

HOUSING AUTHORITY OF THE CITY OF LIVERMORE

SECTION 8

HOUSING CHOICE VOUCHER PROGRAM

ADMINISTRATIVE PLAN

Revised

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Chapter 1

STATEMENT OF POLICIES AND OBJECTIONS

INTRODUCTIONS

The Section 8 Program was enacted as part of the Housing and Community Development Act of 1974, which recodified 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 Housing Choice Voucher Program, are described in and implemented through this Administrative Plan. The Section 8 assistance programs are federally funded and administered for the City of Livermore by the Livermore Housing Authority through its Section 8 housing office.

Administration of the Section 8 Program and the functions and responsibilities of the Public Housing Authority (PHA) staff shall be in compliance with the LHA'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.

A. HOUSING AUTHORITY OVERVIEW

The primary objective of the Livermore Housing Authority is to provide decent, safe and sanitary housing to low income families at an affordable price. Our goal is to provide affordable housing within an environment that fosters the advancement of low income families from positions of dependency to one of self-sufficiency.

The Housing Authority of the City of Livermore is governed by a seven member Board of Commissioners. The Board is appointed by the City Council. Five of the seven commissioners are appointed to four year, staggered terms. The other two members are appointed to two year terms from among the Housing Authority residents.

The Housing Authority of the City of Livermore also solicits residents to serve on the Resident Advisory Board. The role of the Board is to participate in the LHA planning process and to assist and make recommendations regarding policy. Membership is made up of persons that reflect and represent residents that are assisted by the LHA.

The jurisdiction of the LHA is the City of Livermore.

B. GOALS

Goals of the Livermore Housing Authority Section 8 Program are:

To increase the availability of decent, safe, and affordable housing by; expanding the supply of assisted housing; improving the quality of assisted housing; and increasing assisted housing choices.

To promote self-sufficiency and asset development of families and individuals.

To ensure equal opportunity and affirmatively further fair housing.

C. PURPOSE OF THE PLAN [24CFR 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 objectives and goals contained in the Agency Plan. The Administrative Plan covers both admission and continued participation in these programs. The Housing Choice Voucher Program was implemented on 10/1/99 and pre merger Housing Voucher tenancies and Over the Fair Market tenancies converted automatically to Housing Choice Voucher tenancies.

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

This Administrative Plan is a supporting document to the LHA Agency Plan, and is available for public review as required by CFR 24 Part 903.

D. FAIR HOUSING POLICY [982.54 (d) (6)]

It is the policy of the Livermore 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 LHA shall not deny any family or individual the opportunity to apply for or receive assistance under the Section 8 Programs on the basis of race, color, sex, religion, creed, national or ethnic origin, age, family or marital status, handicap or disability or sexual orientation.

To further its commitment to full compliance with applicable Civil Rights laws, the LHA will provide Federal/State/local information to Voucher holders regarding "discrimination" and any recourse available to them if they are victims of discrimination. 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.

Except as otherwise provided in 24 CFR 8.21 I (1), 8.24 (a), 8.24, 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 LHA's facilities are inaccessible to or unusable by persons with disabilities.

Posters and housing information are displayed in the LHA's foyer in such a manner as to be easily readable from a wheelchair.

The LHA's office is accessible to persons with disabilities. Accessibility for the hearing impaired is provided by the telephone service providers.

E. REASONABLE ACCOMMODATIONS POLICY [24CFR 100.202]

Section 504

No otherwise qualified individual with handicaps in the United States shall, solely by reason of her or his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Section 504 requires Section 8 agencies to affirmatively ensure that people with disabilities are given an equal opportunity to participate in the Section 8 program. HUD's Section 504 regulations, which are contained in 24CFR (Subpart A-E) provide a more detailed explanation of Section 8 responsibilities.

A qualified person with a handicap:

Must be afforded an opportunity to that afforded to others, and/or

Must be provided housing or benefits as effective as those afforded to others, and/or

May not be provided different or separate housing or benefits unless necessary to provide the person with a handicap with housing or benefits that are as effective as those provided to others.

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

Request for Accommodation

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 LHA will treat a person differently than anyone else. The LHA'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. The availability of requesting an accommodation will be made known by including notices on LHA forms and letters. This policy is intended to afford persons with disabilities an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as those who do not have disabilities and is applicable to all situations described in this Administrative Plan including when a family initiates contact with the LHA, when the LHA initiates contact with a family including when a family applies, and when the LHA schedules or reschedules appointments of any kind.

To be eligible to request a reasonable accommodation, the requester must first certify and/or verify that they are a person with a disability under the following ADA definition:

A physical or mental impairment that substantially limits one or more of the major life activities of an individual;

A record of such impairment; or

Being regarded as having such an impairment

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

Rehabilitated former drug users and alcoholics are covered under the ADA. However, a current drug user is not covered. In accordance with 5.403, 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 a person's status as a qualified person with a disability is confirmed, the LHA will require that professional third party competent to make the assessment,

Provides 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.

Undue Hardships

Requests for reasonable accommodation from persons with disabilities will be granted upon verification that they meet the need presented by the disability and they do not create a “significant difficulty or expense”. This standard is not specifically defined in the Act.

In determining whether the accommodation would create undue hardship, the following guidelines will apply:

The nature and cost of the accommodation needed;

The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; and

The number of persons employed at such facility, the number of families likely to need such accommodation, the effect on expenses and resources, or the likely impact on the operation of the facility as a result of the accommodation.

The LHA will provide a written decision to the person requesting the accommodation within a reasonable time. If a person is denied the accommodation or feels that the alternative suggestions are inadequate, they may request an informal hearing to review the LHA’s decision.

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

All LHA mailings will be made available in an accessible format upon request, as a reasonable accommodation.

The LHA utilizes organizations, which provide assistance for hearing and sight-impaired persons when needed.

The LHA refers families who have persons with disabilities to agencies in the community that offer services to persons with disabilities.

A list of known accessible units will be provided.

F. TRANSLATIONS OF DOCUMENTS

The LHA has bilingual staff to assist non-English speaking families in Spanish.

G. FAMILY OUTREACH

When the LHA's waiting list is open, the LHA will publicize the availability and nature of housing assistance for very low income families in a newspaper of general circulation and by other suitable means.

To reach persons who cannot read or do not have access to newspapers, the LHA will distribute fact sheets to the broadcasting media, and initiate personal contacts with members of the news media and community service personnel. The LHA will also utilize public service announcements.

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

H. OWNER OUTREACH [24CFR 982.54 (d) (5)]

The LHA encourages owners of decent, safe and sanitary housing units to lease to Section 8 families. The LHA maintains a list of units available for the Section 8 Program and updates this list periodically. This is made available to families at briefings and the Section 8 administration office.

The LHA staff initiates personal contacts with private property owners and managers by conducting formal and informal discussions and meetings to improve owner relations and to recruit new owners.

Printed material is offered to acquaint owners and managers with the opportunities available under the program.

I. PRIVACY RIGHTS [24CFR 982.551, 24CFR 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 will release family information.

The LHA's policy regarding release of information is in accordance with State and

local laws which may restrict the release of family information.

The LHA'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 which is only accessible by authorized staff. All files must be signed for when removed from the secured file storage area. The personal information in this folder must not be released except on an "as needed" basis.

In accordance with HUD requirements, the LHA will furnish prospective landlords with the family's current address as shown in LHA records and if known to the LHA, the name and address of the landlord at the family's current and prior address. The LHA will furnish prospective owners with information about the family's rental history, or any history of drug trafficking.

A statement of the LHA's policy on release of information to prospective landlords will be included in the briefing packet which is provided to the family.

LHA 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.

J. EQUAL EMPLOYMENT OPPORTUNITY

The LHA is an Equal Opportunity Employer and supports work force diversity. Women, minorities, and persons with disabilities are encouraged to apply. Position vacancies are advertised. All LHA job postings will contain equal opportunity information.

K. RULES AND REGULATIONS [24CFR 982.52]

This Administrative Plan is set forth to define the LHA'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.

L. MANAGEMENT ASSESSMENT OBJECTIVES

The LHA operates its housing assistance program with efficiency and can

demonstrate to HUD auditors that the LHA is using its resources in a manner that reflects its commitment to quality and service. The LHA 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
- 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

Supervisory quality control reviews will be performed by a LHA Supervisor or other qualified person other than the person who performed the work, as required by HUD.

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

M. RECORDS FOR MONITORING PHA PERFORMANCE

In order to demonstrate compliance with HUD and other pertinent regulations, the LHA 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 LHA's operational procedures objectively and with accuracy and in accordance with SEMAP requirements with internal supervisory audits.

N. RECORDS POLICY

If an applicant, participant or their authorized representative requests copies of any information held by the LHA, they will be provided for a charge of ten cents per page.

Chapter 2

ELIGIBILITY FOR ADMISSION

INTRODUCTION

This Chapter defines both HUD's and the LHA's criteria for admission and denial of admission to the program. The policy of the LHA is to strive for objectivity and consistency in applying these criteria to evaluate the eligibility of families who apply. The LHA 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 LHA pertaining to their eligibility.

A. ELIGIBILITY FACTORS [24 CFR 982.201 (a) (b)]

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

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

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 age six and older or certify they don't have one

An applicant must furnish evidence of Citizenship/Eligible Immigrant status

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

For the LHA's additional criteria for eligibility, see Section F, "Other Criteria for Admission".

The Family's initial eligibility for placement on the waiting list will be made in accordance with the eligibility factors.

Eligibility factors will be verified before the family is placed on the waiting list.

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

B. FAMILY COMPOSITION [24CFR 982.54 (d) (4) (i)]

The applicant must qualify as a Family. A Family may be a single person or a group of persons. Discrimination on the basis of familial status is prohibited, and a group of persons may not be denied solely on the basis that they are not related by blood, marriage or operation of law.

A group of persons may be:

Two or more persons who intend to share residency whose income and resources are available to meet the family's needs and who have a history as a family unit or show evidence of a stable family relationship.

Two or more elderly or disabled persons living together, or one or more elderly or disabled persons living with one or more live-in aides are a family.

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 for other family members.

A single person may be:

- An elderly person
- A displaced person
- A person with a disability
- Any other single person

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 husband or wife of the head of household.

For proper application of the non-citizens rule, the definition of spouse is: the

marriage partner who, in order to dissolve the relationship, would have to be divorced. It includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

Co-Head

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

Live-in Attendants

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

Is determined by the LHA 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 may not be 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.

Family members of a live-in attendant may also reside in the unit providing doing so does not increase the subsidy by the cost of an additional bedroom and that the presence of the live-in's family members does not overcrowd the unit.

