as a “family”.

A single person family may be:

- an elderly person;
- a displaced person;
- a disabled person;
- 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 sixty-two (62) years of age. It may include two or more persons who are at least sixty-two (62) years of age living together, or one or more persons who are at least sixty-two (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:

- two or more persons who intend to share residency whose income and resources are available to meet the family's needs;
- two or more elderly or disabled persons living together, or one (1) or more
- elderly, near elderly or disabled persons living with one (1) 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

A co-head is 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:

- is determined by the HACB to be essential to the care and well being of an elderly person, a near-elderly person, or a person with disabilities,
- is not obligated for the support of the person(s), and
- 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:

- Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.
- Live-in aides are not subject to Non-Citizen Rule requirements.
- 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 HACB. 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 HACB 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 live-in aide is essential for the care of the individual. 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 HACB will refuse to approve a particular person as a live-in aide or may withdraw such approval if:

- The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- The person commits drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to the HACB or to another HACB 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 HACB will make the decision taking into consideration the following factors:

- Which family member applied as head of household?

- Which family unit retains the children or any disabled or elderly members?
- Restrictions that were in place at the time the family applied.
- Role of domestic violence in the split.
- 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 HACB.

In cases where domestic violence played a role, the standard used for verification will be the same as that required for the "domestic violence" preference.

The HACB 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 eighty-three (183) calendar days during the year, which do not have to run consecutively.

In the event two (2) households have been awarded fifty (50%) percent custody of the minor and it cannot be established that the child is living in one of the households at least one hundred eighty-three (183) days in a calendar year, then housing assistance for the minor shall be determined in the following order:

1. Household membership for the minor shall be maintained with a household already participating in the program and for which the minor has already been determined a household member;
2. In the event both households are program participants, the housing membership for the minor shall be awarded to the housing having first received assistance;

3. Where neither household is a program participant, the housing membership for the minor shall be awarded to the household with the highest wait list ranking; and
4. In the event both households have the same date of program admission and/or the same date of application, and/or the same date of application, or in the event the above criteria cannot determine to which household the minor belongs, the HACB shall determine household membership for the minor based on evidence provided by the two (2) households, such determination to be made in the best interest of the child, such determination to be at the sole discretion of the HACB.

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 fifty (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 HACB 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 HACB 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 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 sixty (60) calendar days. Elderly persons must provide verification within one hundred twenty (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 in 24 CFR 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 HACB, including form HUD 9886.

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

- 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.
- The HACB may make an exception, if the family member who violated the family obligation is not a current member of the household on the application.
- The family must pay any outstanding debt owed the HACB or another Housing Authority as a result of prior participation in any federal housing program in full, before admission to the program.

The HACB 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 HACB 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 HACB will take into consideration any of the criteria for admission described in the “Denial or Termination of Assistance” chapter.

The HACB will not screen family behavior or suitability for tenancy. The HACB 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 HACB approval of the tenancy, the HACB 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)]:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of other residents to the peaceful enjoyment of their housing;
- 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.

The HACB will provide the owner:

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

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

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

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

The HACB will advise families how to file complaint if they have been discriminated against by an owner. The HACB will advise the family to make a Fair Housing complaint. The HACB 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 [VAWA] [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.
- An applicant’s status as a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission.

Chapter 3 APPLYING FOR ADMISSION

[24 CFR 982.204, 982.54(d)(1)]

INTRODUCTION

The policy of the HACB 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 the lottery or initial intake form, pre-application and application for assistance, 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 HACB 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 WAIT LIST AND APPLICATION TAKING PROCESS

The HACB will give public notice before opening the waiting list. The public will be invited to complete and submit pre-numbered lottery entry forms within a specific time frame. The HACB will use a lottery system to place families on the waiting list, instead of date and time. All lottery entrants will have an equal chance of selection in the lottery. All entries received by the deadline will be entered into the lottery. The pre-numbered lottery entry forms will be randomly selected by the computer. Placement on the wait list will be in the order drawn. In the event the wait list is not maintained open until enough applications are not sufficient to maintain a twenty-four(24) month wait list.

B. OPENING/CLOSING OF WAITLIST

Public Notice

The HACB will utilize the following procedures for opening the Waiting List. When the HACB opens the Waiting List, the HACB will advertise through public notice on the Housing Authority's website, (www.butte-housing.com) newspapers (Paradise Post, Chico Enterprise Record, Gridley Herald, Oroville Mercury Register) if applicable, minority publications and media entities. The HACB will also notify:

- Independent Living Services of Northern California
- Legal Services of Northern California
- Butte County Department of Employment & Social Services
- Butte County Department of Behavioral Health

- Community Action Agency
- CDI Headstart
- Community Housing & Credit Counseling Center
- Northern Valley Catholic Social Services
- Touchstone/Enloe Medical Center
- Chico Community Shelter Partnership (Torres Shelter)
- Catalyst Domestic Violence Services
- Skyway House
- Paradise Senior Center
- Sabbath House
- Healthy Mother's Program
- Youth for Change (Paradise Ridge and Oroville Family Resource Centers)

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 applicant with information that includes the HACB address and telephone application and the eligibility requirements.

During the application process a person(s) with a disability may submit an application by means of an alternate method upon request as an accommodation.

HACB will monitor the characteristics of the population being served and the characteristics of the population as a whole in HACB's jurisdiction. Targeted outreach efforts will be undertaken if comparison populations are being underserved.

Limits on Who May Apply and Closing of the Waiting List

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

The open period shall be long enough to achieve a waiting list adequate to cover projected turnover and new allocations for the next twenty (24) months. The wait list or accepting of lottery applications may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights law.

In the event there are enough lottery entries to fill anticipated openings for the next twenty-four (24) months. The accepting of lottery entries and/or the waiting list may be closed. The HACB will give at least five (5) business days notice prior to closing the lottery application process.

C. “INITIAL” APPLICATION PROCEDURES

[24 CFR 982.204 (b)]

The purpose of the application process is to permit the HACB to gather information and determine order of placement on the waiting list. The questions are designed to obtain permanent program information.

1. The first phase is the “initial” request or lottery entry form to be placed on the waiting list. The purpose of the Lottery Form is placement on the Wait 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. The Lottery form will contain the following information:
 - a.) Lottery card number
 - b.) Names of adult members and age of all members.
 - c.) Street and Mailing Address and telephone numbers.
 - d.) Social Security Number (used to verify name and address)
 - e.) Signatures of all household members over the age of eighteen (18).
 - f.) Income limits to be eligible to apply.

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

Applications that are submitted incomplete will be given fourteen (14) days to complete and return to the HACB in order to keep the original date and time stamp on the application. Any applicant with a disability, who needs a reasonable accommodation in any step of the application process, should inform the Housing Authority.

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 be inadvertently placed on the waiting list. Final eligibility will be determined only when the full application is completed and all information is verified.

HACB 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 family.

2. The second phase is an application for assistance (referred to as a pre-application). The purpose of the application is to permit the HACB 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 designation of the head of household.
 - k.) Questions regarding previous participation in HUD programs.
 - l.) Arrest or convictions for drug-related and/or violent criminal acts.
 - m.) Disability status.

Pre-applications will be updated annually.

- 3.) The third phase is the “intake” application for determining final eligibility. The intake application takes place when the family reaches the top of the waiting list and funding is available. At this time the HACB ensures that verification of all HUD and HACB eligibility factors is current in order to determine the family’s eligibility for the issuance of a voucher. The applicant will be required to furnish and complete and accurate information, certify and sign.

D. APPLICANT STATUS WHILE ON THE WAITING LIST

[24 CFR 982.204]

Applicants are required to inform the HACB in writing of changes in address and telephone. Applicants are also required to respond to request from the HACB 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 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 HACB will notify the family in writing (an accessible format upon request as a reasonable accommodation), state the reason(s) and inform them of their rights to an informal review. Person with disabilities request to have an advocate attend the informal review as an accommodation. See “Complaints and Appeal” 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 P.O. Box by the deadline specified by the HACB. Lottery entry forms will not be accepted if they are mailed or delivered to the HACB offices. Incomplete or late entries will be returned to the applicants upon request.

The HACB will determine the total number of applicants it needs to select in order to maintain a twenty-four (24) month 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 HACB website and at the Housing Authority offices. In the event the wait list is open and applications are not sufficient to maintain a twenty-four (24) month wait list, the HACB may close the lottery period and keep the wait list open. Eligible applications received after the close of the lottery period shall be ordered by date and time of receipt.

Local Preferences [24 CFR 982.207; HCV p.4-16]

Housing Authorities are permitted to establish local preferences and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. Any local preferences established must be consistent with HACB agency plan and the consolidated plan, and must be

based on local housing needs and priorities that can be documented by generally accepted data source.

HACB Policy

The HACB will use the following preference to rank applicants on the waiting list:

- A preference for admission to any family that has graduated from an approved transitional housing program that partner with HACB, such as Esplanade House, such admission to be made without regard to the open or closed status of the waiting list. Priority shall be given to families of veterans and servicemen and to households displaced by public action. The number of households admitted under this preference shall be determined by the Board of Commissioners' policy.
- A preference for admission to select families participating in the County Child Welfare Agency's Family Unification Program (FUP), the number of admissions limited to the program size set forth in the Memorandum of Understanding (MOU) between the Butte County Department of Employment and Social Services and the HACB, such admissions to be made on a first come, first serve basis. The Family Unification Program (FUP) is a program under which vouchers are provided to families for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child, or children, in out-of-home care; or the delay in the discharge of the child, or children, to the family from out-of-home care. Youths at least eighteen (18) years old and not more than twenty-one (21) years old (have not reached 22nd birthday) who left foster care at age sixteen (16) or older and who do not have adequate housing are also eligible to receive housing assistance under the FUP. A FUP voucher issued to such a youth may only be used to provide housing assistance for the youth for a maximum of eighteen (18) months. FUP admissions to be made without regard to the open or closed status of the waiting list. Priority shall be given to families of veterans and servicemen and to households displaced by public action. The number of households admitted under the FUP preference shall be determined by the Board of Commissioner's policy and identified in the MOU.

F. NOTIFICATION OF ELIGIBILITY INTERVIEW

When funding is available and the HACB is ready to issue vouchers to applicants, applicants will be required to complete an eligibility packet. The applicant will be required to furnish complete and accurate information as requested by the HACB

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 HACB 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 information needs of the family by providing information about the application and verification process, as well as to advise the family of other HACB 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 attend 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 HACB 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 HACB staff in a manner that renders the interview unproductive the HACB reserves the right to terminate the appointment until such time as the applicant/tenant is

accompanied by another individual who is 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 HACB, the declarations and consents related to citizenship/immigration status and any other documents required by the HACB. 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 HACB.

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

If the HACB determines at or after the interview that additional information or document(s) are needed, the HACB 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 HACB 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 sixty (60) calendar days old at the time of issuance of the Voucher.

H. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY

[24 CFR 982.201]

The HACB will verify the information the family has provided. If the family meets the current eligibility criteria in effect, the family will be issued a voucher.

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 HACB'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 HACB 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 HACB 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 HACB waiting list in accordance with policies and income targeting requirements defined in this Administrative Plan.

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

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

- Head of Household name
- Household member names
- Family Unit Size (minimum number of bedrooms family qualifies for under PHA subsidy standards)
- Mailing Address
- Telephone number
- Elderly/Disabled Family Status
- Date and time of application
- Racial or ethnic designation of the head of household

Treatment of Single Applicants

A single person or applicant will be treated as any other eligible family on the waiting list.

B. SPECIAL ADMISSIONS

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

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

Special admissions families will be admitted outside of the regular waiting list process, or are they required to be on the program waiting list. The HACB maintains separate records of these admissions.

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.

HUD-VASH

The HACB operates the HUD-Veterans Affairs Supportive Housing (HUD-VASH) program. The HACB does not maintain a Wait List or apply local preferences for this program. The Department of Veteran Affairs refers eligible families to HACB for the issuance of a HUD-VASH Voucher. See Chapter 22.

C. INCOME TARGETING

In accordance with the Quality Housing and Work Responsibility Act of 1998, each fiscal year the HACB will reserve a minimum of seventy-five percent (75%) of its Section 8 new admissions for families whose income does not exceed thirty percent (30%) of the area median income. HUD refers to these families as “extremely low-income families.” The HACB will admit families who qualify under the Extremely Low Income limit to meet the income targeting requirement, regardless of preference.

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

The HACB is also exempted from this requirement where the HACB 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 HACB 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 HACB waiting list for tenant-based assistance
- Change the applicant's place on the waiting list by date and time of application, or other factors affecting selection under the HACB 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 date and time 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 form 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 HACB. 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 HACB request for information or updates because of a family member's disability, the HACB 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 opened 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 family requests in writing an informal review and the Executive Director or his designee 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
5. Verified error by US Post Office

Informal Review Procedures for applicants are in Chapter 19.

Chapter 5 SUBSIDY STANDARDS

[24 CFR 982.54(d)(9)]

INTRODUCTION

HUD guidelines require that HACB'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 HACB'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 HACB does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the Voucher. The HACB's subsidy standards for determining voucher size shall be applied in a manner consistent with Fair Housing guidelines. 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 number of bedrooms on the Voucher will remain the same as long as the family composition does not change, regardless of the actual unit size rented.

Generally, the HACB assigns one bedroom for up to three (3) individuals 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, upon prior verification of guardianship.
3. Live-in attendants will generally be provided a separate bedroom. No additional bedrooms are provided for the attendant's family.
4. 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.

5. A pregnant women will be treated as a two (2) person family.
6. 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	4	5
3 Bedrooms	6	7
4 Bedrooms	8	9
5 Bedrooms	10	11
6 Bedrooms	12	13

B. EXCEPTIONS TO SUBSIDY STANDARDS

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

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

An expectation may be granted as a Reasonable Accommodation (See Chapter 4. H Reasonable Accommodation Policy) and must be verified by a qualified professional.

HACB will not issue a larger voucher due to additions of family members other than by birth, adoption, marriage or court-awarded custody. Exceptions may only be for dependents.

Request for Exceptions to Subsidy Standards

The family may request a larger sized voucher than indicated by the HACB's subsidy standards. Such request must be made in writing within fourteen (14) days of the HACB'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 HACB will not issue a larger voucher due to additions of family members other than by birth, adoption, marriage, or court-awarded custody.

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

HACB. If either of these forms have been submitted the HACB will also require that the family has initiated legal proceedings for guardianship or legal custody.

Accommodation requests based on health related and/or disability reasons must be verified by a qualified professional.

HACB Error

If the HACB 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 HACB subsidy standards. If an applicant requires a change in the voucher size, based on the requirements of the HACB 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 HACB. 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 HACB, 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 HACB will issue a new voucher of the appropriate size and assist the family in locating a suitable unit.

The HACB 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 HACB.