A live-in aide may only reside in the unit with the approval of the LHA. Written verification will be required from a reliable, knowledgeable, 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.

Verification must include the hours the care will be provided.

The LHA has the right to disapprove a request for a live-in aide on the “Other Criteria for Eligibility” described in this Chapter (Section F).

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 LHA will make the decision taking into consideration the following factors:

Which family member applied as head of household.

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 LHA.

In cases where domestic violence played a role in the split, the LHA will require evidence that the family has been displaced as a result of fleeing violence in the home.

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 51% of the time will be considered members of the household. “51% of the time” is defined as 183 days of the year, which do not have to run consecutively.

When both parents are on the Waiting List and both are trying to claim the child, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

C. INCOME LIMITATION [24CFR 982.201 (b), 982.353]

In order to be eligible for assistance, an applicant must be either:

A very low-income family;

A low-income family that is continuously assisted under the 1937 Housing Act;

A low-income family that meets additional eligibility criteria specified in the LHA Administrative Plan. Such additional LHA criteria must be consistent with the LHA plan and with the consolidated plans for local governments in the LHA jurisdiction;

A low-income family that qualifies for voucher assistance as a non-purchasing family residing in a HOPE 1 or HOPE 2 project.

A low-income or moderate-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing as defined in 248.173 of this title.

To determine if the family is income-eligible, the LHA 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.

Single Jurisdiction PHA'S; The applicable income limit to be used at initial issuance of a voucher is the limit of the LHA.

For admission to the program (initial lease-up), the family must be within the very low income limit of the jurisdiction where they want to live.

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

D. MANDATORY SOCIAL SECURITY NUMBERS [24CFR 5.216, 5.218]

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

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 numbers but cannot provide verification must sign a certification and provide verification within 60 days. Elderly persons must provide verification within 120 days.

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

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 six 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 pro-rated and that they may request a hearing if they contest this determination.

No eligible members. Applicant families that include no eligible members will be 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 are not eligible for assistance.

Appeals. For this eligibility requirement only, the applicant is entitled to a hearing exactly like those provided for participants.

Verification of Status Before Admission. The LHA will not provide assistance to families prior to the verification of eligibility for the individual or at least one member of the family pursuant to this section.

F. OTHER CRITERIA FOR ADMISSION [24CFR 982.552 (b)]

The LHA may apply the following criteria, in addition to the HUD eligibility criteria, as grounds for denial of admission to the program.

1. **The family must not have violated any family obligation during a previous participation in the Section 8 program for three (3) years prior to final eligibility determination.**

The LHA will make an exception, if the family member who violated the family obligation is not a current member of the household on the application,

When the LHA denies assistance to an applicant with a disability, the applicant may request a review of the family obligation that was violated, if the violation was a result of the disability.

2. **No family member may have committed fraud, bribery, or any corrupt or criminal act in connection with any federal housing program in the last three (3) years.**
3. **The family must have paid any outstanding debt owed the LHA or another PHA as a result of prior participation in any federal housing program.**

A repayment agreement may be executed, but the amounts owed to the LHA must be paid in full prior to the final eligibility determination.

If a repayment agreement falls into arrears as defined in this policy, the family will be required to pay the balance in full prior to final eligibility determination.

The LHA reserves the right, in the case of extreme hardship, to amend the repayment agreement in accordance with its procedures. Full documentation of the hardship will be required. In no case will the debt be forgiven.

4. **No member of the family may have engaged in drug related activity, violent criminal activity, or alcohol abuse activity, in the last three (3) years.**

If either as a result of the standardized inquiry or the receipt of a verifiable referral, there is indication that the family or any family member is engaged in drug-related criminal activity, the LHA may conduct closer inquiry to determine whether the family should be denied admission. This may include verification through police/court records.

Verification of any past activity may include a check of conviction records.

5. No family member may have been evicted from federally assisted housing for any reason during the three (3) years.
6. No family member may have engaged in or threatened abusive or violent behavior toward PHA personnel.
7. A family will be denied admission to the program if any family member fails to sign or submit consent forms for obtaining information required by the LHA, including Form 9886.
8. If an applicant deliberately misrepresents the information on which eligibility or tenant rent is established, the LHA may deny assistance and may refer the family/file/record to the proper authorities for appropriate disposition.

G. TENANT SELECTION [24CFR 982.307]

The LHA may take into consideration any of the additional criteria for admission in Section F above, but may not otherwise screen for factors which relate to the suitability of the applicant family as tenants. It is the responsibility of the owner to screen the applicant family as to their suitability for tenancy.

The LHA will advise families how to file a complaint if they have been discriminated against by an owner. The LHA will advise the family to make a Fair Housing complaint. The LHA could 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 placement on the waiting list and issuance of a voucher may affect the family's eligibility or share of rental payment. For example, if a family goes over the income limit prior to lease up, the applicant will not continue to be eligible for the program. They will be notified in writing of their ineligible status and their right to an informal review.

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 are denied due to non-citizen status. See Chapter 19, "Complaints

and Appeals” for additional information about reviews and hearings.

J. PROHIBITED ADMISSIONS CRITERIA [24CFR 982.202 (b)]

Admission to the program may not be based on:

**where a family lives prior to admission to the program;
where the family will live with assistance under the program;
discrimination because members of the family are unwed parents, recipients
of public assistance, or children born out of wedlock;
discrimination because a family includes children;
whether a family decides to participate in a family self-sufficiency program;
or
other reasons as listed in the “Statement of Policies and Objectives” chapter
under the Fair Housing and Reasonable Accommodations sections.**

Chapter 3

APPYING FOR ADMISSION

INTRODUCTION

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

A. OVERVIEW OF THE APPLICATION TAKING PROCESS

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

Families who wish to apply for any of the LHA's programs must complete a written application form when application-taking is open. Applications will be made available in an accessible format upon request from a person with a disability.

The application process will involve two phases. The first is the "initial" application for assistance. This first phase results in the family's placement on the waiting list.

The second phase which takes place when the family reaches the top of the waiting list is the "final determination of eligibility". At this time the LHA ensures that verification of all HUD and LHA eligibility factors are current in order to determine the family's eligibility for the issuance of a voucher.

B. OPENING/CLOSING OF APPLICATION TAKING [24CFR982.206, 982.54]

The LHA will utilize the following procedures for opening the waiting list.

When the LHA opens the waiting list, the LHA will advertise through notice in newspapers, minority publications and broadcast media. Service organizations such as ECHO Housing, CRILL, East Bay Innovations, The Center, Tri-Valley Haven, Shepherds Gate, Social Security and TANF offices will be provided notices.

The notice will contain:

The dates, times and the location where families may apply.

The programs for which applications will be taken.

A brief description of the program, including income limits and availability of local preferences.

Limitations, if any, on who may apply.

Offer of reasonable accommodation.

The LHA address and telephone number for information.

The notices will be made in an accessible format if requested. Upon request from a person with a disability, additional time will be given as an accommodation for submission of an application after the closing date. This accommodation is to allow persons with disabilities the opportunity to submit an application in cases when a social service organization provides inaccurate or untimely information about the closing date.

Closing the waiting list

The LHA may suspend the acceptance of applications if there are enough applicants to fill anticipated openings for the next 12 months. The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws.

The open period shall be long enough to achieve a waiting list adequate to cover projected turnover and new allocations over the next 24 months. The LHA will give notice prior to closing the list. When the period for accepting applications is over, the LHA will give notice prior to closing the list. When the period for accepting applications is over, the LHA will add the new applicants to the list by separating the new applicants into groups based on preferences and date and time of application.

Limits On Who May Apply

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

When the application is submitted to the LHA it establishes the family's date and time of application for placement order on the waiting list.

C. "INITIAL" APPLICATION PROCEDURES [24CFR 982.204 (b)]

The LHA will utilize a preliminary-application (pre-application). The information is to be filled out by the applicant whenever possible. To provide specific accommodation to persons with disabilities, the information may be completed by a staff person over the telephone. It may also be mailed to the applicant and, if requested, it will be mailed in an accessible format.

The purpose of the pre-application is to permit the LHA preliminarily assess family eligibility or ineligibility and to determine placement on the waiting list. The pre-application will contain questions designed to obtain the following information:

- Names and ages of all household members
- Sex and relationship of all members
- Racial and ethnic designation of the head of household
- Street address and phone numbers
- Mailing address (if no permanent address)
- Previous address
- Amount(s) and source(s) of income received by household members
- Amount of assets
- Qualification for any local preference
- Social Security Numbers
- Citizenship/eligible immigration status
- Information regarding disabilities relating to program requirements
- Arrests/convictions for Drug Related or Violent Criminal Activity
- Request for Specific Accommodation needed to fully utilize the program and services
- Emergency contact person and address

Duplicate applications will not be accepted. Ineligible families will not be placed on the waiting list.

The information on the application will be verified when the applicant has been selected for final eligibility determination. Final eligibility will be determined when the full application process is completed and all information is verified.

Applicants are required to inform the LHA, in writing, within 30 calendar days of changes in family composition, income, and address, as well as any changes in their preference status. Applicants are also required to respond to requests from the LHA to update information on their application, or to determine their continued interest in assistance.

Failure to provide information or to respond to mailings will result in the applicant being removed from the waiting list.

D. APPLICATION STATUS WHILE ON THE WAITING LIST
[24CFR 982.204]

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

If the family is determined to be ineligible based on the information provided in the application, the LHA will notify the family in writing (in an accessible format upon request as a reasonable accommodation), state the reason(s), and inform them of their right to an informal review. Persons with disabilities may request to have an advocate attend the informal review as an accommodation. See Chapter 19, "Complaints and Appeals".

E. TIME OF SELECTION [24CFR 982.204]

When funding is available, families will be selected from the waiting list in their preference-determined sequence, regardless of family size.

When there is insufficient funding available for the family at the top of the list, the LHA will not admit any other applicant until funding is available for the first applicant. Applicants will not be passed over on the waiting list.

F. COMPLETION OF APPLICATION

All Local Preferences claimed on the application or while the family is on the waiting list will be verified whenever the family claims that preference.

The qualification for preference must exist at the time the preference is verified regardless of the length of time an applicant has been on the waiting list because the preference is based on current status.

After the preference is verified, when the LHA is ready to select applicants, applicants will be required to complete an application in their own handwriting, unless assistance is needed, or a request for accommodation is made by a person with a disability. Applicant will then be interviewed by the LHA staff to review the information on the application form.

Requirement to Attend Interview

The LHA utilizes the application interview to discuss the family's circumstances in greater detail, to clarify information which has been provided by the family, and to ensure that the information is complete.

The interview is also used as a vehicle to meet the informational needs of the family by providing information about the application and verification process, as well as to advise the family of other LHA services or programs which may be available.

The head of household is required to attend the interview. If the head of household cannot attend the interview, the spouse may attend to complete the application and certify for the family. The head of household, however, will be required to attend an interview within 30 days to review the information and to certify by signature that all the information is complete and accurate.

If the applicant fails to appear for their interview without prior approval of the LHA, their application will be denied unless they can provide acceptable documentation to the LHA that an emergency prevented them from calling.

If the application is denied due to failure to attend the full application interview, the applicant will be notified in writing and offered an opportunity to request an informal review.

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

All adult members must sign the HUD Form 9886, Release of Information, the application form, and all supplemental forms required by the LHA, the declarations and consents related to citizenship/immigration status and any other documents required by the LHA. 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 releases as required by the LHA.

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

If the LHA determines at or after the interview that additional information or document(s) are needed, the LHA will request the document(s) or information in writing. The family will be given 30 calendar days to supply the information.

If the information is not supplied in this time period, the LHA will provide the family a notification of denial for assistance and offered an opportunity to request an informal review.

G. VERIFICATION [24CFR 982.201 (e)]

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

**H. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY
[24CFR 982.201]**

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

If the family is determined to be ineligible, the LHA will mail a notification of ineligibility and offer an opportunity to request an informal review.

Chapter 4

ESTABLISHING PREFERENCES AND MAINTAINING THE WAITING LIST

INTRODUCTION

It is the LHA's objective to ensure that the families are placed in the proper order on the waiting list so that an offer of assistance is not delayed to any family, or made to any family prematurely.

This chapter explains the local preferences which the LHA has adopted to meet local housing needs. By maintaining an accurate waiting list, the LHA 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 [24CFR 982.204]

The waiting list will be maintained in accordance with the following guidelines:

1. The application will be a permanent file.
2. All applicants on the waiting list will be maintained in order of preference by date and time sequence.
3. Completed applications and verifications must be received by the LHA by due date given.
4. All applicants must meet eligibility requirements as established by HUD. Any exceptions to these requirements, other than those outlined in Chapter 2, "Eligibility for Admission" must have been approved previously by the HUD Field Office.
5. Except for Special Admissions, applicants will be selected from the LHA waiting list in accordance with policies and preferences and income targeting requirements defined in this Administrative Plan.

B. WAITING LIST PREFERENCES [24CFR 982.207]

An applicant will not be granted any preference if any member of the family has been evicted from any federally assisted housing during the past three years because of drug-related criminal activity.

If an applicant makes a false statement in order to qualify for a preference, the LHA will deny admission to the program for the family.

The LHA will notify all applicants about available preferences and give applicants

an opportunity to show they qualify for available preferences.

C. LOCAL PREFERENCES [24CFR 982.207]

All local preferences will be treated equally. Applicants with equal preference status will be organized by date and time. The LHA uses the following local preferences:

Residency preferences for families who live, work, or have been hired to work, or are attending school in the jurisdiction.

In order to verify that an applicant is a resident, the LHA will request 2 of the following documents: rent receipts, leases, utility bills, school records, drivers license, voter registration record, credit report or social agency records.

P.O. Box numbers can be used for correspondence only. Residency will not be determined by location of the box.

Use of this resident preference will not have the purpose or effect of delaying or otherwise denying admission to the program based on the race, color, ethnic origin, gender, religion, disability or age of any family member.

Veterans preference for veterans or surviving spouses of veterans

Disability preference is extended to persons with disabilities or families with a disabled member as defined in this plan

Working preference for families with at least one adult employed at least 20 hours weekly or who are active participants in an accredited educational or training program designed to prepare the individual for the job market. This preference is automatically extended to elderly families or families whose head or spouse is receiving income based on their inability to work.

Families that are involuntarily displaced by Federal, State or local government action related to code enforcement, public improvement, or development.

**D. INITIAL DETERMINATION OF LOCAL PREFERENCE QUALIFICATION
[24CFR 982.207]**

At the time of application, an applicant's entitlement to a local preference may be made on the following basis:

The LHA will verify all preference claims at the time they are made. The

LHA will recertify a preference claim, if the LHA feels the family's circumstances have changed and at a time of selection from the waiting list.

E. PREFERENCE DENIAL

If the LHA denies a preference, the LHA will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for a review. If the preference denial is upheld as a result of the meeting, or the applicant

does not request a meeting, the applicant will be placed on the waiting list without benefit of the preference. Applicants may exercise other rights if they believe they have been discriminated against.

If the applicant falsifies documents or makes false statements in order to qualify for any preference, they will be removed from the waiting list.

F. ORDER OF SELECTION [24CFR 982.207 (e), 5.415]

Applicants are pulled by the current preference in their file in the following order:

- 09 – Veteran/Resident/Work
- 10 - Veteran/Resident/Non Work
- 11 - Resident/Work/Training
- 12 - Resident/Non Work
- 13 - Veteran/Non Resident/Work/Training
- 14 - Veteran/Non Resident/ Non Working
- 15 - Non Resident/Work/Training
- 16 - Non Resident/Non Work

Applicants are scheduled for an interview appointment to assure an applicant is receiving the correct preference and to determine eligibility (income and criminal background) for the HCV waiting list. An applicant whose preference is verified to be incorrect on date of Interview will be returned to the waiting list according to their correct preference.

G. INCOME TARGETING [24CFR 982.201 (b) (2) (i)]

In accordance with the Quality Housing and Work Responsibility Act of 1998, each fiscal year the LHA 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 as published by HUD. HUD refers to these families as "extremely low-income families".

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

The LHA is also exempted from this requirement where the LHA 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.

H. EXCEPTIONS FOR SPECIAL ADMISSIONS [24CFR 982.203, 982.54 (d)(3)]

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

Special admissions families will be admitted outside of the regular waiting list Process. They do not have to qualify for any preferences, nor are they required To be on a program waiting list. The LHA maintains separate records of these Admissions.

I. REMOVAL FROM WAITING LIST AND PURGING [24CFR 982.204 I]

If an applicant fails to respond to a mailing from the LHA, the applicant will be sent written notification and given 30 days to contact the LHA. If they fail to respond within 30 days they will be removed from the waiting list. An extension will be considered as an accommodation if requested by a person with a disability. If the letter is returned by the Post Office without a forwarding address, the applicant will be removed without further notice, and the envelope and letter will be maintained in the file. If a letter is returned with a forwarding address, it will be re-mailed to the address indicated.

The waiting list may be purged by a mailing to applicants to ensure that the waiting list is current and accurate. The mailing will ask for current information and confirmation of continued interest.

The same guidelines will be used for failure to respond to this mailing. Notices will be made available in accessible format upon the request of a person with a disability.

Chapter 5

SUBSIDY STANDARDS

INTRODUCTION

HUD guidelines require that PHA's establish subsidy standards for the determination of family unit size and that such standards provide for a minimum commitment of subsidy while avoiding overcrowding. The standards used for the unit size selected also must be within the minimum unit size requirements of HUD's Housing Quality Standards and must provide for the smallest number of bedrooms needed to house a family without overcrowding. This Chapter explains the subsidy standards which will be used to determine the family unit (Voucher) size for various sized families when they are selected from the waiting list, as well as the LHA'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 [24CFR 982.402]

The LHA does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the Voucher. The LHA's subsidy standards for determining voucher size shall be applied in a manner consistent with Fair Housing guidelines.

All standards in this section relate to the number of bedrooms on the Voucher, not the family's actual living arrangements.

The unit size on the Voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented.

- One bedroom will be generally assigned for each two family members regardless of sex, age or relationship. Exceptions may be made for medical reasons, persons of different generations, and in the case of a live-in aide. Live-in attendants will generally be provided a separate bedroom. No additional bedrooms are provided for the attendants' family. The attendant must receive certification from an appropriate agency. The family is responsible for requesting a reasonable accommodation for the extra bedroom.
- At any time, the LHA may refuse to approve a particular person as a Live-in aide, or may withdraw such approval per CFR 982.316 (b) 1-3.

- Space will not be provided for a family member who will be absent most of the time, such as a member who is away in the military.

Single person families shall be allocated one bedroom.

- * A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- A family that consists of a pregnant woman (with no other persons) will be treated as a two-person family.

Guidelines for determining voucher size

Voucher size	Persons in the Household (Minimum#)	Persons in the Household (Maximum #)
0 Bedroom	1	1
1 Bedroom	1	2
2 Bedroom	2	4
3 Bedroom	3	6
4 Bedroom	4	8
5 Bedroom	5	10
6 Bedroom	6	12

B. EXCEPTIONS TO SUBSIDY STANDARDS 24CFR 982.403 (a) (b)]

Changes for Applicants

The Voucher size is determined prior to the briefing by comparing the family composition to the LHA subsidy standards. If an applicant requires a change in the Voucher size, the following guidelines will apply:

Requests for Exception to Subsidy Standards for Applicants

The family may request a larger sized Voucher than indicated by the LHA's subsidy standards. The request must explain the need or justification for a larger bedroom size.

The LHA will grant exceptions from the standards on a case by case basis and the LHA will determine that the exceptions are justified.

Circumstances may dictate a larger size than the Subsidy Standards permit when

persons cannot share a bedroom because of an accommodation which has been requested, such as:

Persons who cannot occupy a bedroom because of a verified medical or health reason.

Elderly persons or Persons with disabilities who may require a live-in attendant.

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

If the LHA makes an error in the bedroom size designation, the family will be issued a Voucher of the appropriate size so that the family is not penalized.

Changes for Participants

The members of the family residing in the unit must be approved by the LHA. The family must obtain approval of any additional family member before the person occupies the unit except for additions by birth, adoption, or court-awarded custody, in which case the family must inform the LHA, in writing, within 30 days.

Requests for Exception to Subsidy Standards for Participants

The LHA will grant an extension upon request as an accommodation for persons with disabilities.

The family may request a larger sized voucher than indicated by the LHA's subsidy standards. The request must explain the need or justification for a larger bedroom size. Documentation verifying the need or justification will be required.

Underhoused and Overhoused Families

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

C. UNIT SIZE SELECTED [24CFR 982.402 I]

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

1. Subsidy Limitation: For the Voucher Program, the LHA uses the adopted

Payment Standard for the Voucher size or the unit size selected by the family.