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 HACB subsidy standard for a family assisted in the voucher program is based on the HACB'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 HACB 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 HACB's policies in this Chapter address those areas which allow the HACB discretion to define terms and to develop standards in order to assure consistent application of the various factors that related 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 (5) allowable deductions from Annual Income:

1. Dependent Allowance: four hundred eighty dollars (\$480) each for family members (other than the head or spouse) who are minors, and for family members who are eighteen (18) and older who are full-time students or who are disabled
2. Elderly/Disabled Allowance: four hundred dollars (\$400) per family for families whose head or spouse is sixty-two (62) years of age 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 thirteen (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 twelve (12) month period. After the disabled family receives twelve (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 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 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 six-month period is at least five hundred dollars (\$500). The qualifying TANF assistance may consist of any amount of monthly income maintenance, and/or at least five hundred dollars (\$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 earned in the previous twelve (12) months no more than the equivalent earnings for working ten (10) hours per week for fifty (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 twelve (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 HACB 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 twelve (12) month period after the expiration of the initial cumulative twelve (12) month period referred to above, the HACB must exclude from annual income of a qualified family fifty (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 forty-eight (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 twelve (12) months of full exclusion of incremental increase, and a maximum of twelve (12) months of phase-in exclusion during the forty-eight (48) month period starting from the date of the initial exclusion.

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

No earned income disallowance will be applied after the forty-eight (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 six (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 twelve (12) month period of exclusion (if any)
- Date the family member has received a total of twelve (12) months of the initial exclusion
- Date the twelve (12) month phase-in period began
- Date(s) earned income ended and resumed during the second cumulative twelve (12) month period (phase-in) of exclusion (if any)
- Date the family member has received a total of twelve (12) months of the phase-in exclusion
- Ending date of the maximum forty-eight (48) month (four year) disallowance period (forty-eight (48) months from the date of the initial earned income disallowance).

The HACB 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) dollars. 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/PERMANENT ABSENT

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

The HACB must compute all applicable income of every family member who is on the lease, including those who are temporarily absent. In addition, the HACB 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 HACB will evaluate absences from the unit using this policy.

Absence of Any Member

Any member of the household will be considered permanently absent if she/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 HACB 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 HACB's Absence of Entire Family" policy.

Absence Due to Full-Time Student Status

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, she/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if she/he is incarcerated for three (3) consecutive months. The HACB 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 HACB 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/children, 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 HACB'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 HACB will terminate assistance in accordance with appropriate termination procedures contained in this Plan. Families are required both to notify the HACB before they move out of a unit and to give the HACB information about any family absence from the unit. Families must notify the HACB, 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 HACB 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 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 HACB can verify that the person was unable to notify the HACB in accordance with the family's responsibilities, and if funding is available, the HACB may reinstate the family as an accommodation if requested by the family, as long as the period was within one hundred eighty (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 HACB 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 HACB 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 HACB 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 HACB 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 HACB will use discretion as deemed appropriate in determining any further assignation 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 HACB approves a person to reside in the unit as caretaker for the child/children, the income should be counted pending a final disposition. The HACB 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 include on the HUD 50058 who has been in the unit more than fourteen (14) consecutive calendar days without HACB 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 residence for any purpose that is not explicitly temporary shall be construed as permanent residence.

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 Changes in Household Composition to Owner and HACB

[24 CFR 982.516]

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

An interim reexamination will be conducted for any additions to the household. The family will be required to obtain prior written approval from the owner when there are changes in family composition other than birth, adoption or court-awarded custody. An updated lease with the owner may be required. If the family does not obtain prior

written approval from the HACB, any person the family has permitted to move in will be considered an unauthorized household member.

If a family member leaves the household for longer than fourteen (14) days, the family must report the change to the HACB, in writing, within fourteen (14) calendar days of the change, submit verification of the change and certify as to whether the member is temporarily absent or permanently absent. The HACB will conduct an interim evaluation for changes that affect the Total Tenant Payment in accordance with the interim policy.

If a change of the household member(s) changes the family unit size, during the term of the HAP contract, the correct voucher size will be issued to the family at the next regular reexamination.

E. AVERAGING INCOME

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

- a) 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:
- b) 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 forty (40%) percent rule please read Chapter 9 page 98.

If the family's expenses exceed its known income, the HACB 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 HACB 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 HACB will accept verification that the family is receiving an amount less than the award if:

- The HACB receives verification from the agency responsible for enforcement or collection.
- The family furnishes documentation of child support or alimony 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 HACB will go back to the date the lump-sum payment was received, or to the date of admission, whichever is closer. The HACB 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 HACB.

The family has the choice of paying this "retroactive" amount to the HACB in a lump-sum. At the HACB's option, the HACB 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 HACB must count assets disposed of for less than fair market value during the two years preceding certification or reexamination. The HACB 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 HACB 's minimum threshold for counting assets disposed of for less than Fair Market Value is five thousand dollars (\$5,000). 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 thirteen (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 HACB.

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

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

N. MEDICAL EXPENSES

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

This deduction is granted only to elderly or disabled families. All family members within an elderly or disabled designated family will qualify for this deduction. The family must furnish legible receipts.

A range of unreimbursed medical expenses and services can be claimed, including, but not limited to the following, to the extent that the total medical expenses exceed 3 percent of annual income:

- Services of health care professionals and health care facilities (doctors, nurses, practical nurses, therapists, hospitals, clinics, etc.);
- Laboratory fees, X-rays and diagnostic tests, costs for blood, and oxygen;
- Medical insurance premiums (including Medicare) and the insurance deductible;
- Prescription and non-prescription medicines (non-prescription medicines should be prescribed by a licensed medical professional);
- Transportation to/from treatment including the actual cost (e.g., bus fare) or if driving by car, a mileage rate based on IRS rules or other accepted standard;
- Medical care of a permanently institutionalized family member IF his/her income is included in annual income;
- Dental treatment including fees paid to the dentist for cleaning, fluoride treatments, sealants, x-rays, fillings, braces, extractions, dentures;
- Eyeglasses and contact lenses;
- Hearing aid and batteries, wheelchair, walker, scooter, artificial limbs;
- Attendant care or periodic attendant care;
- Payments on accumulated medical bills (that will be due in the year for which annual income is computed) for the services of physicians, nurses, dentists, opticians, mental health practitioners, chiropractors, hospitals, health maintenance organizations (HMO's), out-patient medical facilities, and clinics (verification that payments are being paid will need to be provided);
- Expenses paid to an HMO;
- Purchase or rental and upkeep of equipment (e.g., where there are tenant paid utilities, the additional utility costs to the tenant because of an oxygen machine);
- Skilled, semi-skilled and unskilled nursing services;
- An assistive animal and the upkeep and care of the animal; and

- Any other medically necessary service, apparatus or medication, as documented by third party verification.

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

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 HACB 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 HACB 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 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 HACB 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 HACB, will inform the HACB 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 HACB has a written cooperation agreement in place with the local welfare agency which assists the HACB in obtaining the necessary information regarding welfare sanctions. The HACB has taken a proactive approach to creating an effective working economic self-sufficiency program throughout the community that is available to Section 8 and public housing residents. The HACB and the local welfare agency have mutually agreed to notify each other of any economic self-sufficiency and/or other appropriate programs of 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 HACB'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 HACB may not provide

any allowance for non-essential utility costs, such as costs of cable or satellite television.

The HACB 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 HACB determines that an air conditioning allowance will be granted in certain areas or throughout the HACB's jurisdiction, the air conditioning allowance will only be granted to families in the applicable area when the HACB has confirmed that the unit actually has an air conditioner in the unit.

The HACB will review the utility allowance schedule annually. If the review finds a utility rate has changed by ten (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 HACB 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 HACB may pay the utility reimbursement directly to

the family or to the utility supplier on behalf of the family. If the HACB chooses to pay the utility supplier directly, the HACB must notify the family of the amount paid to the utility supplier.

In some cases, the medical equipment or other factors needed to a disability will increase the cost of utilities and thus a reasonable accommodation may be necessary in accordance with regulation 24 CFR 965.508.

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 HACB. HACB 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. Applications and program participants must provide true and complete information to the HACB whenever information is requested. The HACB's verification requirements are designed to maintain program integrity. This Chapter explains the HACB'S procedures and standards for verification of preferences, income, assets, allowable deductions, family status, and changes in family composition. The HACB 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 HACBs 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 SWICA or Federal Agency, or between a HACB and a SWICA.

42 USC 3544 (c)(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 (PIH) or other appropriate means in the future. The HACB 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 HACB's second choice is a written third-party verification to substantiate claims made by an applicant or resident.
3. Third-Party Oral: The HACB may also use telephone verifications.
4. Review of Documents: The HACB 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 HACB will accept verifications in the form of computerized printouts delivered by the family from the following agencies:

1. Social Security Administration
2. Veterans Administration
3. Welfare Assistance
4. Unemployment Compensation Board
5. City or County Courts

The HACB 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 HACB will compare the information to any documents provided by the Family. If provided by telephone, the HACB 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 HACB 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 HACB will accept the following documents from the family provided that the document is such that tampering would be easily noted:

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

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

If third-party verification is received after documents have been accepted as provisional verification, and there is a discrepancy, the HACB will utilize the third-party verification. The HACB 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 HACB 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 HACBs on the 50058 form. HUD can disclose Social Security information to HACBs, but is precluded by law from disclosing Federal tax return data to HACBs. 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 HACB (24 CFR 5.240). HUD's letter to the family will also notify the family that HUD has notified the HACB in writing that the family has been advised to contact the HACB. HUD will send the HACB a list of families who have received "income discrepancy" letters.

When the HACB receives notification from HUD that a family has been sent an "income discrepancy" letter, the HACB 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 HACB 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 HACB will verify the accuracy of the income information received from the family, review the HACB'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 tenants fail to respond to HACB:

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

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

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

If the tenant family fails to meet with the HACB or will not sign the IRS forms, the HACB will send a warning letter to the head of household, notifying the family that termination proceedings will begin within one (1) week if the tenant fails to meet with the HACB and/or sign forms.

If tenant does receive a discrepancy letter from HUD:

1. The HACB will set up a meeting with the family.

2. If the family fails to attend the meeting, the HACB will reschedule the meeting.
3. If the family fails to attend the second meeting, the HACB will send a termination warning.
4. The family must bring the original HUD discrepancy letter to the HACB.

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

1. The HACB will ask the tenant to provide documented proof that the tax data is incorrect.
2. If the tenant does not provide documented proof, the HACB 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 eighteen (18) or older
- 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 preferences, allowances, or deductions
- U.S. citizenship/eligible immigrant status
- Social Security Numbers for all family members.
- Familial or Marital status when needed for head or spouse definition

Verification of Reduction in Benefits for Noncompliance:

The HACB 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 HACB 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 HACB 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 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) HACB 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 twelve (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. HACB 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 HACB 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 (6) months (or lesser period if not in business for six months) to project income for the next twelve (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 HACB 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 HACB will request information from the State Employment Development Department. The HACB 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. The Family will be required to complete a "Zero Income Form" monthly and meet with HACB staff quarterly to verify 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 twenty-three (23) with dependent children.

Students attending an institution of higher education that are under the age of twenty-three (23), are not veteran, are not married, have no dependent children and is not dependent from his/her parents, the HACB must determine the income eligibility of the student's parent in order to determine whether the student is eligible for assistance. The HACB should use the low-income that the HACB may accept from a parent is a declaration and certification of income, which includes a penalty of perjury. The HACB 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 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 from a federal, state or local agency.

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

1. If the student(s) parent are married and living together, the HACB is to obtain a joint declaration and certification from the parents;
2. If the student(s) parent is widowed or single, obtain a declaration and certification from that parent;

3. If the student(s) parents are divorced or separated, obtain declarations and certifications of income from each parent;
4. 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 assistances 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 through an educational institution.

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

- Expenditures for business expansions.
- 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 HACB, 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 HACB 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 HACB 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.
- Non-recurrent, 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 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.
- 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 sub-marginal 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 interest or trust or restricted land.
- Payments received from 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 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 three (3) and six (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 six (6) months and thirty (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 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 HUD Office of Public and Indian Housing (PIH) Public Information Center (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 deposits, or HACB 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 HACB 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 twelve (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 twelve (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 HACB 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 appropriate 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 (2) years preceding effective date of certification or reexamination.

For all Certifications and Reexaminations, the HACB will obtain the Family's certification as to whether any member has disposed of assets for less than fair market value during the two (2) 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(FMV), verifications is required that shows:

- a) all assets disposed of for less than FMV
- b) the date they were disposed of
- c) the amount the family received
- d) the market value of the assets at the time of disposition.

Third-party verification will be obtained wherever possible.

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, he/she 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 twelve (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 twelve (12) months.
7. Receipts or other record of medical expenses incurred during the past twelve (12) months that can be used to anticipate future medical expenses. HACB 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 HACB 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 Person 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 HACB 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 (DD214)
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 Certificate
 - c. Baptismal Certificate
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 HACB 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 he/she will be incarcerated.

Verification of Change in Family Composition

The HACB 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 5.510, 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 Services (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 HACB hearing is pending.

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

1. United States birth certificates
2. United States passport
3. Un-expired Resident Alien/Registration Card
4. Verifiable Social Security Card
5. Other appropriate documentation as determined by the HACB

Eligible immigrants age 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 HACB verifies the status through the INS SAVE system. If this primary verification fails to verify status, the HACB 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 HACB 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 HACB 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 HACB does not supply the documents, the HACB must conduct the determination.

Extensions of Time to Provide Documents

The HACB will grant an extension of thirty (30) calendar 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 HACB 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]

The HACB requires that all applicant and participant households provide verifiable Social Security Card information for all household members. Acceptable evidence of the SSN consists of:

1. An original SSN card issued by SSA;
2. An original SSA-issued document, which contains the name and SSN of the individual; or
3. An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual.

It should be noted that most (if not all) individuals who are lawfully present in the U.S. have been assigned a SSN. Many existing laws require the disclosure of the SSN for various purposes. All applicants and participants, including each member of the household (with the exception of those individuals noted in Chapter 2, part C) are required to disclose his/her assigned SSN.

The SSA issues three types of Social Security cards depending on an individual's citizen or noncitizen status and whether or not a noncitizen is authorized by the Department of Homeland Security (DHS) to work in the United States. They include:

1. The first type of card shows the individual's name and SSN only. This is the card most people have and reflects the fact that the holder can work in the U.S. without restriction. SSA issues this card to:
 - U.S. citizens; or
 - Noncitizens lawfully admitted to the United States for permanent residence and noncitizens with DHS permission to work permanently in the United States (i.e. refugees and asylees).
2. The second type of card bears, in addition to the individual's name and SSN, the legend: "**NOT VALID FOR EMPLOYMENT**". SSA issues this card to lawful noncitizens who do not have DHS permission to work, but are required by law to provide a SSN to obtain general assistance benefits that they already have qualified for.

3. The third type of card bears, in addition to the individual's name and SSN, the legend "**VALID FOR WORK ONLY WITH DHS AUTHORIZATION**". SSA issues this card to people with DHS permission to work temporarily in the United States.

SSA verifies all noncitizens' documents with DHS before a SSN card is issued to a noncitizen.

Rejection of Documentation:

The HACB may reject documentation of the SSN provided by the applicant or participant for only the following reasons:

1. The document is not an original document; or
2. The original document has been altered, mutilated, or not legible; or
3. The document appears to be a forged document (i.e. does not appear to be authentic).

The HACB should explain to the applicant or participant, the reason(s) the document is not acceptable and request the individual to obtain acceptable documentation of the SSN and submit it to the HACB within a specified time frame.