2. **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.
3. **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

	Maximum # of Persons In Household
0 Bedroom	1
1 Bedroom	4
2 Bedroom	6
3 Bedroom	8
4 Bedroom	10
5 Bedroom	12
6 Bedroom	14

Chapter 6

FACTORS RELATED TO TOTAL TENANT PAYMENT AND FAMILY SHARE

INTRODUCTION

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 deductions 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 and further instructions set forth in HUD Notices, Memoranda and Addenda. The formula for the calculation of TTP is specific and not subject to interpretation. The LHA's policies in this Chapter address those areas which allow the LHA discretion to define terms and to develop standards in order to assure consistent application of the various factors that relate to the determination of TTP.

A. INCOME AND ALLOWANCES [24CFR 5.609]

Income: Includes all monetary amounts which are received by each member of the family for purposes of calculating the TTP and defined by HUD in federal regulations.

Annual Income is defined as the gross amount of income anticipated to be received by the family during the 12 months after certification or recertification. Gross income is the amount of income prior to any HUD allowable expense or deductions, and does not include income which 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 deductions.

HUD has five allowable deductions from Annual Income:

1. **Dependent allowance:** \$480 each for family members (other than the head or spouse), who are minors, and for family members who are 18 and older who are full-time students or who are disabled.
2. **Elderly/Disabled allowance:** \$400 for families whose head or spouse is 62 or over or disabled.
3. **Allowable medical expenses:** deduction for all family members of an elderly or disabled member.

4. **Child-care deduction:** expenses for children under 13 are deducted which childcare is necessary to allow an adult member to work, attend school, or actively seek employment.
5. **Allowable disability assistance expenses:** deduction for attendant care or auxiliary apparatus costs for persons with disabilities if needed to enable the individual or an adult family member to work.

B. DEFINITION OF TEMPORARILY/PERMANENTLY ABSENT
[24CFR 982.54 (d) (10), 982.551]

The LHA must compute all applicable income of every family member who is on the lease, including those who are temporarily absent. In addition, the LHA 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.

Income of person 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 a 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 LHA will evaluate absences from the unit using this policy.

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 LHA will terminate assistance in accordance with appropriate termination procedures contained in this Plan.

Families are required both to notify the LHA before they move out of a unit and to give the LHA information about any family absence from the unit.

Families must notify the LHA at least three (3) calendar days if they are going to be absent from the unit for more than 30 consecutive days.

If the entire family is absent from the assisted unit for more than 90 consecutive days, the unit will be considered to be vacated and the assistance will be terminated.

HUD regulations require the LHA to terminate assistance if the entire family is absent from the unit for a period of more than 180 consecutive calendar days. "Absence" means that no family member is residing in the unit.

In order to determine if the family is absent from the unit, the PHA may:

- 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 180 consecutive calendar days limit.

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

Absence of Any Member

Any member of the household will be considered permanently absent if she/he is away from the unit for 3 consecutive months.

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 LHA 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 return in less than 90 consecutive 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 LHA's "Absence of entire Family" policy.

Absence due to Incarceration

If the sole member is incarcerated for more than 90 consecutive 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 3 consecutive months.

The LHA will determine if the reason for incarceration is for drug-related activity, violent criminal activity, or alcohol abuse.

Court-Ordered Temporary Absences

If a member of the family is subject to a court order that restricts the member from the home, the LHA will determine whether the person will be considered temporarily or permanently absent. If the court order specifies a permanent restriction or if the court restriction exceeds 180 days, the person will no longer be considered a family member. If the individual intends to return to the unit at the end of the restriction, the individual is subject to the eligibility and screening requirements.

Foster Care and Absences of Children

If the family excludes a child or children temporarily absent from the home due to placement in foster care, the LHA will determine from the appropriate agency when the child/ren will be returned to the home.

If the time period is to be greater than 3 months from the date of removal of the child/ren, the Voucher size will be reduced. If all children are removed from the home permanently, the voucher size will be reduced in accordance with the LHA's subsidy standards.

Caretaker for Children

If neither parent remains in the household and the appropriate agency has determined that another adult is to be brought into the assigned unit to care for the children for an indefinite period, the LHA will treat that adult as a visitor for the first 30 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 LHA will continue to review the status at 30 day intervals.

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

The caretaker will be allowed to remain in the unit, as a visitor, until a determination of custody is made.

The LHA will transfer the Voucher to the caretaker, in the absence of a court order, if the caretaker has been in the unit for more than 30 days and it is reasonable to expect that custody will be granted.

When the LHA approves a person to reside in the unit as caretaker for the child/ren, the income should be counted pending a final disposition. The LHA 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 3 months, the person will be considered permanently absent.

If an adult family member leaves the household for any reason, the family must report the change in family composition to the LHA, in writing, within 30 days.

The family will be required to notify the LHA, in writing, within 30 days when an adult family member moves out. The notice must contain a certification by the family as to whether the adult is temporarily or permanently absent.

The family member will be determined permanently absent if verification is provided.

Time extension will be granted as an accommodation upon request by a person with a disability.

If an adult child goes into the military and leaves the household, they will be considered permanently absent.

Absence Due to Full-Time Student Status

Full-time students who attend school away from the home will be treated in the following manner:

A student (other than head of household or spouse) who attends school away from home but lives with the family during school recesses may, at the family's choice, be considered either temporarily or permanently absent. If the family decides the member is permanently absent, income of that member will not be included in total household income, the member will not be included on the lease, and the member will not be included for determination of Voucher size.

Visitor

Any person not included on the HUD 50058 who has been in the unit more than a total of 30 days in a 12-month period, unless the lease agreement provides for a longer 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 family member.

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 rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the family and the LHA will terminate assistance since prior approval was not requested for the addition.

Minors and college students who were part of the family but who now live away from home during the school year and are not considered members of the household may visit for up to 30 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 30 days per year, the minor will be considered to be an eligible visitor and not a family member.

Reporting Additions to Owner and PHA

Reporting changes in household composition to the PHA is both a HUD and a LHA requirement.

The family obligations require the family to request LHA approval to add any other family member as an occupant of the unit and to inform the LHA of the birth, adoption or court-awarded custody of a child. The family must request prior approval of additional household members in writing. If any new family member is added, the income of the additional member will be included in the family income as applicable under HUD regulations.

If the family does not obtain prior written approval from the LHA, any person the family has permitted to move in will be considered an unauthorized household member.

In the event that a visitor continues to reside in the unit after the maximum allowable time, the family must report it to the LHA, in writing, within 15 calendar days of the maximum allowable time.

Families are required to report any additions to the household, in writing, to the LHA within 30 calendar days of the move-in date.

An interim reexamination will be conducted for any additions to the household.

In addition, the lease may require the family to obtain prior written approval from the owner when there are changes in family composition.

Reporting Absences to the PHA

Reporting changes in household composition is both a HUD and a LHA requirement.

If a family member leaves the household, the family must report this change to the LHA, in writing, within 30 calendar days of the change and certify as to whether the member is temporarily absent or permanently absent.

The LHA will conduct an interim evaluation for changes which affect the TTP in accordance with the interim policy.

C. AVERAGING INCOME

When Annual Income cannot be anticipated for a full twelve months, the LHA 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 which the employer cannot anticipate for the next twelve months, bonuses and overtime received the previous year will be used.

Income from the previous year may be analyzed to determine the amount to anticipate when third-party or check-stub verification is not available.

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.

Averaging will also be used after three interim adjustments during a 12-month period.

The method used depends on the regularity, source and type of income.

D. MINIMUM INCOME

There is no minimum income requirement. Families who report zero income are required to complete a written certification every 30 days.

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 expenses exceed their known income, the LHA will make inquiry of the household as to the nature of the family's accessible resources.

E. INCOME OF PERSON PERMANENTLY CONFINED TO A NURSING HOME [24CFR 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 LHA will calculate the Total Tenant Payment and exclude the income of the person permanently confined to the nursing home and give the family no deductions for medical expenses of the confined family member.

F. REGULAR CONTRIBUTIONS AND GIFTS [24CFR 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 three months or more frequently will be considered a "regular" contribution or gift. This includes rent and utility payments made on behalf of the family and other cash or no cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts. (See Chapter 7, "Verification Procedures" for further definition).

If the family's expenses exceed its known income, the LHA will question the family about contributions and gifts.

G. ALIMONY AND CHILD SUPPORT [24CFR 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 LHA must 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 LHA will accept as verification that the family is receiving an amount less than the award if:

The LHA receives verification from the agency responsible for enforcement or collection.

The family furnishes documentation of child support or alimony collection action filed through a child support enforcement/collection agency, or has filed an enforcement or collection action through an attorney.

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

H. LUMP-SUM RECEIPTS [24CFR 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 (unemployment or welfare assistance) are counted as income. Lump-sum payments for 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.

In order to determine amount of retroactive tenant rent that the family owes as a result of the lump-sum receipt:

The LHA uses a calculation method which calculates retroactively or prospectively depending on the circumstances.

The LHA will calculate prospectively if the family reported the payment within 30 calendar days and retroactively to date of receipt if the receipt was not reported within the time frame.

Retroactive Calculation Methodology

The LHA will go back to the date the lump-sum payment was received, or to the date of admission, whichever is closer.

The LHA 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 LHA.

At the LHA's option, the LHA may enter into a Repayment 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 fee.

I. CONTRIBUTIONS TO RETIREMENT – ASSETS [24CFR 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.

J. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE [24CFR 5.603]

The LHA must count assets disposed of for less than fair market value during the two years preceding certification or reexamination. The LHA 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 are not considered to be assets disposed of for less than fair market value. Assets disposed of as a result of a divorce or separation are not considered to be assets disposed of for less than fair market value.

K. CHILDCARE EXPENSES [24CFR 5.603]

Childcare expenses for children under 13 may be deducted from annual income if they enable an adult to work or attend school full time, or actively seek employment.

In the case of a child attending private school, only after-hours care can be counted as childcare expenses.

Childcare expenses cannot be allowed as a deduction if there is an adult household

member capable of caring for the child who can provide the childcare. Examples of those adult members who would be considered unable to care for the child include:

The abuser in a documented child abuse situation, or

A person with disabilities or older person unable to take care of a small child, as verified by a reliable knowledgeable source.

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

Childcare to work: The maximum childcare expense allowed must be less than the amount earned by the person enabled to work. The “person enabled to work” will be the adult member of the household who earns the least amount of income from working.

Childcare for school: The number of hours claimed for childcare may not exceed the number of hours the family member is attending school including reasonable time to and from school.

Amount of expense: The LHA will survey the local care providers in the community as a guideline. If the hourly rate materially exceeds the guideline, the LHA may calculate the allowance using the guideline.

L. MEDICAL DEDUCTIONS [24CFR 5.611(a)(3)(i), 5.603(b)]

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

Nonprescription medicines must be doctor-recommended in order to be considered a medical expense.

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

M. PRORATION OF ASSISTANCE FOR “MIXED” FAMILIES [24CFR5.520]

Applicability

Pro-ration of 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. Total Tenant Payment is the gross rent minus the prorated assistance. Calculations for each housing program are performed on the HUD 50058 form.

N. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS **[24CFR 982.517, 5.632]**

The same Utility Allowance Schedule is used for all tenant based programs. The Utility Allowance is intended to help defray 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 LHA may not provide any allowance for non-essential utility costs, such as costs of cable or satellite television.

The LHA must classify utilities in the utility allowance schedule according to the following categories: space heating, cooking, water heating, water, sewer, trash collection, refrigerator (for tenant supplied refrigerator), range (cost of tenant supplied range, and other specified services.

The approved utility allowance schedule is given to families along with their Voucher. The utility allowance is based on the actual unit size selected.

At reexamination, the LHA will use the current utility allowance schedule.

Where families provide their own range and refrigerator, the LHA will establish an allowance adequate for the family to purchase or rent a range or refrigerator, even if the family already owns either appliance.

The LHA will pay a utility reimbursement directly to the family if the utility allowance (for tenant-paid utilities) exceeds the amount of the total tenant payment.

The LHA will review the utility allowance schedule annually. If the review finds a utility rate has changed by 10 percent or more since the last revision of the utility allowance schedule, the schedule will be revised to reflect the new rate. Revised utility allowances will be applied in a participant family's rent calculation at their next reexamination.

The LHA will review and approve a request for a utility allowance that is higher than the applicable amount on the utility schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability.

O. MINIMUM RENT [24CFR 5.630]

Minimum Rent

“Minimum Rent” is \$50. Minimum refers to the Total Tenant Payment and includes the combined amount a family pays towards rent and/or utilities when it is applied.

Hardship Requests for an Exception to Minimum Rent [24CFR 5.630]

The LHA recognizes that in some circumstances even the minimum rent may create a financial hardship for families. The LHA will review all relevant circumstances brought to the LHA’s attention regarding financial hardship as it applies to the minimum rent. The following section states the LHA’s procedures and policies in regard to minimum rent financial hardship as set forth by the Housing Quality Housing and Work Responsibility Act of 1998. HUD has defined circumstances under which a hardship could be claimed.

Suspension of Minimum Rent

If the family requests a hardship exemption, the LHA will immediately suspend the minimum rent for the family until it can determine whether the hardship exists and whether the hardship is a of a temporary or long-term nature.

Criteria for Hardship Exception

In order for a family to qualify for a hardship exception the family’s circumstances must fall under one of the following HUD hardship criteria:

The family has lost eligibility or is waiting an eligibility determination for a Federal, State, or local assistance, including a family with a member who is a non-citizen lawfully admitted for permanent residence under the Immigration and Nationality Act, and who would be entitled to public benefits but Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

The family would not be evicted as a result of the imposition of the minimum rent requirement when:

The income of the family has decreased because of changed circumstances, including loss of employment, death in the family; or

When the family has an increase in expenses because of changed circumstances, for medical costs, childcare, transportation, education, or other circumstances as determined by the LHA or HUD.

The LHA will notify all families subject to minimum rents of their right to request a minimum rent hardship exemption.

All requests for minimum rent hardship exemption are required to be in writing.

The LHA will request documentation as proof of financial hardship.

The LHA will use its standard verification procedures to verify circumstances which have resulted in financial hardship, such as loss of employment, death in the family, etc.

Temporary Hardship

If the LHA determines that the hardship is temporary, a minimum rent will not be imposed for a period of 90 days from the date of the family's request. At the end of the temporary suspension period, a minimum rent will be imposed retroactively to the time of suspension.

Long-term Hardship

If the LHA determines there is a qualifying long-term hardship, the LHA must exempt the family from the minimum rent requirements for as long as the hardship continues. The exemption from minimum rent shall apply from the first day of the month following the family's request for exemption.

No Hardship

If the LHA determines there is no qualifying hardship, the minimum rent will be reinstated, including requiring back payment of minimum rent for the time of suspension.

Appeals. The family may use the grievance procedure to appeal the LHA's determination regarding the hardship. No escrow deposit will be required in order to access the grievance procedure.

Retroactive Determination

The LHA will reimburse the family for any minimum rent charges which took effect

After October 21, 1998 that qualified for one of the mandatory exceptions.

P. INCOME EXCLUDED UNDER HUD REGULATIONS [24CFR 5.609]

Earnings of children under the age of 18
Payments received for foster children or foster adults
Lump-sum additions to family assets (counted as assets)
Medical reimbursements
Income of live-in aide
Student financial aid
Special armed forces pay
Resident Service Stipends (not to exceed \$200)
Sporadic income
Holocaust Reparation payments
Earnings for full-time students (in excess of \$480 for each full-time student 18 years or older)
Adoption assistance payments
Developmental Disability Care Payments
Refunds and rebates for property taxes
Plan for achieving self-support (PASS)
HUD-Funded Training Programs
Incremental Income from Employment Training Programs qualified under 24CFR 5.609(c)(8)(v)
Federally-Mandated Income Exclusions
Other Publicly-Assisted Programs (for reimbursement of certain out-of-pocket expenses)

Q. DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATIONS FOR PERSONS WITH DISABILITIES [24CFR 5.617, 982.201(B)(3)]

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

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

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.

Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, 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 \$500.

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

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

Amounts to be excluded 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 of TANF received in the six-month period includes monthly income and such benefits and services as one-time payments, wage subsidies and transportation assistance.

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

Initial Twelve-Month Exclusion

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

Second Twelve-Month Exclusion and Phase-in

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

Maximum Four Year Disallowance

The earned income disallowance is limited to a lifetime 48-month period for each family member who is a person with disabilities. For each family member who is a person with disabilities, the disallowance only applies for a maximum of 12 months of full exclusion of incremental increase, and a maximum of 12 months of phase-in exclusion during the 48-month period starting from the date of the initial exclusion.

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

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

Applicability to Childcare and Disability Assistance Expense Deductions

The amount deducted for childcare and disability assistance expenses necessary to permit employment shall not exceed the amount of employment income that is included in annual income. Therefore, for disabled 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 childcare and disability assistance expense deductions.

Tracking the Earned Income Exclusion

The earned income exclusion will be reported on the HUD 50058 form. Documentation will be included in the family's file to show the reason for the

reduced increase in rent.

Such documentation will include:

Date the increase in earned income was reported by the family

Name of the family member whose earned income increased

Reason (new employment, participation in job training program, within 6 months after receiving TANF) for the increase in earned income

Amount of the increase in earned income (amount to be excluded)

Date the increase in income is first excluded from annual income

Date(s) earned income ended and resumed during the initial 12-month period of exclusion (if any)

Date the family member has received a total of 12 months of the initial exclusion

Date the 12-month phase-in period began

Date(s) earned income ended and resumed during the second cumulative 12-month period (phase-in) of exclusion (if any)

Date the family member has received a total of 12 months of the phase-in exclusion

Ending date of the maximum 48-month (four year) disallowance period (48 months from the date of the initial earned income disallowance)

The LHA 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 disabled 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).

R. **ASSET INCOME** [24CFR 5.603,5.609, Notice H 86-23(HUD)]

Current balance amounts of savings and checking accounts
Stocks, bonds, savings certificates, money market funds and other investment accounts
Equity in real property or other capital investments
Cash value of trusts that are available to the household
IRA, Keogh, and similar retirement savings accounts, deducting any penalties for withdrawal
Contributions to company retirement/pension funds
Assets, which although owned by more than one person, allow unrestricted access by the applicant
Lump-sum receipts
Personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc.
Cash value of life insurance policies
Assets disposed of for less than fair market value during the two years preceding examination or reexamination

S. FAMILY SHARE: FAMILY RESPONSIBILITY [24CFR 982.515]

The family share is calculated by subtracting the amount of the housing assistance payment from the gross rent.

The family rent to the owner is calculated by subtracting the amount of the housing assistance payment to the owner from the rent to owner.

The LHA may not use housing assistance payments or other program funds (including any administrative fee reserve) to pay any part of the family share, including the family rent to owner. Payment of the whole family share is the responsibility of the family.

T. COOPERATING WITH WELFARE AGENCIES

The LHA will make its best efforts to enter into cooperation agreements with local welfare agencies under which the welfare agencies will agree:

1. To target assistance, benefits and services to families receiving assistance in the public housing and Section 8 assistance programs to achieve self-sufficiency; and
2. To provide written verifications to the LHA concerning welfare benefits for families applying for or receiving assistance in housing assistance programs.

Chapter 7

VERIFICATION PROCEDURES

INTRODUCTION

HUD Regulations require that the factors of eligibility and Total Tenant Payment be verified by the LHA. Applicants and program participants must furnish proof of their statements whenever required by the PHA, and the information they provide must be true and complete. The LHA's verification requirements are designed to maintain program integrity. This Chapter explains the LHA's procedures and the standards for verification of preferences, income assets, allowable deductions, family status, and where there are changes in family members. The LHA will ensure that proper authorization from the family is always obtained before making verification inquiries.

A. METHODS OF VERIFICATION AND TIME ALLOWED [24CFR 982.516]

The LHA will verify information through the four methods of verification acceptable to HUD in the following order:

- Enterprise Income Verification (EIV)
- Third-Party Written
- Third-Party Oral
- Review of Documents
- Certification/Self-Declaration

The LHA will use EIV verification tools, including the Work Number and other centralized computer matching systems whenever possible.

The LHA will analyze all data obtained through EIV and will attempt to resolve any discrepancies using the above.

The LHA will allow 30 days for return of third-party verifications before going to the next method. The LHA will document the file as to why third-party written verification was not used.

For applicants, verifications may not be more than 60 days old at the time of Voucher issuance. For participants, they are valid for 120 days from date of receipt.

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 except for computerized printouts from the following agencies:

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

Third-Party Oral Verification

Oral third-party verification will 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 LHA will compare the information to any documents provided by the family. If provided by telephone, the LHA 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 30 days, the LHA will notate the file accordingly and utilize documents provided by the family as the primary source if the documents provide complete information.

All such documents, 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.

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

**Printed wage stubs
Computer print-outs from the employer
Signed letters (provided that the information is confirmed by phone)**

Other documents noted in this Chapter as acceptable verification.

The LHA will accept faxed documents or photocopies

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

The LHA will not delay the processing of an application beyond 30 days because a third-party information provider does not return the verification in a timely manner.