Verification of the SSN:

The HACB shall verify each disclosed SSN by:

- a. Obtaining the documentation listed above from applicants and participants (including each member of the household);
- b. Making a copy of the original documentation submitted, returning it to the individual, and retaining the copy in the file folder; and
- c. Recording the SSN on line 3n of the form HUD-50058, and transmitting the form HUD-50058 to HUD within a timely manner. HACBs are encouraged to transmit the form HUD-50058 within 30 calendar days of completing the form, to enable HUD to initiate its computer matching efforts. **Note: not applicable to applicants.**

HUD, via its computer matching program with the SSA, will validate the SSN (along with the individual's name and date of birth) against the SSA's database. EIV will report the

status of the identity verification process as **Verified**, **Failed**, **Not Verified**, or **Deceased** on the household **Summary Report**. Below is a summary of the action the HACB should take for each identity verification status.

- a. Verified. If the information matches the SSA database, the individual's identity verification status will be **Verified**. No action is required by the HACB.
- b. Failed. If the information does not match the SSA database, the identity verification status will be **Failed**.
- c. Not Verified. If an individual's identity verification status is **Not Verified**, this means that HUD has not yet sent the tenant's personal identifiers to SSA for validation. No action is required by the HACB.
- d. Deceased. If an individual's identity verification status is **Deceased**, this means that SSA's records indicate the person is deceased. The HACB should confirm the death with the family's head of household or listed emergency contact person. If the individual is deceased and the only household member (single member household), the HACB should complete an End of Participation (EOP) action on form HUD-50058, and discontinue assistance and/or tenancy. If there are remaining household members, update the family composition accordingly, complete an Interim Reexamination action on form HUD-50058, and take any other action in accordance with HUD guidance and HACB-established policies.

The HACB is required to retain the EIV **Summary Report** or **Income Report** in each family file as confirmation of compliance with the SSN disclosure, documentation and verification requirements.

Once the individual's verification status is classified as **verified**, the HACB should remove and destroy, by no later than the next reexam of family income or composition, the copy of the documentation referenced above. Paper documentation should be destroyed by either shredding or burning. Electronic documentation should be destroyed by erasing or permanently deleting the file. Additional guidance related to destruction of records is available in HUD Handbook 2400.25, Rev. 2: *HUD Information Technology Security Policy*, dated October 1, 2008. The handbook is available online at: <http://www.hud.gov/offices/adm/hudclips/handbooks/admh/2400.25/index.cfm>.

The retention of the aforementioned EIV report in the tenant file is adequate. PHAs are permitted to maintain EIV reports in the tenant file for the duration of tenancy, and no

longer than three years from the end of participation date. This will minimize the risk of exposing the individual's SSN. PHAs are encouraged to minimize the number of tenant records that contain documents which display the full nine-digit SSN.

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 1 – 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 HACB.

Chapter 8 VOUCHER ISSUANCE AND BRIEFINGS

[24 CFR 982.301, 982.302]

INTRODUCTION

The HACB'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. The HACB will conduct a mandatory briefing to ensure that families know how the program works and to determine eligibility. The briefing will provide a broad description of owner and family responsibilities, HACB 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 HACB will issue Vouchers to applicants and determine eligibility. The number of Vouchers issued must ensure that the HACB stays as close as possible to 100 percent (100%) lease-up. The HACB 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 HACB can over-issue (issue more Vouchers than the budget allows to achieve lease-up).

The HACB may over-issue Vouchers only to the extent necessary to meet leasing goals. All Vouchers which are over-issued must be honored. If the HACB 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 to qualify applicant families. 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 Caseworker, Occupancy Specialist or Section 8 Housing Manager.

Briefings will be conducted in English. Briefings will also be conducted in Spanish and Hmong 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 HACB 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 HACB, may be denied admission based on failure to supply information needed for certification. The HACB 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 HACB 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 HACB 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 HACB determines the payment standard for a family; how the HACB determines total tenant payment for a family and information on the payment standard and utility allowance schedule; and how the HACB 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 HACB 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 form family uses to request HACB approval of a unit, and a description of the procedure for requesting approval for a unit.
- A statement of the HACB policy on providing information about families to prospective owners.
- The HACB 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 HACB 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 HACB will provide a list of available accessible units known to the HACB (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 HACB may terminate assistance for a participant family because of family action or failure to act.
- HACB informal hearing procedures including when the HACB is required to offer a participant family the opportunity for an informal hearing, and how to request the informal hearing
- Information regarding the HACB 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:

- HACB 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 HACB 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 HACB 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.

Any owner or prospective owner who contacts HACB with questions may receive an individual briefing explaining how the program works and the responsibilities and roles of the three parties.

C. PROCEDURES 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 applicant household reaches the top of the waiting list.

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 HACB will provide assistance to families who wish to do so. The HACB 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 HACB 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 DISCRINATION

The HACB 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 HACB 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 HACB. If the Voucher has expired, and has not been extended by the HACB 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 HACB 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 HACB 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 (60) day period. Verification is required.
2. The HACB is satisfied that the family has made a reasonable effort to locate a unit, including seeking the assistance of the HACB, throughout the initial sixty (60) 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 HACB to request assistance. Voucher holders will be notified at their briefing session that the HACB periodically updates the listing of available units and how the updated list may be obtained. The HACB will assist families with negotiations with owners and provide other assistance related to the families' search for housing.

H. VOUCHER ISSUANCE DETERMINATION FOR SPLITS 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 Occupancy Specialist 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 member will 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 HACB will terminate assistance on the basis of failure to comply with the Obligations of the Participant, in supplying required information: the family must supply any information that the HACB or HUD determines is necessary for purposes of program administration.

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 HACB 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 HACB 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 HACB'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 HACB'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 HACB, or outside of the HACB'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 HACB. This Chapter defines the types of eligible housing, the HACB'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) 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 HACB. The Request for Tenancy Approval must be signed by both the owner and Voucher holder. The HACB will not permit the family to submit more than one RFTA at a time. The HACB will review 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 owner is approvable, and there are no conflicts of interest (See "Owner Disapproval" section below).

In addition to the above, a copy of the Landlord/Tenant Lease must be submitted prior to the execution of a Housing Assistance Payment (HAP) Contract. The HACB will

review the proposed lease and verify it complies with HUD and HACB requirements (See "Lease Review" section below).

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 HACB 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 HACB 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 HACB 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 HACB determines that the Request cannot be approved for any reason, the landlord and the family will be notified in writing. The HACB 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 HACB 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 HACB 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 HACB (following HUD-prescribed requirements)
7. Shared Housing (elderly and disabled only, as an accommodation)

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 HACB 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 HACB 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 HACB 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 HACB has inspected the unit and has determined that the unit satisfies the HQS;
2. The HACB 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 HACB 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 HACB 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 HACB. 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 HACB. If agreements are entered into at a later date, they must be approved by the HACB 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 HACB 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 HACB, 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 HACB 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 HACB.

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 HACB 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 HACB will negotiate with the owner to reduce the rent to an affordable rent for the family. At the family's request, the HACB 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 HACB 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 HACB has tried and failed to negotiate a revised rent, the HACB 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 HACB will furnish prospective owners who request the family's address information in writing from the HACB with the family's current address as shown in the HACB's records and, if known to the HACB, the name and address of the landlord at the family's current and prior address. The HACB will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection. The HACB 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 HACB'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 HACB 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 HACB'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 HACB 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 HACB prepares the Housing Assistance Contract for execution. The family and the owner will execute the Lease agreement, and the owner and the HACB will execute the HAP Contract. Copies of the documents will be furnished to the parties who signed the respective documents. The HACB will retain a copy of all signed documents.

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

- Executive Director
- Deputy Director
- Housing Director
- Section 8 Housing Manager

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 HACB 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.

HACB will inspect each unit under contract at least annually. HACB will perform quality control inspections on the number of files required for file sampling by SEMAP annually to maintain the HACB required standards and to assure consistency in the HACB's program. This Chapter describes the HACB's procedures for performing HQS and other types of inspections, and HACB 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 HACB requirements. (See the additions to HQS listed under Section G "Acceptability Criteria and Exceptions to HQS" later in this chapter.)

A. GUIDELINES/TYPES OF INSPECTIONS

[24 CFR 982.401(a), 982.405]

HACB 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. HACB will not promote any additional acceptability criteria which is 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, HACB 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. HACB may conduct a re-inspection. The Landlord and/or 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 HACB 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 HACB 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 HACB 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 HACB will note in each tenant file, the date on which the unit first became available for inspection according to information obtained from the Request For Tenancy Approval (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 HACB once repairs are completed. On an initial inspection the owner will be allowed up to thirty (30) days and/or one (1) re-inspection for repair work to be completed. If maximum number of days or failed re-inspections has occurred, the family must select another unit.

C. ANNUAL HQS INSPECTIONS

[24 CFR 982.405(a)]

The HACB 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 Section Eight Management Assessment Program (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 HACB 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 AM and 5:00 PM. The HACB will notify the family in writing or by telephone to schedule an inspection. Twenty four (24) hours notice will be given to families prior to an inspection unless the family requests otherwise.

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 prior 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 HACB will consider the family to have violated a Family Obligation and the family's assistance will be terminated in accordance with the termination procedure identified in this plan if:

1. The family does not contact the HACB to reschedule the inspection within five (5) business days after a missed appointment, or
2. The family misses two consecutive scheduled or rescheduled appointments.

The HACB 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 HACB 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 twenty four (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 HACB preferably in writing, that the unit does not meet Housing Quality Standards, the HACB will conduct an inspection. The HACB may also conduct a special inspection based on information from third parties such as neighbors or public officials. The HACB 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.

When the inspection is a special inspection or is being scheduled in response to a landlord or third party complaint a notice of not less than 24 (twenty-four) hours will be given to families prior to a special/complaint inspection. If a special inspection is requested by the tenant, the inspector and tenant may make suitable arrangements to verify the complaint.

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

All windows designed to open must open, close and lock.

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

All interior doors must be sound and be able to open without the use of a key. Trim is to be intact and be properly installed.

Floors:

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

All floors must be in a finished state.

Sinks:

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

Toilets:

Water lines must have shut off valves.

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

Must be properly installed, secure and no leaks.

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 twenty four (24) hours of notice by the Inspector:

1. Lack of structural integrity or other serious health or sanitation issues.
2. Lack of ability to secure the unit (i.e. locks not working, door will not close, windows do not lock, etc.)
3. Waterlogged ceiling in imminent danger of falling
4. Major plumbing leaks or flooding
5. Natural gas leak or fumes
6. Electrical problem which could result in shock or fire
7. Heating units that are not functioning during the cold months.
8. Utilities not in service
9. No running hot water
10. Broken glass where someone could be injured
11. Obstacle which prevents tenant's entrance or exit
12. Lack of functioning toilet

Air conditioning or swamp coolers are not mandatory, but are considered an amenity. If an air conditioner or swamp cooler is not working HACB may review the Rent Reasonableness and lower the units approved rent.

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 HACB and/or the HACB 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 HACB, 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 HACB, and it is an HQS breach, which is a family obligation, the HACB will terminate the assistance to the family.

Smoke Detectors

Inoperable smoke detectors are a serious health threat and will be treated by the HACB as an emergency (24-hour) fail item. If the smoke detector is not operating properly the HACB will contact the owner by phone and request the owner to repair the smoke detector within twenty-four (24) hours. The HACB 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 HACB will re-inspect the unit the following day.

Deliberate disconnection of the unit's smoke detector is a health and fire hazard and is considered a violation of the HQS. Units with repeated disconnected smoke detectors may be issued a termination.

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 HACB, 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 HACB will inspect abated units within five (5) fourteen (14) 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. It is the owner's responsibility to notify HACB when the unit needs to be re-inspected. 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 HACB's portion of rent that is abated.

If the unit goes into abatement, Housing Assistance Payments will not be paid to the owner and the tenant will be issued a sixty (60) voucher (or longer if a Reasonable Accommodation applies) to seek alternative housing.

If the family is in good standing with the owner, the family may move in accordance with state laws and program regulations.

The family may be allowed to may remain in the unit. If the family to remain in the unit while HAP is not paid, the HACB may allow for the repairs to be completed that had resulted in failed HQS and abatement. It will be the owner responsibility to contact the HACB to schedule a final inspection. Only one Housing Quality Inspection will be conducted after a unit is abated.

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 HACB 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 for damages beyond normal wear and tear and corrections are not made, the HACB may terminate program assistance to the family for noncompliance with the obligations of a program participant.

If tenant caused damage to the unit is chronic, the HACB may terminate the family assistance for noncompliance with the obligations of a participant of the program.

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 HACB will determine rent reasonableness in accordance with 24 CFR 982.507(a). It is the HACB'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 HACB'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 HACB 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 HACB 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 HACB. 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 HACB 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 HACB. Owners who do not return excess payments will be subject to penalties as outlined in the "Owner or Family Debts to the HACB" chapter of this Administrative Plan.

C. RENT REASONABLENESS DETERMINATIONS

[24 CFR 982.507]

The HACB will determine and document on a case-by-case basis that the approved contract rent is reasonable in comparison to rent for comparable unassisted units in the market. This applies to all units under the Section 8 umbrella of programs. The HACB will not approve a lease until it determines that the initial rent to owner is a reasonable rent. The HACB will re-determine the reasonable rent before any increase in the rent to owner is approved 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 prior to the contract anniversary date. The HACB will re-determine rent reasonableness if directed by HUD and based on a need identified by the housing authority's auditing system. The HACB 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 HACB.

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

HACB information on rents charged by the owner for other units in the premises or elsewhere.

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 housing authority'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 HACB's discretion, the Voucher Payment Standard amount is set by the HACB between 90 percent (90%) and 110 percent (110%) of the HUD published FMR. This is considered the basic range. The HACB reviews the appropriateness of the Payment Standard annually when the FMR is published. In determining whether a change is needed, the HACB 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 HACB will establish a single voucher payment standard amount for each FMR area in the HACB jurisdiction. For each FMR area, the HACB will establish payment standard amounts for each "unit size". The HACB may have a higher payment standard within the HACB'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.

The HACB may approve a higher payment standard within the basic range, if required as a reasonable accommodation for a family that includes a person with disabilities. Additionally, the HUD Field Office may approve an exception payment standard amount within the upper range (110-120% FMR) if required as a reasonable accommodation for a family that includes a person with disabilities [24 CFR §982.503(c)(2)(ii)]

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 HACB will not raise Payment Standards solely to make "high end" units available to Voucher holders. The HACB 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 HACB 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 HACB's jurisdiction have payment standard amounts that are creating rent burdens for families, the HACB will modify its payment standards for those particular unit sizes.

The HACB 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 HACB's jurisdiction are paying. The HACB 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 HACB 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.

HACB Decision Point

The HACB 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 HACB 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 HACB 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 HACB may decline to increase the payment standard. If these are not the primary factors for families paying higher rents, the HACB will continue increasing the payment standard.

Rent to Owner Increases

The HACB 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 HACB 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 HACB 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 HACB 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 HACB 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 HACB 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 HACB must use the appropriate payment standard amount established by the HACB 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 HACB will reexamine the income and household composition of all families at least annually. Families will be provided accurate annual and interim rent adjustments. Recertification's 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 HACB'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 HACB must conduct on an annual basis. These activities will be coordinated whenever possible:

1. Recertification of Income and Family Composition
2. HQS Inspection

The HACB 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 HACB 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 HACB will provide the notice in an accessible format, when feasible. The HACB will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities.