Self-Certification/Self-Declaration

When verification cannot be made by third-party verification or review of documents, families will be required to submit a self-certification.

Self-certification means a notarized statement/affidavit/certification/statement under penalty of perjury and must be witnessed.

B. RELEASE OF INFORMATION [24CFR 5.230]

Adult family members will be required to sign the HUD 9886 Release of Information/Privacy Act Notice.

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.

Each member requested to consent to the release of information will be provided with a copy of the appropriate forms for their review and signature.

Family refusal to cooperate with the HUD prescribed verification system will result in denial of admission or termination of assistance because it is a family obligation to supply any information and to sign consent forms requested by the PHA or HUD.

C. COMPUTER MATCHING

For some time, HUD has conducted a computer matching initiative to independently verify resident income. HUD can access income information and compare it to information submitted by PHA's on the 50058 form. HUD can disclose Social Security information to PHA's, but is precluded by law from disclosing Federal tax

return data to PHA's. If HUD receives information from Federal tax return date indicating a discrepancy in the income reported by the family, HUD will notify the family of the discrepancy. The family is required to disclose this information to the PHA [24CFR 5.240]. HUD's letter to the family will also notify the family that HUD has notified the PHA in writing that the family has been advised to contact the LHA. HUD will send the PHA a list of families who have received "income discrepancy" letters.

When the LHA receives notification from HUD that a family has been sent an "income discrepancy" letter, the LHA will:

Wait 40 days after the date of notification before contacting tenant.

After 40 days following the date of notification, the LHA will contact the tenant by mail asking the family to promptly furnish any letter or other notice by HUD concerning the amount or verification of family income.

The LHA will fully document the contact in the tenant's file, including a copy of the letter to the family and written documentation of any phone calls.

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

If tenant fails to respond to the LHA:

The LHA will ask HUD to send a second letter.

After an additional 40 days, the LHA will ask HUD to send a third letter.

After an additional 40 days, the LHA will send a letter to the head of the household, warning of the consequences if the family fails to contact the LHA within two weeks.

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

The LHA will ask HUD to send a second letter with a verified address for the tenant.

After 40 days, the LHA will contact the tenant family.

If the tenant family still claims they have not received a letter, the LHA will ask HUD to send a third letter.

After an additional 40 days, the LHA will set up a meeting with the family to complete IRS forms 4506 and 8821.

If the tenant family fails to meet with the LHA or will not sign the IRS forms,

the LHA will send a warning letter to the head of household, notifying the family that termination proceedings will begin within one week if the tenant fails to meet the LHA and/or sign forms.

If tenant does receive a discrepancy letter from HUD:

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

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

The LHA will ask the tenant to provide documented proof that the tax data is incorrect.

If the tenant does not provide documented proof, the LHA will obtain proof to verify the Federal tax data using third party verification.

D. ITEMS TO BE VERIFIED [24CFR 982.516]

All income not specifically excluded by the regulations.

Zero-income status of household.

Full-time student status including high school students who are 18 or over.

Current assets including assets disposed of for less than fair market value in preceding two years.

Childcare expense where it allows an adult family member to be employed 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 6 years of age or older who have been issued a social security number.

“Preference” status based on Local preference.

Familial/marital status when needed for head or spouse definition.

Verification of reduction in benefits for noncompliance:

The LHA 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 [24CFR 982.516]

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

Employment Income

Verification forms request the employer to specify the:

Dates of employment

Amount and frequency of pay

Date of the last pay increase

Likelihood of change of employment status and effective date of any known salary increase during the next 12 months

Year to date earnings

Estimated income from overtime, tips or bonus pay expected during the next 12 months

Acceptable methods of verification include, in this order:

Employment verification form completed by the employer

Check stubs or earning statements which indicate the employee’s gross pay, frequency of pay or year to date earnings

W-2 forms plus income tax return forms

Income tax returns 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 LHA will require the most recent federal income tax statements.

Where doubt regarding income exists, a referral to IRS for confirmation will be made on a case-by-case basis.

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

Acceptable methods of verification include, in this order:

Benefit verification form completed by agency providing the benefits.

Award or benefit notification letters prepared and signed by the providing agency.

Computer report electronically obtained or in hard copy.

Bank statements for direct deposits.

Unemployment Compensation

Acceptable methods of verification include, in this order:

Verification form completed by the unemployment compensation agency.

Computer report electronically obtained or in hard copy, from unemployment office stating payment dates and amounts.

Payment stubs.

Welfare/General Assistance Payments

Acceptable methods of verification include, in this order:

LHA verification form completed by payment provider.

Written statement from payment provider indicating the amount of grant/payment, start date of payments, and anticipated changes in payment in the next 12 months.

Computer-generated Notice of Action.

Computer-generated list of recipients from the Welfare Department.

Alimony or Child Support Payments

Acceptable methods of verification include, in this order:

Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.

A (notarized) letter from the person paying the support.

Copy of latest check and/or payment stubs from Court Trustee. PHA must record the date, amount and number of the check.

Family's self-certification 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 copy of the separation or settlement agreement, or a divorce decree stating the amount and type of support and payment schedules.

A statement from the agency responsible for enforcing payments to show that the family had filed for enforcement.

A notarized affidavit from the family indicating the amount(s) received.

A welfare notice of action showing amounts received by the welfare agency for child support.

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 LHA will view IRS and financial documents from prior years and use this information to anticipate the income for the next 12 months.

Acceptable methods of verification include:

IRS Form 1040, including

Schedule C (Small Business)
Schedule E (Rental Property Income)
Schedule F (Farm Income)

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.

Audited or unaudited financial statement(s) of the business.

Documents such as manifests, appointment books, cash books, bank statements, and receipts will be used as a guide for the prior six months (or lesser period if not in business for six months) to project income for the next 12 months. The family will be advised to maintain these documents in the future if they are not available.

Childcare 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 LHA will require that the applicant/participant complete a form for each customer which includes: name of person(s), whose child (children) is/are being cared for, phone number, number of hours child is being cared for, method of payment (check/cash), amount paid, and signature of person.

If the family has filed a tax return, the family will be required to provide it.

If childcare services were terminated, a third-party verification will be sent to the parent whose child (children) was cared for.

Recurring Gifts

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

The person who provides the gifts;
The value of the gifts;
The regularity (dates) of the gifts; and
The purpose of the gifts.

Zero Income Status

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 LHA may request information from the State Employment Development Department.

The LHA may request information from the IRS.

The LHA may check records of other departments in the jurisdiction (such as utility companies) that have information about income sources of customers.

The LHA may run a credit report if information is received that indicates the family has an unreported income source.

Full-Time Student Status

Only the first \$480 of earned income of full-time students, other than head or spouse, will be counted towards family income.

Financial aid, scholarships and grants received by full-time students are not counted towards family income.

Verification of full-time student status includes:

Written verification from the registrar's office or other school official.

School records indicating enrollment for sufficient number of credits to be considered a full-time student by the educational institution.

F. INCOME FROM ASSETS [24CFR 982.516]

Savings Account Interest Income and Dividends

Acceptable methods of verification include, in this order:

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

Broker's statements showing value of stock or bonds and the earnings credited the family. Earnings can be obtained from current newspaper quotations or oral broker's verification.

IRS Form 1099 from the financial institution, provided that the LHA must

adjust the information to project earnings expected for the next 12 months.

Interest Income from Mortgages or Similar Arrangements

Acceptable methods of verification include, in this order:

A letter from an accountant, attorney, real estate broker, the buyer, or a
7-10
financial institution stating interest due for the next 12 months. (A copy of
the check paid by the buyer to the family is not sufficient unless a breakdown
of interest and principal is shown).

Amortization schedule showing interest for the 12 months following the
effective date of the certification or recertification.

Net Rental Income from Property Owned by Family

Acceptable methods of verification include, in this order:

IRS Form 1040 with Schedule E (Rental Income)

Copies of latest rent receipts, leases, or other documentation of rent amounts.

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.

G. VERIFICATION OF ASSETS

Family Assets

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

Acceptable verification may include any of the following:

Verification forms, letters, or documents from a financial institution or
broker.

Passbooks, checking amount statements, certificates of deposit, bonds or
financial statements completed by a financial institution or broker.

Quotes from a stock broker or realty agent as to net amount family would

receive if they liquidated securities or real estate.

Real estate tax statements if the approximate current market value can be deduced from assessment.

Financial statements for business assets.

Copies of closing documents showing the selling price and the distribution of the sales proceeds.

Appraisals of personal property held as an investment.

Family's self-certification describing assets or cash held at family's home or in safe deposit boxes.

Assets Disposed of for Less than Fair Market Value (FMV) During Two Years Preceding Effective Date of Certification or Recertification

For all certifications and recertifications, the LHA will obtain the Family's certification as to whether any member has disposed of assets for less than fair market value during the two years preceding the effective date of the certification or recertification.

If the family certifies that they have disposed of assets for less than fair market value, verification (or certification) 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, and (d) the market value of the assets at the time of disposition. Third party verification will be obtained wherever possible.

H. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME
[24CFR 982.516]

Childcare Expenses

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

Verifications must specify the childcare provider's name, address, telephone number, social security number, the name(s) of the child (children) cared for, the number of hours the childcare occurs, the rate of pay, and the typical yearly amount paid, including school and vacation periods.

Family's 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 or expenses to assist a person(s) with a disability will be requested 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:

Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, or (a) the anticipated medical costs to be incurred by the family and regular payments due on medical bills; and (b) extent to which those expenses will be reimbursed by insurance or a government agency.

Written confirmation by the insurance company or employer of health insurance premiums to be paid by the family.

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.

For attendant care:

- a. A reliable, knowledgeable professional's certification that the assist 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 cancelled checks the family used to make those payments) or stubs from the agency providing the services.

Receipts, cancelled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next 12 months.

Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of the next 12 months.

Receipts or other record of medical expenses incurred during the past 12 months that can be used to anticipate future medical expenses. The LHA 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, nonrecurring expenses from the previous year.

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

Assistance to Persons with Disabilities [24CFR 5.611(c)]

In All Cases:

- (a) 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.
- (b) 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:

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

Auxiliary Apparatus:

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

I. VERIFYING NON-FINANCIAL FACTORS [24cfr 5.617(B)(2)]

Verification of Legal Identity

In order to prevent program abuse, the LHA 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.

Certificate of Birth, Naturalization paper
Church issued baptismal certificate
Current, valid Driver's license
U.S. military discharge (DD214)
U.S. Passport
Voter's registration
Company/agency Identification Card
Department of Motor Vehicles Identification Card
Hospital records

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

Certificate of Birth
Adoption papers
Custody agreement
Health and Human Services ID
School Records

If none of these documents can be provided, a third party who knows the person may, at the LHA's discretion, provide a verification.