Procedure

The HACB'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 HACB 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 HACB'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 HACB 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 HACB, 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 HACB 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 HACB 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 HACB.

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 HACB 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 HACB 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 HACB 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 HACB will conduct interim Recertification's 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 HACB 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 HACB must calculate the change if a decrease in income is reported (see next paragraph). The change will be effective the following month. The HACB will process the rent adjustment unless the HACB confirms that the decrease in income will last less than thirty (30) calendar days.

HACB Errors

If the HACB 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 HACB 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 HACB 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 HACB 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 HACB, based on written information supplied to the HACB 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 HACB 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 HACB determination.

Verification Before Denying a Request to Reduce Rent

The HACB 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 HACB will rely on the welfare agency's written notice to the HACB regarding welfare sanctions.

Cooperation Agreements

The HACB has taken a proactive approach to culminating an effective working relationship between the HACB 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 HACB has executed a written Cooperation Agreement with the local welfare agency to ensure timely and accurate verification of noncompliance. The HACB 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 HACB denies the family's request to modify the amount, the HACB will provide the tenant with a notice of denial, which will include:

- An explanation for the HACB'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 HACB'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 HACB. 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 HACB requires that all families report interim changes, in writing, to the HACB 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 HACB 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 HACB 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 HACB 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 HACB 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 HACB. 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)]

An interim recertification will be conducted for families who report changes to the household composition to the HACB. If a change of the household member/s changes the family unit size, during the term of the HAP contract, the correct voucher size will be issued to the family at the next regular reexamination. (See "Subsidy Standards" Chapter 5 and "Reporting Changes in Household Composition to Owner and HACB" Chapter 6.)

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 HACB 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)] [VAWA]

INTRODUCTION

HUD regulations permit families to move with continued assistance to another unit within the HACB's jurisdiction, or to a unit outside of the HACB's jurisdiction under Portability procedures. The regulations also allow the HACB 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 HACB'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 HACB 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).
4. If the family has complied with all other obligations of the Section 8 program and has moved out of the assisted dwelling unit 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 believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

B. RESTRICTIONS ON MOVES

[24 CFR 982.314, 982.552(a)]

Families will not be permitted to move within the HACB's jurisdiction during the initial year of assisted occupancy. Families will not be permitted to move outside the HACB'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 HACB will deny permission to move if:

1. The family has violated a Family Obligation.

2. The family owes the HACB 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.

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 HACB 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 days written notice of intent to vacate specified in the lease and must give a copy to the HACB 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 HACB'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 HACB'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 HACB's jurisdiction, the request must specify the area to which the family wants to move.

Restrictions on Portability

Applicants

If neither the head or spouse had a domicile (legal residence) in the HACB'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 HACB 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 HACB 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 a 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 HACB 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
3. 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] [HCB Guidebook pp11-10 and 11-11]

INTRODUCTION

The Housing Assistance Payments (HAP) Contract is the contract between the owner and the HACB which defines the responsibilities of both parties. This Chapter describes the circumstances under which the contract can be terminated by the HACB and the owner, and the policies and procedures for such terminations.

The Housing Assistance Payment (HAP) Contract format is required by HUD, specifically Form HUD-52641. The HAP contract contains three parts.

Part A of the contract includes basic contract information about the name of the tenant, family, address of the contract unit, names of all household members, first and last dates of the initial lease term, amount of initial monthly rent to owner, amount of initial housing assistance payment, utilities and appliances to be supplied by the owner and the tenant, signatures of the HACB and the Owner.

In general the HAP contract cannot be modified. However, HACB has the discretion to add language to Part A of the HAP contract which prohibits the owner from collection of a security deposit in excess of private market practices or in excess of amount charged to unassisted tenants.

Part B is the body of the contract. It describes in detail program requirements affecting the owner, the owner's roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in the plan. Topics in Part B include:

- Lease of Contract Unit
- Maintenance, Utilities and Other Services
- Term of the HAP contract
- Provisions and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- HACB Payment to Owner
- Prohibitions of Discrimination
- Owner's Breach of HAP Contract
- HACB and HUD Access to Premises and Owner's Records
- Exclusion of Third Party Rights
- Conflict of Interest
- Assignment of the HAP Contract

- Written Notices
- Entire Agreement Interpretation

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and composition of the household, as approved by HACB.

The owners must sign the HUD Tenancy addendum with the prospective tenant and the tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

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 HACB may be terminated by the HACB, or by the owner or tenant terminating the lease. No future subsidy payments on behalf of the family will be made by the HACB to the owner after the month in which the Contract is terminated. The owner must reimburse the HACB for any subsidies paid by the HACB 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 HACB 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 HACB 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 HACB'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 HACB 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 HACB 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 HACB with the documentation, including notice of the lock-out date. The HACB 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 HACB, 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 HACB has no other grounds for termination of assistance, the HACB may issue a voucher so that the family can move with continued assistance.

D. TERMINATION OF THE CONTRACT BY HACB

[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 HACB terminates program assistance for the family, or when the owner has breached the HAP contract (See "Owner Disapproval and Restriction" chapter).

The HACB may also terminate the contract if:

1. The HACB 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 HACB terminates the HAP contract under the violation of HQS space standards, the HACB 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 HACB gives such notice to the owner.

E. PROTECTIONS FOR VICTIMS OF ABUSE

[Violence Against Women Act (VAWA)]

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 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:

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

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

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:

- a current or former spouse of the victim;
- a person with whom the victim shares a child in common;
- a person who is cohabiting with or has cohabited with the victim as a spouse;
- a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies;
- 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:

- The victim’s spouse or former spouse.
- Someone the victim lives with or lived within the past.
- Someone the victim is dating or has dated.
- Someone the victim has a child with.
- 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:

- who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship.
 - The type of relationship.
 - The frequency of interaction between the persons involved in the relationship.

VAWA defines “stalking” as:

- To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass or intimidate another person; or
 - To place under surveillance with the intent to kill, injure, harass, or intimidate another person,
- AND

- 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:
 - That person;
 - A member of the immediate family of that person; or
 - 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

HUD requires the HACB to terminate assistance for certain offenses, and when the family no longer requires assistance. HUD permits the HACB to terminate assistance for certain other actions family members take or fail to take. In addition, a family may decide to stop receiving HCV assistance at any time by notifying the HACB in writing.

The HACB may deny or terminate assistance for a family because of the family's action or failure to act. The HACB will provide families with a written description of the Family Obligations under the program, the grounds under which the HACB can deny or terminate assistance, and the HACB's informal hearing procedures. This Chapter describes when the HACB is required to deny or terminate assistance, and the HACB's policies for the denial of a new commitment of assistance and the grounds for termination of assistance under an outstanding HAP contract.

A. GROUNDS FOR DENIAL/TERMINATION

[24 CFR 982.54, 982.552, 982.553]

If denial or termination is based upon behavior resulting from a disability, the HACB 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 HACB 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 HACB must deny assistance to applicants, and terminate assistance for participants if the family is under contract and 180 days have elapsed since the HACB's last housing assistance payment was made. (See "Contract Terminations" chapter.)

The HACB 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 HACB must deny admission to applicants and terminate assistance for program participants if the HACB determines that any household member is currently engaging in illegal use of a drug. See section B of this chapter for the HACB's established standards.

The HACB must deny admission to the program for applicants, and terminate assistance for program participants if the HACB 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 HACB's established standards.

The HACB must deny admission to an applicant if the HACB 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 HACB'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 HACB must terminate program assistance for a family evicted from housing assisted under the program for serious violation of the lease.

The HACB 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 HACB may deny admission or terminate assistance when required under the regulations to establish citizenship or eligible immigration status. In determining whether to deny admission or terminate assistance because of action or failure to act by members of the family, the HACB must adhere to applicable law, including 24 CFR

982.55(c)(2), with respect to its obligations to consider mitigating circumstances before denial or termination.

Grounds for Denial or Termination of Assistance [24 CFR 982.552(c)]

The HACB 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 HACB 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 HACB or to another PHA in connection with Section 8 or public housing assistance under the Housing Act of 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. *"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. *"Threatening"* refers to oral or written threats or physical gestures that communicate an intent to abuse or commit violence.
11. Actual physical abuse or violence will always be cause for termination.
12. 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.
13. 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 HACB'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 HACB 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 HACB-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 HACB will deny participation in the program to applicants and terminate assistance to participants in cases where the HACB determines there is reasonable cause to believe that a household member is illegally using a drug or there exists a pattern of illegal use of a drug by any household member which interferes with the health, safety or right to peaceful enjoyment of the premises by the other residents, or if the person's abuse or pattern of abuse of alcohol interferes with the health, safety or right to peaceful

enjoyment of the premises by other residents. The HACB 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 HACB 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 HACB 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 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. Applicants may be denied assistance if they have been arrested 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 HACB 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 HACB 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) require the HACB to establish standards for termination of assistance when this family obligation is violated.

The HACB 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 HACB will terminate assistance. In appropriate cases, the HACB 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 HACB may consider individual circumstances with the advice of Juvenile Court officials.

The HACB 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.

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 HACB 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 HACB 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 HACB 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 HACB will terminate the lease if the HACB 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 HACB 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 HACB decides to terminate assistance to the family, the HACB 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 HACB.

If the HACB proposes to terminate assistance for criminal activity as shown by a criminal record, the HACB will provide the subject of the record and the tenant with a copy of the criminal record. The HACB 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 HACB will pursue fact-finding efforts as needed to obtain credible evidence. The HACB will terminate assistance for criminal activity by a household member, as described in this chapter, if the HACB 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 HACB 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 HACB 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 HACB 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 sign and submit any consent forms they are required to sign for obtaining information as stated in 24 CFR 982.552(B)(3).

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 HACB 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 HACB before the family moves out of the unit or terminates the lease upon notice to the owner.

The family must promptly give the HACB 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 HACB. The family must promptly inform the HACB of the birth, adoption or court-awarded custody of a child. The family must request HACB approval to add any other family member as an occupant of the unit.

The family must promptly notify the HACB if any family member no longer resides in the unit.

If the HACB has given approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or HACB 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 family must not enter into any side payments for additional rent, or for items not normally included in the rent of unassisted families. (See Chapter 9, Request for Tenancy Approval and Contract Execution, Section D)

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 HACB is permitted, but not required, to consider all

relevant circumstances when determining whether a family's assistance should be terminated.

HACB will consider the following factors when making its decision to terminate assistance:

- The seriousness of the case, especially with the respect to how it would affect other residents and neighbors.
- The effects that termination of assistance may have on other members of the family who were not involved in the action or failure.
- The extent of participation or culpability of individual family members, including whether the culpability family member is a minor or a person with disabilities.
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future.
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.
- In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family.

The HACB may impose, as a condition of continued assistance for the 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 HACB 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 HACB 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 HACB.

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 HACB 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 HACB 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 HACB'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 HACB or to another PHA in connection with Section 8 or public housing assistance under the Housing Act of 1937.
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 HACB if any family member leaves the assisted household. When the family notifies the HACB, 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 HACB 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 HACB 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 HACB 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 HACB 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 HACB 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 HACB 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 HACB will then verify eligible status, deny, terminate, or prorate as applicable. The HACB 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 HACB either after the INS appeal or in lieu of the INS appeal. After the HACB 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) consecutive calendar days after the last HAP payment. If the family is still in the unit after one hundred and eighty (180) consecutive 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 HACB 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 HACB to overpay assistance, the HACB may choose not to terminate and may offer to continue assistance provided that the family reimburses the HACB 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 HACB will deny or terminate assistance. In making this determination, the HACB 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 HACB to fulfill its responsibilities. The HACB schedules appointments and sets deadlines in order to obtain the required information. The Obligations also require that the family allow the HACB 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 HACB, may be sent a Notice of Denial or Termination of Assistance for failure to provide required information, or for failure to allow the HACB 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 HACB 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 HACB to recruit owners to participate in the Voucher program. The HACB will provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout the jurisdiction of the HACB. The regulations define when the HACB must disallow an owner participation in the program, and they provide the HACB 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 HACB will disapprove the owner for the following reasons:

1. HUD, or other agency directly related, has informed the HACB 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 HACB 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 HACB 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 there 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 HACB 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 HACB 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 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 HACB, or of owner employees or other persons engaged in management of the housing.
11. 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.
12. Is involved in drug-related criminal activity or violent criminal activity.
13. The owner has not paid State or local real estate taxes, fines or assessments.
14. 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 HACB will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. The HACB may also terminate some or all contracts with the owner. Before imposing any penalty against an owner the HACB 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 HACB 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 HACB 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 PROJECT-BASED VOUCHERS

[24 CFR 983]

A. GENERAL REQUIREMENTS

[24 CFR 983.5]

The project-based voucher (PBV) program allows PHA's that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to take up to twenty (20%) percent of its voucher program budget authority and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6].

HACB Policy

The HACB may operate a project-based voucher program using up to twenty (20%) percent of its budget authority for project-based assistance. The amount of budget authority to be assigned to the HACB's PBV program shall be determined by Board Resolution upon any determination to issue a Request for Proposals (RFP) seeking PBV offers, such budget authority to be identified in the RFP.

PBV assistance may be attached to existing housing or newly constructed or rehabilitate housing [24 CFR 983.52]. If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (Agreement) or a HAP contract, the HACB is not required to reduce the number of these units if the amount of budget authority is subsequently reduced. However, the HACB is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC [24 CFR 983.6].

Tenant-Based vs. Project-Based Voucher Assistance

[24 CFR 983.2]

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the HACB policies related to tenant-based assistance also apply to PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

HACB Policy

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the HACB policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

Relocation Requirements

[24 CFR 983.7]

Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) [42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. HACB may not use voucher program funds to cover relocation costs, except that HACB may use the administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of the HACB to ensure the owner complies with these requirements.

Equal Opportunity Requirements

[24 CFR 983.8]

The HACB, owners and property managers must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, the HACB must comply with the HACB Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

B. PBV OWNER PROPOSALS

[24 CFR 983.51, 983.53, 983.54 983.56 & 986.57]

Before selecting a PBV proposal, the HACB must:

- Describe the procedures for owner submission of PBV proposals and for HACB selection of PBV proposals.
- Determine that the PBV proposal complies with HUD program regulations and requirements,
- Determine that the proposed property is eligible housing and complies with the cap on the number of PBV units per building.
- Explain how units meet the site selection standards.

Owner Proposal Selection Procedures

[24 CFR 983.51]

The HACB must select PBV proposals in accordance with the selection procedures in the HACB administrative plan. The HACB must select PBV proposals by either of the following two methods.

- HACB request for PBV Proposals. The HACB may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the HACB request. The HACB may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.
- The HACB may select proposals that were previously selected based on a competition. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded Low-Income Housing Tax Credits (LIHTC) have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive election proposal did not involve any consideration that the project would receive PBV assistance.

Solicitation and Selection of PBV Proposals

[24 CFR 983.51(b) and (c)]

HACB's procedures for selecting PBV proposals are designed and operated to provide broad public notice of the opportunity to offer PBV proposals for considerations by HACB.