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.

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:

Verification of relationship:

Official identification showing names
Birth Certificates

Baptismal Certificates

Verification of guardianship is:

- Court-ordered assignment**
- Affidavit of parent**
- Verification from social services agency**
- School records**

Evidence of a stable family relationship:

- Joint bank accounts or other shared financial transactions**
- Leases or other evidence of prior cohabitation**
- Credit reports showing relationship**

Verification of Permanent Absence of Adult Member

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

Husband or wife institutes divorce action.

Husband or wife institutes legal separation.

Order of protection/restraining order obtained by one family member against another.

Proof of another home address, such as utility bills, cancelled checks for rent, drivers license, or rental agreement.

Statements from other agencies such as social services or written statement from the landlord or manager that the adult family member is no longer living at that location.

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

Verification of Change in Family Composition

The LHA 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 is the 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 a physician, psychiatrist, psychologist, therapist, rehab specialist, or licensed social workers, using the HUD language as the verification format.

Verification of Citizenship/Eligible Immigrant Status

[24CFR 5.508, 5.510, 5.512, 5.514]

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

Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury.

Acceptable documentation will include one of the following original documents;

- United States birth certificates
- United States passport
- Resident alien/registration card
- Social Security card

Eligible Immigrants who were Participants and 62 or over on June 19, 1995, 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 and returned to the family. The LHA verifies the status through the INS SAVE system. If this primary verification fails to verify the status, the LHA must request within ten 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 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 same time as verification of other factors of eligibility for final eligibility determination. For family members added after other members have been verified, the verification occurs at the first recertification after the new member moves in. Once verification has been completed for any covered program, it need not be repeated except that, in the case of port-in families, if the initial PHA does not supply the documents, the LHA must then conduct the determination.

Extensions of Time to Provide Documents. The LHA will grant an extension of 30 calendar days for families who declare their eligible immigration status but need time to obtain the required documents. The length of the extension shall be based on individual circumstances.

Acceptable Documents of Eligible Immigration. The regulations stipulate that only the following documents are acceptable unless changes are published in the Federal Register:

- Resident Alien Card (I-551)
- Alien Registration Receipt Card (I-151)
- Arrival-Departure Record (I-94)
- Temporary Resident Card (I-688)
- Employment Authorization Card (I-688B)
- 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 LHA 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 24 months, unless the ineligible individual has already been considered in prorating the family's assistance.

Verification of Social Security Numbers [24CFR 5.216]

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

A Driver's License

Identification card issued by a Federal, State or local agency

**Identification card issued by a medial insurance company or provider
(including Medicare and Medicaid)**

Identification card issued by an employer or trade union

Identification card issued by a medical insurance company

Earnings statements or payroll stubs

Bank Statements

IRS for 1099

Benefit award letters from government agencies

Retirement benefit letter

Life insurance policies

**Court records such as real estate, tax notices, marriage and divorce,
Judgment or bankruptcy records**

Verification of benefits or Number from Social Security Administration

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

If an applicant or participant is able to disclose the Social Security Number but cannot meet the documentation requirements, the applicant or participant must sign a certification to that effect provided by the LHA. The applicant/participant or family member will have an additional 60 calendar days to provide proof of the Social Security Number. If they fail to provide this documentation, the family's assistance will be terminated.

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

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

Medical Need for Larger Unit

A written certification that a larger unit is necessary must be obtained from a reliable, knowledgeable professional.

If a family member gets written certification that the need for a larger unit is based on permanent disability, this certification will only need to be obtained once. If the certification does not indicate how long the larger unit is necessary, the medical need will be verified annually at the recertification.

J. VERIFICATION OF WAITING LIST PREFERENCES [24CFR 982.207]

Local Preferences

1. **Residency Preference:** For families who live, work or have been hired to work in the LHA jurisdiction. Families who are unable to work due to age or disability automatically qualify for this preference.

In order to verify that an applicant is a resident, the LHA may require the following documents: rent receipts, leases, utility bills, employer or agency records, school records, drivers licenses, voters registration records, credit reports, or statement from household with whom the family is residing.

For families who have been hired to work in the jurisdiction of the LHA, a statement from the employer will be required.

2. **Veterans Preference:** This preference is available to current members of the U.S. Military Armed Forces, veterans, or surviving spouses of veterans.
3. **Working Preference:** This preference is available for families with the head of the household or spouse who is employed for at least 20 hours per week. The LHA will require a statement from the employer.

Families who are unable to work due to age or disability automatically qualify for this preference.

4. **Educational/Training Participants:** This preference is available for families who are graduates of or participants in educational or training programs designed to prepare the individual for the job market. The LHA

will require a statement from the agency or institution providing the education or training.

5. **Involuntary displacement:** Families that are involuntarily displaced by Government action (State Code 34322.2) or disaster. The family must receive written verification by the displacing unit or agency of government or by a service agency such as the Red Cross.
6. **Disability Preference:** This preference is available for families with a member (head of household or spouse) who has a disability as defined in this Administration Plan.

The LHA will require appropriate documentation from a knowledgeable Professional. The LHA will not inquire as to the nature of the disability except as to verify necessity for accessible unit.

Award letter or other proof of eligibility for Social Security Disability or Supplemental Security Income will be acceptable.

Chapter 8

VOUCHER ISSUANCE AND BRIEFING

INTRODUCTION

The LHA's objectives are to assure that families selected to participate are successful in obtaining an acceptable housing unit, and that they have a sufficient knowledge to derive maximum benefit from the program and to comply with program requirements. When families have been determined to be eligible, the PHA will conduct a mandatory briefing to provide a broad description of owner and family responsibilities, LHA procedures, and how to lease a unit. The family will also receive a briefing packet which provides more detailed information about the program. 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 HOUSING CHOICE VOUCHERS [24CFR 982.302]

When funding is available, the LHA will issue Housing Choice Vouchers to applicants whose eligibility has been determined. The issuance of Vouchers must be within the dollar limitations set by the ACC budget.

The number of Vouchers issued must ensure that the LHA stays as close as possible to 100% lease-up. The LHA performs a calculation to determine whether applications can be processed, the number of Vouchers that can be issued, and to what extent the LHA can over-lease (issue more Vouchers than the budget allows to achieve lease-up).

The LHA may over-issue Vouchers only to the extent necessary to meet leasing goals. All Vouchers which are over-issued must be honored. If the LHA 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 [24CFR 982.301]

Initial Applicant Briefing

A full HUD required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted in groups and individual meetings. Families who attend group briefings and still have the need for individual assistance will be referred to staff.

Briefings will be conducted in English. Families may bring an interpreter to the briefing, if needed.

The purpose of the briefing is to explain 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 LHA 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 a scheduled briefing, without prior notification and approval of the LHA, may be denied admission based on failure to supply information needed for certification. The LHA will conduct individual briefings for families with disabilities at their home, upon request by the family, if required for reasonable accommodation. With prior notice of inability to attend a briefing, a briefing may be rescheduled one time.

Briefing Packet [24CFR 982.301 (b)]

The documents and information provided in the briefing packets for the Housing Choice Voucher will comply with all HUD requirements. The LHA also includes other information and/or materials which are not required by HUD.

The family is provided with the following information and materials:

The term of the Voucher, and the LHA policy for requesting extensions.

A description of the method used to calculate the housing assistance payment for a family, including how the LHA determines the payment standard for a family; how the LHA determines total tenant payment for a family and information on the payment standard and utility allowance schedule. How the LHA determines the maximum allowable rent for an assisted unit.

Guidance and materials to assist the family in selecting a unit, such as proximity to employment, public transportation, schools, shopping, and the accessibility of services. Guidance will also be provided to assist the family evaluate the prospective unit, such as the condition, whether the rent is reasonable, average utility expense, energy efficiency, and security.

Where the family may lease a unit. For family that qualifies to lease a unit outside the LHA jurisdiction under portability procedures, the information must include an explanation of how portability works.

The HUD required “lease addendum” which is the language that must be included in the lease.

The Request for Tenancy Approval form and a description of the procedure for requesting approval of a unit.

The LHA policy on providing information about families to prospective Landlords.

The LHA subsidy standards, when and how exceptions are made and how the voucher size relates to the unit size selected.

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”.

Information of federal, state and local equal opportunity laws, including the pamphlet “Fair Housing: It’s Your Right” and other information about fair housing laws and guidelines. Also included is the form for reporting suspected discrimination and the phone numbers of the local fair housing agency and the HUD enforcement office.

A list of properties or property management organizations that own or operate housing units outside areas of poverty or minority concentration.

If the family includes a person with disabilities, notice that the LHA will provide assistance in locating accessible units and a list of available accessible units known to the LHA.

The Family Obligations under the program.

The grounds on which the LHA may terminate assistance for a participant family because of family action or failure to act.

When the LHA is required to offer an informal hearing, how to request the hearing, and the hearing procedures.

Families are advised how to notify the LHA and/or HUD of program abuses such as side payments, extra charges, violations of tenant rights, or owner failure to repair.

Requirements for reporting changes between certifications.

Explanation of how portability works, including a list of neighboring housing agencies.

A map showing areas representing various income levels of the jurisdiction and surrounding areas for the purpose of expanding housing opportunities for families.

C. 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 LHA will provide assistance to families who wish to do so.

The LHA will maintain lists of available housing submitted by owners in all neighborhoods within the LHA's jurisdiction to ensure greater mobility and housing choice to very low income households. The lists of owners/units will be provided at the briefing and at the front desk.

D. ASSISTANCE TO FAMILIES WHO CLAIM DISCRIMINATION

The LHA will give participants a copy of HUD Form 903 to file a complaint. If HUD Fair Housing makes a finding of discrimination against an owner, the LHA will restrict the owner from future participation.

E. SECURITY DEPOSIT REQUIREMENTS [24CFR 982.313]

Leases Effective Prior to October 2, 1995

The amount of Security Deposit which could have been collected by owners under contracts effective prior to October 2, 1995 is:

Under the pre-merger Certificate Program, the owner could have collected a Security Deposit in an amount not to exceed Total Tenant Payment or \$50, whichever is greater, for non-lease-in-place families.

For the pre-merger Voucher Program, the owner, at his/her discretion, could have collected a Security Deposit in an amount not to exceed maximum prescribed by State or local law.

Leases Effective on or after October 2, 1995

The owner is not required to, but may, collect a security deposit from the tenant. Security Deposits charged by owners may not exceed those charged to unassisted tenants or the maximum prescribed by State or local law.