HACB Policy

HACB Request for Proposals for Rehabilitated and Newly Constructed Units

The HACB will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in one or more of the following newspapers:

- Chico Enterprise Record
- Oroville Mercury Register
- Paradise Post
- Gridley Herald

In addition, the HACB will post the RFP and proposal submission and rating and selection procedures on its web site (<http://www.butte-housing.com>)

The HACB will publish its notice once weekly for at least two weeks of the appropriate above mention the newspapers. The notice will specify the number of units the HACB estimates that it will be able to assist under the funding the HACB is making available. Proposals will be due in the HACB office by 2:00 p.m. no less than three weeks from the first date of the publication.

In order for the proposal to be considered, the owner or owner's designee (hereinafter referred to as "owner") must submit the proposal to the HACB by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will be not be reviewed.

The HACB will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

- Owner experience and capability to build or rehabilitate housing as identified in the RFP;
- Extent to which the project furthers the HACB goal of de-concentrating poverty and expanding housing and economic opportunities.

In the case of projects for occupancy by the elderly or persons with disabilities, the HACB will rate partially assisted projects on the percent of units assisted. Projects with the lowest percent of assisted units will receive the highest score.

HACB Policy

HACB Requests for Proposals for Existing Housing Units

The HACB will advertise its request for proposals (RFP) for existing housing in one or more of the following newspapers:

- Chico Enterprise Record
- Oroville Mercury Register
- Paradise Post
- Gridley Herald

In addition, the HACB will post the RFP and proposal submission and rating and selection procedures on its web site (<http://www.butte-housing.com>)

The HACB will publish its notice once weekly for at least two weeks in the appropriate above mention the newspapers. The advertisement will specify the number of units the HACB estimates that it will be able to assist under the funding the HACB is making available. Proposals will be due in the HACB office by 2:00 p.m. no less than three weeks from the first date of the publication, and will be evaluated using the following criteria.

- Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;
- Extent to which the project furthers the HACB's goal of deconcentrating poverty and expanding housing and economic opportunities;

HACB Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

The HACB will consider those proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded LIHTC only during the RFP process.

The HACB will advertise its request for proposals (RFP) for proposals subject to a previous competition under a federal, state, or local housing assistance program in one or more of the following newspapers:

- Chico Enterprise Record
- Oroville Mercury Register
- Paradise Post
- Gridley Herald

In addition, the HACB will post the RFP and proposal submission and rating and selection procedures on its web site (<http://www.butte-housing.com>)

The HACB will publish its notice once weekly for at least two weeks of the appropriate above mention the newspapers. The advertisement will specify the number of units the HACB estimates that it will be able to assist under the funding the HACB is making available. Proposals will be due in the HACB office by 2:00 p.m. no less than three weeks from the first date of the publication, and will be evaluated using the following criteria.

- Extent to which the project furthers the HACB goal of deconcentrating poverty and expanding housing and economic opportunities; and
- The extent to which the project is consistent with HACB policies and the proposal that complements with other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community.

HACB – Owned Units

[24 CFR 983.51(e) and 983.59]

A HACB-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the HACB-owned units were appropriately selected based on the selection procedures specified in the HACB administrative plan and RFP. If the HACB selects a proposal for housing that is owned or controlled by the HACB the HACB must identify the entity that will review the HACB proposal selection process and perform specific functions with respect to the determinations and inspections.

In the case of HACB-owned units, the initial contract rent must be approved by an independent entity based on an appraisal by a licensed, state-certified appraiser. In addition, housing quality standards inspections must be conducted by an independent entity.

The independent entity that performs these program services may be the unit of general local government for the HACB jurisdiction (unless the HACB is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

HACB Policy

The HACB may submit a proposal for project-based housing that is owned or controlled by the HACB. If the proposal for HACB-owned housing is selected, the HACB will use independent entity to conduct the inspections and approve the rents. The HACB will obtain HUD approval prior to any selection of proposals by HUD.

The HACB may only compensate the independent entity and appraiser from HACB ongoing administrative fee income (including amounts credited to the administrative fee reserve). The HACB may not use other program receipts to compensate the independent entity and appraiser fee for the appraisal or the services provided by the independent entity.

HACB Notice of Owner Selection

[24 CFR 983.51(d)]

The HACB must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedure may include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

HACB Policy

The HACB will notify the selected owner in writing of the owner's selection for the PBV program. The HACB will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

In addition, the HACB will publish its notice for selection of PBV in the same newspaper of wide circulation the HACB used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. The HACB will also post the notice of owner selection on its electronic web site.

The HACB will make available to any interested party its rating and ranking sheets and documents that identify the HACB basis for selecting the proposal. These documents will be available for review by the public and public and other interested parties for one month after publication of the notice of owner selection. The HACB will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

The HACB will make these documents available for review at the HACB during normal business hours. The cost for reproduction of allowable documents will be \$.25 per page.

Housing Type

[24 CFR 983.52]

The HACB may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into housing assistance payments contract that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of HACB selection, the units substantially comply with HQS. Units for which new construction or rehabilitation was started in accordance with PBV program requirements do not qualify as existing housing.

The HACB must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. The HACB choice of housing type must be reflected in its solicitation for proposals.

PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

Ineligible Housing Types

[24 CFR 983.53]

The HACB may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; cooperative housing; and transitional housing. In addition, the HACB may not attach or pay PBV assistance for a unit occupied by an owner and the HACB may not select or enter into an agreement to enter into a HAP contract or HAP contract for a unit occupied by a family ineligible for participation in the PBV program.

Subsidized Housing

[24 CFR 983.54]

HACB may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with the Section 236 rental assistance payments (except that a HACB may attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance;
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or the HACB in accordance with HUD requirements.

Subsidy Layering Requirements

[24CFR 983.55]

The HACB may provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements.

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

The HACB must submit the necessary documentation to HUD for a subsidy layering review. The HACB may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD (or an independent entity approved by HUD) has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements.

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

CAP ON NUMBER OF UNITS IN EACH BUILDING

Twenty-five (25%) percent per Building Cap

[24 CFR 983.56(a)]

In general, the HACB may not select a proposal to provide PBV assistance for units in a building or enter into an agreement to enter into a HAP or a HAP contract to provide PBV assistance for units in a building, if the total number of dwelling units in the building that will receive PBV assistance during the term of the PBV HAP contract is more than twenty-five (25%) percent of the number of dwelling units (assisted or unassisted) in the building.

Exceptions to twenty-five (25%) percent per Building Cap

[24 CFR 983.56(b)]

Exceptions are allowed and PBV units are not counted against the twenty-five (25%) percent per building cap if:

- The units are in a single-family building (one to four units);

- The units are excepted units in a multifamily building because they are specifically made available for elderly, disabled families or families receiving supportive services (also known as qualifying families).

HACB Policy

The HACB will require families living in excepted units to receive supportive services. Therefore, excepted units will be limited to units in single-family buildings and those made available for elderly and/or disabled families or families receiving supportive services.

The types of supportive services offered to families for a project to qualify for the exception to the twenty-five (25%) percent per building cap are those intended to promote self-sufficiency, including but not limited to:

- Outreach
- Case management
- Counseling
- Health care
- Psychiatric and mental health care
- Substance abuse treatment
- Training in life skills
- Training in parenting skills
- Child care and transportation opportunities
- Assistance budgeting
- Employment assistance job training /placement;
- Education and/or vocational training opportunities

Supportive services do not have to be provided at the project site. When supportive services are provided, whether on site or not, the following conditions apply:

The statement of family responsibility in the lease must contain the family's obligation to participate in the designated service program. Failure of the family to comply is good cause to terminate the family from the program.

Participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers is not required as a condition of living in an excepted unit.

The HACB will ensure that only families receiving supportive services and complying with the serve requirement are assisted. To qualify, a family must have at least one

member receiving at least one qualifying supportive service. PHA will not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered. If a family at the time of initial tenancy is receiving, and while the resident of the excepted unit, has received Family Self Sufficiency (FSS) supportive services or any other supportive services as defined above, and successfully completes the FSS contract of participation of the supportive services requirement, the unit continues to count as an expected unit for as long as the family resides in the unit. PHA will monitor the excepted family's continued receipt of supportive service and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. Monitoring will be accomplished by requiring the owner to provide quarterly reports on the family's participation and confirming this information by interviewing the tenant at the annual re-examination.

Promoting Partially-Assisted Buildings

[24 CFR 983.56]

The HACB may establish local requirements designed to promote PBV assistance in partially assisted buildings. A partially assisted building is a building in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3].

The HACB may establish a per-building cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily building containing excepted units or in a single-family building. The HACB may also determine not to provide PBV assistance for excepted units, or the HACB may establish a per-building cap of less than twenty-five (25%) percent.

SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards

[24 CFR 983.57(b)]

The HACB may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into a PBV agreement or HAP contract for units on the site, unless the HACB has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the HACB Plan under 24 CFR 903 and the HACB administrative plan.

In addition, prior to selecting a proposal, the HACB must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the Housing Quality Standards (HQS) site and neighborhood standards at 24 CFR 982.401(a)]

HACB Policy

It is the HACB goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal the HACB will limit approval of sites for PBV housing in census tracts that have poverty concentrations of twenty (20%) percent or less.

However, the HACB will grant exceptions to the twenty (20%) percent standard when the HACB determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than twenty (20%) percent, such as sites in:

The proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;

The concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;

The proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;

New market rate units are being developed where such market rate units will positively impact the poverty rate in the area;

There has been an overall decline in the poverty rate within the past five years; or

There are meaningful opportunities for educational and economic advancement.

Existing and Rehabilitated Housing Site and Neighborhood Standards

[24CFR 983.57(d)]

The HACB may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

New Construction Site and Neighborhood Standards

[24 CFR 983.57(e)]

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in sizes, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless the HACB determines that sufficient, comparable opportunities exist for housing for minority families in the incoming range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and

- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

Environmental Review

[24 CFR 983.58]

The HACB activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The responsible entity is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The HACB may not enter into an agreement to enter into a HAP contract until it has complied with the environmental review requirements.

In the case of existing housing, the responsible entity that is responsible for the environmental review under 24 CFR par 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

The HACB may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the HACB, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

The HACB must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The HACB must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

C. DWELLING UNITS

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

Housing Quality Standards

[24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for

shared housing, cooperative housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 does not apply to the PBV program.

Lead-based Paint

[24 CFR 983.101(c)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

Housing Accessibility for Persons with Disabilities

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The PHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable [24 CFR 983.102].

INSPECTING UNITS

Pre-selection Inspection

[24 CFR 983.103(a)]

The HACB will examine the proposed site before the proposal selection date. If the units to be assisted already exist, the HACB will inspect all the units before the proposal selection date, and must determine whether the units substantially comply with HQS. The qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, the HACB may not execute the HAP contract until the units fully comply with HQS.

Pre-HAP Contract Inspections

[24 CFR 983.103(b)]

The HACB must inspect each contract unit before execution of the HAP contract. The HACB may not enter into a HAP contract covering a unit until the unit fully complies with HQS.

Turnover Inspections

[24 CFR 983.103(c)]

Before providing assistance to a new family in a contract unit, the HACB must inspect the unit. The HACB may not provide assistance on behalf of the family until the unit fully complies with HQS.

Annual Inspections

[24CFR 983.103(d)]

At least annually during the term of the HAP contract, the HACB will inspect a random sample, consisting of at least twenty (20%) percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this annual inspection requirement.

If more than twenty (20%) percent of the annual sample of inspected contract units in a building fails the initial inspection, the HACB must re-inspect one hundred (100%) percent of the contract units in the building.

Other Inspections

[24 CFR 983.103(e)]

The HACB will inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The HACB will take into account complaints and any other information coming to its attention in scheduling inspections.

The HACB will conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting HACB supervisory quality control HQS inspections, the HACB should include a representative sample of both tenant-based and project-based units.

Inspecting HACB-owned units

[24 CFR 983.103(f)]

In the case of HACB-owned units, the inspections must be performed by an independent agency designated by the HACB and approved by HUD. The independent entity must furnish a copy of each inspection report to the HACB and to the HUD field office where the project is located. The HACB must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the HACB-owner. HUD approved independent agency to conduct inspections and approve rents.

D. REHABILITATED AND NEWLY CONSTRUCTED UNITS

[24 CFR 983.151]

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

Agreement to Enter into HAP Contract

In order to offer PBV assistance in rehabilitated or newly constructed units, the HACB must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(a)].

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and the HACB agrees that upon timely completion of such development in accordance with the terms of the Agreement, the HACB will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(b)].

Content of the Agreement

[24 CFR 983.152(c)]

At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (size) and number of bedrooms and bathrooms;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;

- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;
- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement;
- Estimated initial rents to owner for the contract units;
- Description of the work to be performed under the Agreement. For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by the HACB, specifications and plans. For new construction units, the description must include the working drawing and specifications.
- Any additional requirements from quality, architecture, or design over and above HQS.

Execution of the Agreement

[24 CFR 983.153]

The Agreement will be executed promptly after the HACB notice of proposal selection to the selected owner. However, the HACB may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, the HACB may not enter into the Agreement until the environmental review is completed and the HACB has received environmental approval.

Promptly, in this case, may require the selected owner have completed the necessary reviews for the project and be ready to enter into an Agreement within one year from notification that the project is awarded PBV assistance.

HACB Policy

The HACB will enter into the Agreement with the owner promptly after receiving both environmental approval and notice that subsidy-layering requirements have been met, and before construction or rehabilitation work is started.

The HACB has the option to grant up two (2) six-month extensions to the one year limit provide the owner can demonstrate that progress in being made and that the project will go to agreement of HAP within the extended time frame.

CONDUCT OF DEVELOPMENT WORK

Labor Standards

[24 CFR 983.154(b)]

If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR Part 5, and other applicable federal labor relation's laws and regulations. The HACB will monitor compliance with labor standards.

Equal Opportunity

[24 CFR 983.154(c)]

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

Owner Disclosure

[24 CFR 983.154(d) and (e)]

The Agreement and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD regulations.

COMPLETION OF HOUSING

The Agreement must specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The Agreement must also specify the deadline for submission by the owner of the required evidence of completion.

Evidence of Completion

[24 CFR 983.155(b)]

At a minimum, the owner must submit the following evidence of completion to the HACB in the form and manner required by the HACB:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the Agreement; and
- Owner certification that the owner has complied with labor standards and equal opportunity requirement in development of the housing.
- Certificate of Occupancy for new construction (for new construction of Final Building Permit cards (for rehabilitation project) from the appropriate building depart within the County of Butte.

At the HACB's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

HACB Policy

The HACB will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by-case basis depending on the nature of the PBV project. The HACB will specify any additional documentation requirements in the Agreement to enter into HAP contract.

HACB Acceptance of Completed Units

[24 CFR 983.156]

Upon notice from the owner that the housing is completed, the HACB must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the Agreement. The HACB must also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the Agreement, the HACB must not enter into the HAP contract.

If the HACB determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the HACB must submit the HAP contract for execution by the owner and must then execute the HAP contract.

E. HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

The HACB must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. The HAP contract must be in the form required by HUD [24 CFR 983.202].

HAP CONTRACT REQUIREMENTS

Contract Information

[24 CFR 983.203]

The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms;
- The project's name, street, address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;
- The HAP contract term;
- The number of units in any building that will exceed the 25 percent per building cap, which will be set-aside for occupancy by qualifying families; and
- The initial rent to owner for the first twelve (12) months of the HAP contract term.

Execution of the HAP Contract

[24 CFR 983.204]

The HACB may not enter into a HAP contract until each contract unit has been inspected and the HACB has determined that the unit complies with the Housing Quality Standards (HQS). For existing housing, the HAP contract must be executed promptly after the HACB selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the HACB

has inspected the completed units and has determined that the units have been completed in accordance with the agreement to enter into HAP, and the owner furnishes all required evidence of completion.

HACB Policy

For existing housing, the HAP contract will be executed promptly after of the HACB determining that all units pass HQS. “Promptly” in this case, means that owner must be ready and willing to sign the HAP contract within two (2) months from the date HACB has completed the HQS inspections, has found the units in compliance and notified the owner of its selection decision.

For rehabilitated or newly constructed housing, the HAP contract will be executed promptly if the HACB has inspected the completed units, determined the units have been completed in accordance with the agreement and the owner furnishes all required evidence of completion. Rehabilitated or newly constructed housing, the HAP Contract will be executed within two (2) months of HACB determining that the units have been completed in accordance with the agreement, all units meet HQS and the owner has submitted all required evidence of completion.

Term of HAP Contract

[24 CFR 983.205]

The HACB will enter into a HAP contract with an owner for an initial term of no less than one (1) year and no more than fifteen (15) years.

HACB Policy

The term of all HACB PBV HAP contracts will be negotiated with the owner on a case-by-case basis within the HUD parameters.

Within one year before expiration of the HAP contract, the HACB may extend the term of the contract for an additional term of up to fifteen (15) years if the HACB determines as extension is appropriate to continue providing affordable housing for low-income families. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension.

HACB Policy

When determining whether or not to extend an expiring PBV contract, the HACB will consider several factors including, but not limited to:

- The cost of extending the contract and the amount of available budget authority;

- The condition of the contract units;
- The owner's record of compliance with obligations under the HAP contract and lease(s);
- Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and
- Whether the funding could be used more appropriately for tenant-based assistance.

Termination by HACB

[24 CFR 983.205(c)]

The HAP contract must provide that the term of the HACB's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the HACB in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the HACB may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

Termination by Owner

[24 CFR 983.205(d)]

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to the HACB. In this case, families living in the contract units must be offered tenant-based assistance.

Remedies for HQS Violations

[24 CFR 983.207(b)]

The HACB may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the HACB determines that a contract does not comply with HQS, the HACB may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

HACB Policy

The HACB will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Chapter 10 Housing Quality Standards and Inspections.

AMENDMENTS TO THE HAP CONTRACT

Substitution of Contract Units

[24 CFR 983.206(a)]

The HACB will amend the HAP Contract to substitute a different unit with the same number of bedrooms in the same building for a previously covered contract unit. Before any such substitution can take place, the HACB must inspect the proposed unit and determine the reasonable rent for the unit.

Addition of Contract Units

[24CFR 983.206(b)]

At the HACB's discretion and subject to the restrictions on the number of dwelling units that can receive PBV assistance per building and on the overall size of the HACB's PBV program, a HAP contract may be amended during the three-year period following the execution date of the HAP contract to add additional PBV units in the same building. This type of amendment is subject to all PBV program requirements except that a new PBV proposal is not required.

HACB Policy

The HACB will consider adding contract units to the HAP contract at the written request of the owner when the HACB determines that additional housing is needed to serve eligible low-income families. Circumstance may include, but are not limited to:

- The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and
- Voucher holders are having difficulty in finding units that meet program requirements.
- Availability of funds.

HAP Contract Year, Anniversary and Expiration Dates

[24 CFR 983.206(c) and 983.302(e)]

The HAP contract year is the period of twelve (12) calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

Owner Responsibilities Under the HAP

[24 CFR 983.209]

When the owner executes the HAP contract s/he certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by the HACB, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract units;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit; and
- The family does not own or have any interest in the contract unit.

ADDITIONAL HAP REQUIREMENTS

Housing Quality and Design Requirements

[24 CFR 983.101(E) and 983.207(A)]

The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the HACB and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building as established by the owner.

The HACB may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such addition requirements must be specified in the Agreement to enter into a HAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

HACB Policy

The HACB will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. The HACB will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter into HAP contract, and the HAP contract.

Vacancy Payments

[24 CFR 983.352(b)]

At the discretion of the HACB, HAP contract may provide for vacancy payments to the owner for a HACB-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the HACB and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit).

F. SELECTION OF PBV PROGRAM PARTICIPANTS

Overview

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are

requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

Eligibility for PBV Assistance

[24 CFR 983.251(a) and (b)]

The PHA may select families for the PBV program from those who are participants in the PHA's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the HACB, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the HACB's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. An applicant family must also meet HUD requirements related to current or past criminal activity.

HACB Policy

The HACB will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 2 of the Section 8 HCV Administrative Plan.

In-Place Families

[24 CFR 983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the HACB is considered an "in-place family." These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on the HACB's waiting list. Once the family's continued eligibility is determined (the HACB may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and the HACB must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

Organization of the Waiting List

[24 CFR 983.251(c)]

The HACB will use separate wait list for the tenant-base Housing Choice Voucher Program and the PBV Program.

Selection from the Waiting List

[24 CFR 983.251(c)]

Applicants who will occupy units with PBV assistance must be selected from the HACB's waiting list. The HACB may place families referred by the PBV owner on its PBV waiting list and may establish selection criteria or preferences for occupancy of particular PBV units.

Income Targeting

[24 CFR 983.251(c)(6)]

At least 75 percent (unless HACB is granted a waiver for a lower percentage) of the families admitted to the HACB's tenant-based and project-based voucher programs during the HACB fiscal year from the waiting list must be extremely low-income families. The income-targeting requirement applies to the total of admissions to both programs.

Units with Accessibility Features

[24CFR 983.251(c)(7)]

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the HACB must first refer families who require such features to the owner.

Preferences

[24CFR 983.251(d)]

The HACB may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units. The PHA must provide an absolute selection preference for eligible in-place families as described above.

Although the PHA is prohibited from granting preferences to persons with a specific disability, the PHA may give preference to disabled families who need services offered at a particular project or site if the preference is limited to families (including individuals):

- With disabilities that significantly interfere with their ability to obtain and maintain themselves in housing;
- Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and
- For whom such services cannot be provided in a non-segregated setting.

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may be required to accept the particular services offered as a condition of occupancy.

If the PHA has buildings with more than twenty five (25%) percent of the units receiving project-based assistance because those buildings include “excepted units” (units specifically made available for elderly or disabled families to these units [24 CFR 983.261(B)]).

OFFER OF PBV ASSISTANCE

Refusal of Offer

[24 CFR 983.251(e)(3)]

The HACB is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance;
- Deny any admission preference for which the applicant qualifies;
- Change the applicant’s place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the HACB’s selection policy;
- Remove the applicant from the tenant-based voucher waiting list.

Disapproval by Landlord

[24CFR 983.251(e)(2)]

If a PBV owner rejects a family for admission to the owner’s units, such rejection may not affect the family’s position on the tenant-based voucher waiting list.

Acceptance of Offer

[24 CFR 983.252]

Family Briefing

When a family accepts an offer for PBV assistance, the HACB must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the HACB must provide a briefing packet that explains how the HACB determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

Persons with Disabilities

If an applicant family's head or spouse is disabled, the HACB must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 8). In addition, the HACB must have a mechanism for referring a family that includes a member with mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

The HACB should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 1).

Violence Against Women Act (VAWA)

No applicant for the PBV program who has been a victim of domestic violence, dating violence, or stalking shall be denied admission into the program if they are otherwise qualified.

An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence, and shall not be good cause for terminating the assistance, tenancy or occupancy rights of the victim of such violence.

The HACB may terminate the assistance to remove a lawful occupant or tenant who engages in criminal acts or threatened acts of violence or stalking to family members or others without terminating the assistance of evicting victimized lawful occupants.

There is no limitation on the ability of the HACB to terminate assistance for other good cause unrelated to the incident or incidents of domestic violence, dating violence or

stalking, other than the victim may not be subject to a “more demanding standard” than non-victims.

There is no prohibition on HACB terminating assistance if it “can demonstrate an actual and imminent threat to other tenants or those employed at/or providing service to the property if that tenant’s (victim) assistance in not terminated.”

Any protections provided by law which give greater protection to the victim are not superseded by these provisions.

Definitions

The same definitions of “domestic violence,” and “stalking,” and of “immediate family members” are provided in Sections 606 and 607. While definitions of domestic and dating violence refer to standard definitions in the Violence Against Women Act (VAWA), the definitions of stalking provided in Title VI is specific to housing provisions.

There are:

1. *Domestic Violence* – [As defined in Section 40002 of VAWA 1994] which states as follows: SEC 40002(a)(6) – “DOMESTIC VIOLENCE”- The term ‘domestic violence’ includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that persons acts under the domestic or family violence laws of the jurisdiction.
2. *Dating Violence* – [As defined in Section 40002 of VAWA 1994] which states as follows: SEC 40002(a)(8) – “DATING VIOLENCE”- The term ‘dating violence’ means violence committed by a person-
 - (A) who is or has been in a social relationship of a romantic or intimate nature with the victim: and
 - (B) where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - i. The length of the relationship.
 - ii. The type of relationship.
 - iii. The frequency of the interaction between the persons involved in the relationship.

3. *Stalking* – means:
 - (A)
 - i. To follow, pursue or repeatedly committed acts with the kill, injure, harass, or intimidate another person; and
 - ii. To place under surveillance with the intent to kill, injure, harass or intimate another person and;
 - (B) 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 death of, or serious bodily injury to, or to cause substantial emotional harm to –
 - i. that person
 - ii. a member of the immediate family of that person; or
 - iii. the spouse or intimate partner of that person;
4. *Immediate Family Members* – means, with respect to a person –
 - (A) a spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands in loco parentis; or
 - (B) any other person living in the household of that person and related to that person by blood or marriage.

Owner Selection of Tenants

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(b)].

Leasing

[24 CFR 983.253(a)]

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the HACB from the HACB's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the HACB's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify the HACB of any vacancy or expected vacancy in a contract unit. After receiving such notice, the HACB must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The HACB and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

HACB Policy

The owner must notify the HACB in writing (mail, fax, or e-mail) promptly when learning about any vacancy or expected vacancy.

The HACB will make every reasonable effort to refer families to the owner promptly upon receiving such notice from the owner.

Reduction in HAP Contract Units Due to Vacancies

[24 CFR 983.254(b)]

HACB Policy

If any contract units have been vacant for one hundred-twenty (120) days, the HACB will give notice to the owner that the HAP contract will be amended to reduce the number of contract units (according to the bedroom size) that have been vacant for this period. The HACB will provide the notice to the owner within fourteen (14) days of the one hundred-twentieth (120th) day of the vacancy. The amendment to the HAP contract will be effective the first (1st) day of the month following the date of the HACB's notice.

Tenant Screening

[24 CFR 983.255]

The HACB is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy.

HACB Policy

The HACB will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. The HACB may provide any additional information to the owner, such as tenancy history, criminal history, etc.

The HACB will not conduct screening to determine a PBV applicant family's behavior or suitability for tenancy unless the applicant is to move into a HACB owned or managed unit. The HACB will screen applicants for program compliance and may deny applicants based on such screening.

In addition, the HACB may offer the owner other information the HACB may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The HACB must provide applicant families a description of the HACB policy on providing information to owners, and the HACB must give the same types of information to all owners.

Owner Responsibility

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of other residents to the peaceful enjoyment of their housing;
- 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.

The owner must notify the HACB in writing within fifteen (15) days when rejecting an applicant and give the grounds for such rejection.

G. OCCUPANCY

Overview

After an applicant has been selected from the waiting list, determined eligible by the HACB, and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

Lease

[24 CFR 983.256]

The tenant must have legal capacity to enter a lease under state and local law. Legal capacity means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

Form of Lease

[24 CFR 983.256(c)]

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

The HACB will review the owner's lease form to determine if the lease complies with state and local law. If the HACB determines that the lease does not comply with state or local law, the HACB may decline to approve the tenancy.

HACB Policy

The HACB may review the owner's lease for compliance with state or local law.

Lease Requirements

[24 CFR 983.256(c)]

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

Tenancy Addendum

[24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

- The program tenancy requirements;
- The composition of the household as approved by the HACB (the names of family members and any HACB-approved live-in aide);
- All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

Initial Term and Lease Renewal

[24 CFR 983.256(f) and 983.257(b)]

The initial lease term must be for at least one year. Upon expiration of the lease, an owner may renew the lease, refuse to renew the lease for "good cause," or refuse to renew the lease without good cause. If the owner refuses to renew the lease without good cause, the HACB must provide the family with a tenant-based voucher and remove the unit from the PBV HAP contract.

Changes in the Lease

[24 CFR 983.256(e)]

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the HACB a copy of all changes.

The owner must notify the HACB in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the HACB and in accordance with the terms of the lease relating to its amendment. The HACB must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy

[24 CFR 983.257]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons as owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Non-Compliance with Supportive Services Requirement

[24 CFR 983.257(c)]

If a family is living in a project-based unit that is excepted from the twenty-five percent (25%) per project cap on project-basing because of participation in a supportive services program and the family fails to complete its supportive services requirement without good cause, such failure is grounds for lease termination by the owner.

Tenant Absence from the Unit

[24 CFR 983.256(g) and 982.312(a)]

The owner may specify in the lease a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by HACB policy.

HACB 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 Chapter 6.

Security Deposits

[24 CFR 983.258]

The owner may collect a security deposit from the tenant. The HACB may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

HACB Policy

The HACB will allow the owner to collect a security deposit amount the owner determines is appropriate.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the leases, the owner may seek to collect the balance from the tenant. The HACB has no liability or responsibility for payment of any amount owed by the family to the owner.

MOVES

Overcrowded, Under-Occupied, and Accessible Units

[24 CFR 983.259]

If the HACB determines that a family is occupying a wrong sizes unit, based on the HACB's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the HACB must promptly notify the family and the owner of this determination, and the HACB must offer the family the opportunity to receive continue housing assistance in another unit.

HACB Policy

The HACB will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit. The HACB will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

 PBV assistance in the same building or project;

PBV assistance in another project; and
Tenant-based voucher assistance.

If the HACB offers the family a tenant-based voucher, the HACB must terminate the housing assistance payments for a wrong-sized or accessible unit at expiration of the term of the family's voucher (including any extension granted by the HACB).

If the HACB offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the HACB, or both, the HACB must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the HACB.

Family Right to Move

[24 CFR 983.260]

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the PHA. If the family wishes to move with continued tenant-based assistance, the family must contact the HACB to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, the HACB is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, the HACB must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

Exceptions to the Occupancy Cap

[24 CFR 983.261]

The HACB may not pay housing assistance under a PBV HAP contract for more than twenty-five (25%) percent of the number of dwelling units in a building unless the units are [24 CFR 983.56];

- The units are in a single-family building (one to four units);

- The units are *excepted units* in a multifamily building because they are specifically made available for elderly, disabled families or families receiving supportive services (also known as qualifying families).

A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a “qualifying” in connection with the twenty-five (25%) percent per building cap exception (e.g., due to a change in family composition the family is no longer elderly or disabled), must vacate the unit within a reasonable period of time established by the HACB, and the HACB must cease paying housing assistance payments on behalf of the non-qualifying family.

If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by the HACB.

HACB Policy

The HACB will provide PBV assistance for excepted units only for elderly or persons with disabilities.

H. DETERMINING RENT TO OWNER

Overview

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the term of the HAP contract, the rent to owner is redetermined at the owner’s request in accordance with program requirements, and at such time that there is a five percent or greater decrease in the published FMR.

Rent Limits

[24 CFR 983.301]

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the HACB, not to exceed 110 percent of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance;
- the reasonable rent; or
- the rent requested by the owner.

Certain Tax Credit Units

[24 CFR 983.301(c)]

For certain tax credit units, the rent limits are determined differently than for other PBV units. These different limits apply to contract units that meet all of the following criteria:

- the contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986;
- The contract unit is not located in a qualified census tract;
- There are comparable tax credit units of the same bedroom size as the contract unit in the same building, and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds a PHA-determined amount (not to exceed 110 percent of the fair market rent or any approved exception payment standard);

For contract units that meet all of these criteria, the rent to owner must not exceed the lowest of:

- the tax credit rent minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

Definitions

A qualified census tract is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent and where the census tract by HUD.

Tax credit rent is the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Use of FMRs, Exception Payment Standards, and Utility Allowances

[24CFR 983.301(f)]

When determining the initial rent to owner, the PHA must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, the PHA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, the PHA may for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the 30-day period immediately before the redetermination date.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. HUD will not approve a different exception payment stand amount for use in the PBV program.

Likewise, the PHA may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

HACB Policy

Upon written request by the owner, the HACB will consider using the FMR or utility allowances in effect during the thirty (30) day period before the start date of the HAP, or redetermination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. The HACB will review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, the HACB may decide to use the FMR or utility allowance in effect during the thirty (30) day period before the start date of the HAP, or redetermination of rent, if the HACB determines it is necessary due to HACB budgetary constraints.

Redetermination of Rent

[24 CFR 983.302]

The HACB must redetermine the rent to owner upon the owner's request or when there is a five (5%) percent or greater decrease in the published FMR.

Rent Increase

If an owner wishes to request an increase in the rent to owner from the HACB, it must be requested sixty (60) at the annual anniversary of the HAP contract. The request

must be in writing and in the form and manner required by the HACB. The HACB may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

HACB Policy

An owner's request for a rent increase must be submitted to the HACB sixty (60) days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

The HACB may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

Rent Decrease

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment.

Notice of Rent Change

The rent to owner is redetermined by written notice by the HACB to the owner specifying the amount of the redetermined rent. The HACB notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of twelve (12) calendar months from the annual anniversary of the HAP contract.

HACB Policy

The HACB will provide the owner with at least thirty (30) days written notice of any change in the amounts of rent to owner from the tenant and HACB.

PHA-owned Units

[24 CFR 983.301(g)]

For HACB-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD. The HACB must use the rent to owner established by the independent entity.

Reasonable Rent

[24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the HACB.

When Rent Reasonable Determinations are required

The HACB must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a five (5%) percent or greater decrease in the published FMR in effect sixty (60) days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- The HACB approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to substitute a different contract unit in the same building; or
- There is any other change that may substantially affect the reasonable rent.

How to Determine Reasonable Rent

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the HACB must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

Comparability Analysis

For each unit, the comparability analysis must use at least three (3) comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the HACB. The comparability analysis may be performed by HACB staff or by another qualified person or entity. Those who conduct these analyses may not have any direct or indirect interest in the property.

PHA-owned Units

For HACB-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with PBV program requirements.

The independent entity must provide a copy of the determination of reasonable rent for HACB-owned units to the HACB and to the HUD field office where the project is located.

Owner Certification of Reasonable Rent

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the HACB may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

Effect of Other Subsidy and Rent Control

In addition to the rent limits discussed in Section “Rent Limits” above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance.

Other Subsidy

[24 CFR 983.304]

At its discretion, a HACB may reduce the initial rent to owner because of other governmental subsidies, including tax credit or tax exemption, grants, or other subsidized financing.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- A project receiving low-income housing tax credits;
- Any other type of federally subsidized project specified by HUD.

Combining Subsidy

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

Rent Control

[24 CFR 983.305]

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

I. PAYMENTS TO OWNER

Housing Assistance Payments

[24 CFR 983.351]

During the term of the HAP contract, the HACB must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the HACB agree on a later date.

Except for discretionary vacancy payments, the HACB may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the HACB is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

Vacancy Payments

[24 CFR 983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the HACB determines that the vacancy is the owner's fault.

HACB Policy

If the HACB determines that the owner is responsible for a vacancy and, as a result, is not entitled to keep the housing assistance payment, the HACB will notify the landlord of the owner to repay the amount owed in accordance with the policies in Chapter 18 "C. Owner Debts to the HACB."

At the discretion of the HACB, the HAP contract may provide for vacancy payments to the owner. The HACB may only make vacancy payments if:

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

The owner must submit a request for vacancy payments in the form and manner required by the HACB and must provide any information or substantiation required by the HACB to determine the amount of any vacancy payment.

HACB Policy

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the HACB of the vacancy in accordance with the policy in Section "Owner Selection of Tenants" regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within fourteen (14) calendar days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the HACB may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the HACB within fourteen (14) calendar days of the HACB's request, no vacancy payments will be made.

Tenant Rent to Owner

[24 CFR 983.353]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the HACB in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the HACB notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the HACB is the maximum amount the owner may charge the family for rental of a contract unit. The

tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the HACB. The owner must immediately return any excess payment to the tenant.

Tenant and HACB Responsibilities

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the HACB.

Likewise, the HACB is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The HACB is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The HACB may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the HACB will pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The HACB will pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the HACB chooses to pay the utility supplier directly, the HACB must notify the family of the amount paid to the utility supplier.

OTHER FEES AND CHARGES

[24 CFR 983.354]

Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

Chapter 18 OWNER OR FAMILY DEBTS TO THE PHA

[24 CFR 982.552]

INTRODUCTION

This Chapter describes the HACB'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 HACB'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 HACB'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 HACB, the Housing Authority 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 HACB 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. PAYMENT AGREEMENT FOR FAMILIES

[24 CFR 792.103, 982.552 (b)(6-8)]

OVERVIEW

This part describes the PHA's policies for recovery of monies that have been underpaid by families.

HACB Policy

When an action or inaction of a resident family results in the overpayment of HAP, the PHA holds the family liable to return any overpayments to the PHA.

The PHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover underpayments. The term repayment agreement refers to a formal document signed by a tenant and provided to the PHA in

which a tenant acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

When a family refuses to repay monies owed to the PHA, the PHA will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil law suit
- State income tax set-off program

REPAYMENT POLICY

Family Debts to the PHA

Any amount due to the PHA by a Section 8 participating family must be repaid. If the family is unable to repay the debt within 30 days, the PHA will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the PHA will terminate the family's assistance in accordance with the policies in Chapter 15. The PHA will also use other means of collection.

REPAYMENT AGREEMENT GUIDELINES

Down Payment Requirement

Prior to the execution of a repayment agreement, the family must pay ten (10) percent of the balance owed to the PHA, subject to the family's ability to pay as reasonably determined by the Housing Director.

Payment Thresholds

Amounts between \$3,000 and the Federal or State threshold for criminal prosecution must be repaid within 36 months.

Amounts between \$2,000 and \$2,999 must be repaid within 30 months.

Amounts between \$1,000 and \$1,999 must be repaid within 24 months.

Amounts under \$1,000 must be repaid within 12 months.

Execution of the Agreement

The head of household and spouse/cohead (if applicable) must sign the repayment agreement.

Due Dates

All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

If a family makes three unexcused late payments in a 12 month period, the repayment agreement will be considered in default, and the PHA will terminate assistance in accordance with the policies in Chapter 15.

No Offer of Repayment Agreement

The PHA will not enter into a repayment agreement if there is already a repayment agreement in place with the family, or the amounts owed by the family exceed the Federal or State threshold for criminal prosecution.

B. 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.

C. OWNER DEBTS TO THE HACB

[24 CFR 982.453(b)]

If the HACB determines that the owner has retained Housing Assistance or Claim Payments the owner is not entitled to, the HACB 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 HACB 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.

D. 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 preference denial meetings, 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

Processing complaints:

All complaints other than HQS violation complaints must be in writing. HQS complaints may be reported orally (by telephone or in person) or in writing.

The HACB will respond to all properly documented complaints within 14 calendar days.

Complaints By or Concerning Applicants:

Complaints by or concerning applicants shall be referred to the Eligibility Specialist. Any complaint not resolved by the Eligibility Specialist shall be referred to the Section 8 Manager.

Complaints By or Concerning Participants:

Complaints by or concerning program participants' shall be referred to the Occupancy Specialist. Any complaint not resolved by the Occupancy Specialist shall be referred to the Section 8 Manager

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 will be 14 calendar days from the date of the notice
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.

HACB must schedule and send written notice of the informal review within fourteen (14) calendar days of the family's request.

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.
6. The family will be informed that the presence of a known disability may be considered as a mitigating circumstance during the informal review process provided they can show how the disability directly impacts their ability to participate in the HCV program. Known disability is defined as a disability disclosed to the HACB in writing by the applicant or program participant at program admission, interim reexamination, and annual recertification advising the HACB of the disability and the accommodation required in order to assist them successfully participate in the Housing Choice Voucher (HCV) Program.

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

Conduct At Hearings

The person who conducts the hearing may regulate the conduct of the hearing in accordance with HACB's hearing procedures [24 CFR 982.555(4)(II)].

HACB Policy

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

The hearing shall concern only the issues for which the family has received the opportunity for hearing.

Evidence [24 CFR 982.555(E) (5)]

HACB and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

HACB Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

Oral Evidence: The Testimony of Witnesses

Documentary evidence: a writing which is relevant to the case, for example, a letter written to HACB. Writings include all forms of recorded communication or

representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real evidence: A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

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

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

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 does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact HACB within 24 hours of the scheduled hearing date, excluding weekends and holidays. HACB will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities. At its discretion, HACB may request documentation of the "good cause" prior to rescheduling the hearing.

Good cause is defined as an unavoidable conflict that seriously affects the health, safety or welfare of the family. If another hearing is not granted, the action of the HACB shall take effect and another hearing will not be granted.

The HACB shall document each Formal Hearing by means of audio recording device, such documentation to become part of the tenant file and record.

Hearing Officer's Decision [24 CFR 982.555(E) (6)]

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision, within thirty (30) days of the hearing. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family.

HACB Policy

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

HACB Notice to the Family: The hearing officer will determine if the reasons for HACB's decision are factually stated in the Notice.

Discovery: The hearing officer will determine if HACB and the family were given the opportunity to examine any relevant documents in accordance with HACB policy.

HACB Evidence to Support HACB Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support HACB's conclusion.

Validity of Grounds for Termination of Assistance (when applicable): The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and HACB policies. If the grounds for termination are not specified in the regulations or in compliance with HACB policies, then the decision of HACB will be overturned.

The hearing officer will issue a written decision to the family and HACB no later than thirty (30) calendar days after the hearing. The report will contain the following information:

- **Hearing information:**
 - A. Name of the participant;
 - B. Date, time and place of the hearing;
 - C. Name of the hearing officer;
 - D. Name of HACB representative; and
 - E. Name of family representative (if any).
- **Background:** A brief, impartial statement of the reason for the hearing.

- **Summary of the Evidence:** The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.
- **Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.
- **Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold HACB's decision.
- **Order:** The hearing report will include a statement of whether HACB's decision is upheld or overturned. If it is overturned, the hearing officer will instruct HACB to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct HACB to restore the participant's program status.

An Informal Hearing Determination which denies the relief requested by the participant in whole or in part shall not constitute a waiver of, nor affect in any manner whatsoever, the rights of the participant to a trial or judicial review in any proceedings which may thereafter be brought in the matter. In such event, upon request for assistance in securing legal services, the HACB shall provide the participant with referral/contact information to Northern California Legal Services, or other legal services entities serving low-income and/or disadvantaged households.

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.

Chapter 20 SPECIAL HOUSING TYPES

[24 CFR 982.601]

INTRODUCTION

The HACB will permit, if funding is available, 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 or an elderly person. 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 HACB 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 HACB 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 HACB'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 HACB will use a separate lease and housing assistance payment contract for each assisted person residing in a Single Room Occupancy (SRO) unit. [24 CFR 982.603]

SRO Rent and Housing Assistance Payment [24 CFR 604]

Voucher Program

The SRO payment standard must be used to calculate the housing assistance payment.

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.

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 HACB 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 HACB may approve a family member or live-in aide to reside with the elderly person or person with disabilities. The HACB 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 HACB 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 HACB 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 HACB, a live-in aide may

reside with a person with disabilities. The HACB 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 HACB 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-rate 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 HACB-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 HACB 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 zero (0) or a 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 HACB payment standard schedule for the group home sizes.

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 HACB 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 HACB may approve a live-in aide to reside with a family in order to care for a person with a disability. The HACB 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 in a HAP contract with the HACB. However, housing assistance may not be paid 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 HACB payment standard schedule for the family unit size or the pro-rata portion of the payments standard amount on the HACB payment standard for the shared housing unit size. If the HACB 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 HACB 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 HACB may approve a family living in cooperative housing. 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 payments will be determined in accordance with the guidelines in “Owner Rents, Rent Reasonableness, and Payment Standards” chapter.

The HACB may approve a live-in aide to reside with the family to care for a person with disabilities. The HACB 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 HACB approves a live-in aide, the live-in aide will be counted when determining the family unit size.

Housing Quality Standards

The HACB 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 HACB will permit a family to lease a manufactured home and space with assistance under the program. The HACB will provide assistance for a family that owns the manufactured home and leases only the space. The HACB may approve a live-in aide to reside with a family to care for a person with disabilities. The HACB 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 HACB approves a live-in aide, the live-in aide must be counted when determining the family unit size.

Housing Quality Standards

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 HACB. The HACB will not approve a lease for a manufactured home space until the HACB has determined that the initial rent to owner for the space is a reasonable rent. At least annually during the assisted tenancy, the HACB will re-determine that the rent is reasonable. The HACB will determine whether the rent to owner for a manufactured home space is reasonable rent in comparison to rents for other comparable manufactured home spaces. The HACB 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 HACB, 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 HACB, the owner must provide the HACB 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 forty percent (40%) 30 percent (30%) 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 HACB:

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 HACB 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]

HACB is committed to ensuring that subsidy funds made available to HACB are spent in accordance with HUD requirements.

This chapter covers HUD and HACB policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

A. PREVENTING ERRORS AND PROGRAM ABUSE

HACB anticipates that the vast majority of families, owners, and HACB employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that HACB's HCV program is administered effectively and according to the highest ethical and legal standards, HACB will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

HACB will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 8.

HACB will provide each applicant and participant with the publication Things You Should Know (HUD-1140-OIG) that explains the types of actions a family must avoid and the penalties for program abuse.

HACB will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key HACB forms and form letters that request information from a family or owner.

HACB staff will be required to review and explain the contents of all HUD- and HACB-required forms prior to requesting family member signatures.

HACB will provide each HACB employee with the necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter the term error refers to an unintentional error or omission. Program abuse or fraud refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, HACB will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires HACB to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985].

In addition to the SEMAP quality control requirements, HACB will employ a variety of methods to detect errors and program abuse.

HACB routinely will use available sources of up-front income verification to compare with family-provided information.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

HACB will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all Housing Authorities that expend \$500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of HACB activities and notifies HACB of errors and potential cases of program abuse.

HACB will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of HACB's error detection and abuse prevention efforts.

Individual Reporting Of Possible Errors and Program Abuse

HACB will encourage staff, program participants, and the public to report possible program abuse.

C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When HACB Will Investigate

HACB will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for HACB to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

HACB will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

How the HACB Will Investigate Allegations of Abuse and Fraud

If HACB determines that an allegation or referral warrants follow-up a staff person will conduct an 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 HACB will ensure that written authorization from the program participant for the release of information is in the file.

Credit Bureau Inquiries

In cases involving unreported income sources or unreported assets, a Credit Bureau inquiry may be made to determine if there is financial activity that conflicts with the reported income of the family.

Employers and Ex-Employers

Employers and ex-employers may be contacted to verify wages that may have been previously undisclosed or misrepresented

Neighbors / Witnesses

Neighbors and/or witnesses may be interviewed who are believed to have direct or indirect knowledge of facts pertaining to HACB's review.

Other Agencies

Investigators, caseworkers or representative of other benefit agencies may be contacted. Local, state, or federal law enforcement officials may also be contacted.

Public Records

If relevant, HACB will review public records kept in any jurisdictional courthouse. Examples of public records include but are not limited to records relating to the following:: real estate, marriage, divorce, uniform commercial code financing statements, voter registration, judgments, court or police records, state wage records, utility records and postal records.

Interviews with the Head of Household

HACB will discuss the allegations (or details thereof) with the Head of Household or family member by scheduling an appointment at the appropriate HACB office. A high standard of professionalism and courtesy will be maintained by the HACB staff person who conducts such interviews. Under no circumstances will inflammatory language, accusations, or any unprofessional conduct or language be tolerated. If possible, an additional staff person will attend such interviews.

Consent to Release of Information [24 CFR 982.516]

HACB may investigate possible instances of error or abuse using all available HACB and public records. If necessary, HACB will require HCV families to give consent to the release of additional information.

Analysis and Findings

HACB will base its evaluation on a preponderance of the evidence collected during its investigation.

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

For each investigation HACB will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed HACB, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether HACB will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

In the case of family-caused errors or program abuse, HACB will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, HACB will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

HACB will inform the relevant party in writing of its findings and remedies within fourteen (14) days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which HACB determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through the informal review or hearing process, if applicable (see Chapter 19).

PART II: CORRECTIVE MEASURES AND PENALTIES

D. SUBSIDY UNDER-OR OVERPAYMENTS

A subsidy under-or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, HACB must promptly correct the HAP, family share, and any utility reimbursement prospectively.

Increases in the family share will be implemented only after the family has received 30 days notice.

Any decreases in family share will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family or owner is required to reimburse HACB or HACB is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

E. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows HACB to use incorrect information provided by a third party.

Family Reimbursement to HACB [HCV GB PP. 22-12 To 22-13]

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. HACB may, but is not required to, offer the family a repayment agreement in accordance with Chapter 18. If the family fails to repay the excess subsidy, HACB will terminate the family's assistance in accordance with the policies in Chapter 19.

HACB Reimbursement to Family [HCV GB P. 22-12]

HACB will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

Prohibited Actions

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to HACB [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(C)(iv)].

Any of the following will be considered evidence of family program abuse:

- Payment to the owner in excess of amounts authorized by HACB for rent, security deposit, and additional services
- Offering bribes or illegal gratuities to HACB Board of Commissioners, employees, contractors, or other HACB representatives

- Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to HACB on the family's behalf
- Use of a false name or the use of falsified, forged, or altered documents
- Intentional misreporting of family information or circumstances (e.g. income, family composition)
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income)
- Admission of program abuse by an adult family member

HACB may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family, HACB may, at its discretion, impose any of the following remedies.

- HACB may require the family to repay excess subsidy amounts paid by HACB, as described earlier in this section.
- HACB may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit.
- HACB may deny or terminate the family's assistance following the policies set forth in Chapter 15 and Chapter 19 respectively.
- HACB may refer the family for state or federal criminal prosecution as described in section 21-H.

F. OWNER-CAUSED ERROR OR PROGRAM ABUSE

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

Owner Reimbursement to HACB

In all cases of overpayment of subsidy caused by the owner, the owner must repay to HACB any excess subsidy received. HACB may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, HACB may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

In cases where the owner has received excess subsidy, HACB will require the owner to repay the amount owed in accordance with the policies in Chapter 11.

Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to HACB [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:
 - Charging the family rent above or below the amount specified by HACB
 - Charging a security deposit other than that specified in the family's lease
 - Charging the family for services that are provided to unassisted tenants at no extra charge
 - Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit
 - Knowingly accepting incorrect or excess housing assistance payments
 - Offering bribes or illegal gratuities to HACB Board of Commissioners, employees, contractors, or other HACB representatives
 - Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to HACB
 - Residing in the unit with an assisted family
 - Having more than one lease or rental agreement with the assisted family.

Remedies and Penalties

When HACB determines that the owner has committed program abuse, HACB may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 11.
- Terminate the HAP contract (See Chapter 14).
- Bar the owner from future participation in any HACB programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 21 H.

G. HACB-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of HACB staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a HACB staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in HACB personnel policy.

HACB-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

Repayment to HACB

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by HACB staff [HCV GB. 22-12].

HACB Reimbursement to Family or Owner

HACB must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from HACB's administrative fee reserves [HCV GB p. 22-12].

Prohibited Activities

Any of the following will be considered evidence of program abuse by HACB staff:

- Failing to comply with any HCV program requirements for personal gain
- Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to HACB
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of HACB activities, policies, or practices
- Misappropriating or misusing HCV funds
- Destroying, concealing, removing, or inappropriately using any records related to the HCV program
- Committing any other corrupt or criminal act in connection with any federal housing program

H. CRIMINAL PROSECUTION

When HACB determines that program abuse by an owner, family, or HACB staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, HACB will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

I. FRAUD AND PROGRAM ABUSE RECOVERIES

HACB may retain a portion of program fraud losses that HACB recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

HACB must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits HACB to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that HACB incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of HACB related to the collection, these costs must be deducted from the amount retained by HACB.

Chapter 22 HUD-VASH

The HUD-VASH program is a joint national initiative of HUD and the Department of Veterans Affairs (VA) authorized pursuant to Division K, Title II of the Consolidated Appropriations Act, 2008 (Pub. L. 110-161), and implemented by initial program guidelines issued in the May 06, 2008 Federal Register, page 25026 (Correction issued May 19, 2008 page 28863).

The HACB operates the HUD-Veterans Affairs Supportive Housing (HUD-VASH) Program. The HUD-VASH program combines HUD Housing Choice Voucher (HCV) rental assistance for homeless veterans with case management and clinical services provided by the Department of Veteran Affairs (VA) at its medical centers.

HUD allocated a specific number of HUD-VASH vouchers to the HACB. The V. A. Case Manager refers HUD-VASH eligible families to the HACB for the issuance of a HUD-VASH voucher. The HACB issues a voucher to eligible referrals on the condition that the participant will continue to receive case management services from the Veterans Administration Medical Center (VAMC).

Although HUD-VASH vouchers are administered in accordance with the Housing Choice Voucher regulations at 24 CFR part 982, the Consolidated Appropriations Act, 2008 (Pub. L. 110-161) authorized the HUD Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation deemed necessary for effective delivery and administration of the HUD-VASH program.

This chapter provides the key waivers and alternative requirements as designated by the HUD Secretary for the HUD-VASH program and changes in HACB policy as may be required to implement the HUD-VASH program.

All regulations of 24 CFR part 982 apply to the HUD-VASH program unless the HUD Secretary has indicated otherwise. Throughout this chapter the designation “VAMC” shall mean the HACB’s partnering Veteran’s Affairs Medical Center(s) unless otherwise indicated.

A. FAMILY ELIGIBILITY FOR THE HUD-VASH PROGRAM

Partnering Veteran Affairs Medical Centers (VAMC) or the V. A. Case worker will refer HUD-VASH eligible families to the HACB for determination of income eligibility. Written documentation of these referrals must be maintained in the tenant file at the HACB.

B. WAITING LIST AND PREFERENCES

The HACB does not have the authority to maintain a waiting list or apply local preferences for HUD-VASH vouchers. The HUD Secretary has waived 24 CFR sections 982.202, 982.204, and 982.207 relating to applicant selection from the waiting list, cross listing of the waiting list and opening and closing of the waiting list. 24 CFR sections 982.203, 982.205 and 982.206 regarding special admissions, cross-listing and opening and closing the waiting list also do not apply.

C. SCREENING FOR CRIMINAL HISTORY:

The VAMC will screen all families in accordance with its screening criteria. The HACB does not have the authority to screen potentially eligible families or deny assistance because of criminal history for any grounds permitted under 24 CFR 982.552 and 982.553 with one exception. In accordance with 24 CFR 982.553(a)(2)(i), the HACB shall conduct criminal history screening to determine whether any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. The HACB shall prohibit admission of a family if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

D. TERMINATIONS AND DENIALS

By agreeing to participate in the HUD-VASH program, the HACB relinquishes its authority to deny assistance for any of the grounds permitted under 24 CFR 982.552 (broad authority to deny participation for violation of program requirements and for any grounds permitted under 24 CFR 982.553 except for the prohibition against registered sex offenders.

As a consequence all grounds for denial of participation including denial due to lack of citizenship, the family having committed fraud, owing money to any PHA and the like are not applicable to applicants to the HUD-VASH program.

Requirements for Participants in the HUD-VASH Program

Notwithstanding the HACB's lack of authority to deny admission to HUD-VASH applicants, all the requirements for participants in assisted housing programs and all the grounds for termination of participant families contained in Chapter 15 remain in effect. The HACB's right to disapprove a live-in aide also remains in effect.

Authority to Terminate for Failure to Participate in Case Management

As a condition of HCV rental assistance in the HUD-VASH program, a HUD-VASH family must receive case management services from the VAMC. A HUD-VASH participant family's assistance must be terminated for failure to participate in case management services without good cause as verified by the VAMC.

When Case Management Is No Longer Needed

A VAMC determination that a participant HUD-VASH family no longer requires case management services is not grounds for termination of assistance. So long as the family remains in compliance with other program regulations, it may receive continued assistance under the HUD-VASH program.

At its sole discretion, the HACB may offer a HUD-VASH family that the VAMC certifies no longer needs case management services continued housing choice voucher (HCV) assistance through one of its regular vouchers in order to free up the HUD-VASH voucher for another HUD-VASH eligible family.

Under such circumstances, the HACB shall conduct a full criminal history check to determine whether the family should be admitted to the regular HCV in accordance with the requirements of Chapter 15, Denial or Termination of Assistance, of this Administrative Plan. The family must meet citizenship and all other requirements to be admitted to the regular HCV program.

E. INCOME ELIGIBILITY

The HACB will determine income eligibility for the HUD-VASH program as it does for the Housing Choice Voucher Program in accordance with 24 CFR 982.201.

F. INCOME TARGETING

Income targeting requirements of 24 CFR 982.201(b)(2) do not apply for HUD-VASH families. The HACB may choose to include the admission of extremely low income HUD-VASH families in its income targeting numbers for the fiscal year in which these families are admitted to the HUD-VASH program.

G. INITIAL TERM OF THE HOUSING CHOICE VOUCHER

HUD-VASH vouchers must have an initial search term of 120 days, or such other number of days as may be designated by the Secretary of Housing and Urban Development for the HUD-VASH program. 24 CFR 982.303(a) which states that the

initial search term of a voucher must be at least 60 days shall not apply since the initial search term must be at least 120 days.

H. EXTENSIONS

Extensions will be granted at the discretion of the V.A. Case Manager. These extensions will be for an additional term of 60 days. The extensions must be presented in writing to the HACB and must be maintained in the tenant file.

I. INITIAL LEASE TERM

To provide a greater range of housing opportunities for HUD-VASH voucher holders, initial leases may be for periods of less than 12 months. The HUD Secretary has waived 24 CFR 982.309(a)(2)(ii).

J. UNITS ON GROUNDS OF A MEDICAL, MENTAL, OR SIMILAR PUBLIC OR PRIVATE INSTITUTION

HUD-VASH families will be permitted to live on the grounds of a VAMC in units owned by the VA. The HUD Secretary has waived 24 CFR 982.352(a)(5) for this purpose only.

K. HUD-VASH PORTABILITY

The HUD Secretary has made the following determinations with regard to portability in the HUD-VASH program.

Portability Restrictions to Be Determined by the VAMC

HUD-VASH families must receive case management services provided by the VAMC to participate in the HUD-VASH program. HUD-VASH families may only reside in those areas that are accessible to case management services as determined by the partnering VAMC.

Portability Moves Where the Initial PHA's Partnering VAMC Will Provide Case Management

If the HUD-VASH family initially leases up, or moves, under portability and the family will receive case management services from the initial PHA's partnering VAMC, the receiving PHA must process the move in accordance with the portability procedures of 24 CFR 982.355. The receiving PHA must bill the initial PHA. In these cases 24 CFR 982.355(d) is not applicable and the receiving PHA may not absorb the family.

Portability Moves Where the Receiving PHA's Partnering VAMC Will Provide Case Management

If the HUD-VASH family wishes to move under portability but the initial PHA's partnering VAMC is unable to provide case management services, the initial PHA's partnering VAMC must first determine that the HUD-VASH family could be served by another VAMC that is participating in the HUD-VASH program. The receiving PHA must have a HUD-VASH voucher available for the family. The receiving PHA must absorb the family as a new admission (initial voucher), or as portability move in. Upon absorption, the initial PHA's HUD-VASH voucher will be available to lease to a new HUD-VASH eligible family. The absorbed family will count towards the number of HUD-VASH slots awarded to the receiving PHA.

L. TURNOVER OF HUD-VASH VOUCHERS

In accordance with the Appropriations Act of 2008, upon turnover, HUD-VASH vouchers must be issued only to eligible families identified by the partnering VAMC. The HACB cannot use HUD-VASH vouchers for any other purpose.

M. SECURITY DEPOSITS

To provide a greater range of housing opportunities for HUD-VASH voucher holders, the HACB has the authority to pay the security deposit for HUD-VASH participants. Limited funding is available for this purpose and the participant, along with the VA case worker must exhaust all other possible outside sources of funding. When all other sources of funding are unavailable, the HACB will issue the Security Deposit to the landlord and enter into a repayment agreement with the HUD-VASH participant.

N. REPAYMENT AGREEMENTS FOR SECURITY DEPOSITS

Repayment agreements between the HACB and HUD-VASH participants will be entered into when a security deposit has been paid to the landlord by the HACB. The Repayment Agreement terms will be negotiated by the VA Case Worker who will assess the participant's ability to pay. The length of the repayment agreement along with the monthly payment amount will be determined by the VA Case Worker.

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

HACB Housing Authority of the County of Butte

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

PBV Project Based Vouchers

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 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.

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.