For lease-in-place families, responsibility for first and last month's rent is not considered a security deposit issue. In these cases, the owner should settle the issue with the tenant prior to the beginning of assistance.

F. VOUCHER TERM, EXTENSIONS, AND SUSPENSIONS

During the briefing session, each household will be issued a Housing Choice Voucher which represents a contractual agreement between the LHA and the Family specifying the rights and responsibilities of each party. It does not constitute admission to the program which occurs when the lease and contract become effective.

Voucher Term [24CFR 982.303]

The Voucher is valid for a period of 120 calendar days from the date of issuance. The family must submit a Request for Tenancy Approval and Lease within the 120-day period unless an extension has been granted by the LHA.

If the Voucher has expired, and has not been extended by the LHA 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 of Voucher Term [24CFR 982.303(c)]

When a Request for Tenancy Approval is received, the LHA will not deduct the number of days required to process the request from the 120-day term of the Voucher.

Extensions of Voucher Term [24CFR 982.303(b), Notice 2012-42]

The LHA has the authority to grant extensions of search time, to specify the length of an extension, and to determine the circumstances under which extensions will be granted. In some cases, voucher extensions may require the family to submit new verifications for income, assets, or deductions.

Extensions are permissible at the discretion of the LHA up to a maximum of 180 days, primarily for these reasons:

- The LHA will approve additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose. The family will be notified in

writing of the LHA's decision to approve or deny an extension. The LHA's decision to deny a request for an extension of the voucher term is not subject to informal review [24CFR 982.554(c)(4)].

- In cases of new applicants, the decision to allow additional extensions beyond the 120 days must be approved by the Executive Director. The family must demonstrate that its due diligence in trying to locate a unit was met by providing the LHA a listing of all units looked at and all contacts with landlords made before any extensions will be considered. The LHA must also be able to document that the market has higher rents than voucher holders can afford or there is a shortage of rental units available.

For participants transferring units, 24CFR 982.312 only allows for a family to be absent from a unit for 180 consecutive days; therefore, the LHA will only allow extensions to this time unless in the case of a reasonable accommodation due to a disability.

When warranted by reasons beyond the family's control, as determined by LHA, such as serious illness or death of an immediate family member or incapacitation of the head of household due to an accident or illness requiring hospitalization or restricting mobility.

Any request for an extension must be made in writing before the family's voucher expires and include the reason(s) an extension is necessary. LHA may require the family to provide documentation to support the request or obtain verification from a qualified third party.

Assistance to Voucher Holders

Families who require additional assistance during their search may call the LHA office to request assistance. Voucher holders will be notified at their briefing session that the LHA periodically updates the listing of available units and how the updated list may be obtained.

The LHA will assist families with negotiations with owners and provide other assistance related to the families' search for housing.

The family is required to maintain a search record and report to the LHA if an extension is requested.

G. VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS [24CFR 982.315]

In 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 LHA shall consider the following factors to determine which of the families will continue to be assisted:

- Which of the two new family units has custody of dependent children.

- Which family member was the head of household when the Voucher was initially issued (listed on the initial application).
- The composition of the new family units, and which unit contains elderly or disabled members.
- Whether domestic violence was involved in the breakup.
- Which family members remain in the unit.
- Recommendations of social service professionals.

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

H. REMAINING MEMBER OF TENANT FAMILY-RETENTION OF THE HOUSING CHOICE VOUCHER [24CFR 982.315]

To be considered the remaining member of the tenant family, the person must have been previously approved by the LHA 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:

The court has to have awarded emancipated minor status to the minor, or the LHA has to have verified that social services and/or Juvenile Court has arranged for another adult to be brought into the assisted unit to care for the child(ren) for an indefinite period.

Chapter 9

REQUEST FOR APPROVAL OF TENANCY AND CONTRACT EXECUTION

INTRODUCTION

The LHA's program operations are designed to utilize resources in a manner that is efficient and provides eligible families timely assistance based on the number of units that have been budgeted. The LHA'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 LHA, or outside of the LHA'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 LHA. This chapter defines the types of eligible housing, the LHA's policies which pertain to initial inspections, lease requirements, owner disapproval, and the processing of Requests For Approval of Tenancy (RFAT).

A. REQUEST FOR APPROVAL OF TENANCY [24CFR 982.305(b), 982.302]

The Request for Approval of Tenancy (RFAT) and a copy of the proposed Lease must be submitted by the family during the term of the Voucher. The family must submit the RFAT in the form and manner required by the LHA.

The Request for Approval of Tenancy must be signed by both the owner and Voucher holder. The Lease may be executed up to 60 days prior to contract execution but cannot be executed without approval of the LHA.

The LHA will not permit the family to submit more than one RFAT at a time.

The LHA will review the proposed lease and Request for Approval of Tenancy documents to determine whether or not they are approvable.

The Request will be approved if:

The unit is an eligible type of housing;

The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan);

The rent is reasonable;

The security deposit amount is approvable in accordance with any limitations in this Plan;

The owner is approvable, and there are no conflicts of interest (see “Owner Disapproval” section); and

The proposed lease complies with HUD and LHA requirements.

In addition to the above, at the time a family initially receives assistance in a unit (new admissions and moves), if the gross rent for the unit exceeds the applicable payment standard for the family, the family share of rent may not exceed 40% of the family monthly adjusted income.

Disapproval of RFAT

If the LHA determines that the Request cannot be approved for any reason, the landlord and the family will be notified in writing. The LHA will instruct the owner and family of the steps that are necessary to approve the Request.

The owner will be given 30 calendar days to submit an approvable RFAT from the date of disapproval.

When, for any reason, an RFAT is not approved, the LHA will furnish another RFAT form to the family along with the notice of disapproval so that the family can continue to search for eligible housing.

The time limit on the Voucher will not be suspended while the RFAT is being processed.

B. ELIGIBLE TYPES OF HOUSING [21CFR 982.353]

The LHA will approve any of the following types of housing in the Voucher Program:

The LHA will utilize structure types outlined in Chapter 21 of this Plan, (Special Housing Types).

The LHA will not approve:

A unit occupied by the owner or by any person with an interest in the unit, other than manufactured homes.

Nursing homes or other institutions that provide care.

School dormitories and institutional housing.

Any other types of housing prohibited by HUD.

Restrictions on Leasing to Relatives [24CFR 982.306]

The LHA will not approve a unit for lease if the owner is the parent, child, grandparent, grandchild, sister or brother of the Section 8 Voucher holder.

The LHA could still approve the unit for lease, if the LHA determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities.

This policy applies both to New Admissions and Moves with continued assistance.

C. LEASE REVIEW [24CFR 982.308]

The LHA will review the lease, particularly 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 Approval of Tenancy.

The family and owner must submit a standard form of the 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:

The names of the owner and tenant;

The address of the unit rented (including apartment number, if any);

The amount of the monthly rent to owner;

The utilities and appliances to be supplied by the owner; and

The utilities and appliances to be supplied by the family.

The HUD prescribed tenancy addendum must be included in the lease word-for-word before the lease is executed.

House Rules of the owner may be attached to the lease as an addendum, provided they are approved by the LHA to ensure they do not violate any fair housing

Provisions and do not conflict with the tenancy addendum.

Effective September 15, 2000, the owner's lease must include the Lead Warning Statement and disclosure information required by 24CFR 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 are grounds to terminate tenancy.

The lease must also provide that the owner may evict the family when the owner determines that any household member is illegally using a drug or a pattern of illegal use of a 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 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 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; 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 LHA to ensure they do not violate any fair housing provisions and do not conflict with the tenancy addendum.

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 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 LHA. Any appliances, services or other items which 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 LHA. If agreements are entered into at a later date, they must be approved by the LHA and attached to the lease.

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:

The LHA has inspected the unit and has determined that the unit satisfies the HQS;

The LHA has determined that rent charged by the owner is reasonable;

The landlord and the tenant have executed the lease, including the HUD-prescribed tenancy addendum;

The LHA has approved leasing of the unit in accordance with program requirements; and

When the gross rent exceeds the applicable payment standard for the family, the LHA must determine that the family share (total family contribution) will not be more than 40% of the family's monthly adjusted income.

Request for Approval of Lease and Contract Execution

Effective October 21, 1998 the Quality Housing and Work Responsibility Act of 1998 (QHWRA) made permanent the 90-day owner termination and endless lease

requirements. The LHA is no longer limited to the use of the endless lease, exclusively. Owners can now choose from the following options, but the initial term must be at least 12 months:

They can elect to have an indefinite extension of the initial term (the endless lease). This option allows that the owner can only terminate tenancy during the term of the lease by instituting a court action, or

They can elect fixed, definite extensions of the initial term, such as month-to-month or year-to-year. This option allows that the owner can terminate tenancy without cause at the end of the initial term or any subsequent term.

However, the new legislation permits the LHA to approve a shorter initial lease term, if the LHA determines that:

Such shorter term would improve housing opportunities for the tenant; and

Such shorter term is prevailing local market practice.

D. INITIAL INSPECTION [24CFR 982.305(a)(b)]

See “Housing Quality Standards and Inspections” Chapter of the Administrative Plan.

E. RENT LIMITATIONS [24CFR 982.507]

The LHA 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 LHA, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units on the premises. The owner is required to provide the LHA with information requested on rents charged by the owner on the premises or elsewhere.

At all times during the tenancy, the rent to the owner may not be more than the most current reasonable rent as determined by the LHA.

F. DISAPPROVAL OF PROPOSED RENT [24CFR 982.502]

In any of the programs, if the proposed gross rent is not reasonable, at the family's request, the LHA will attempt to negotiate with the owner to reduce the rent to a reasonable rent. If, in the voucher program, the rent is not affordable because the family share would be more than 40% of the family's monthly adjusted income, the LHA will attempt to negotiate with the owner to reduce the rent to an affordable rent for the family.

If the rent can be approved after negotiations with the owner, the LHA will continue processing the Request for Approval of Tenancy and lease. If the revised rent involves a change in the provision of utilities, a new Request for Approval of Tenancy must be submitted by the owner.

If the owner does not agree on the rent to owner after the LHA has tried and failed to negotiate a revised rent, the LHA will inform the family and owner that the lease is disapproved.

G. INFORMATION TO OWNERS [24CFR 982.307(b). 982.54(d)(7)]

In accordance with HUD requirements, the LHA will furnish prospective owners with the family's current address as shown in the LHA's records and if known to the LHA, the name and address of the landlord at the family's current and prior address.

The LHA will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

The LHA 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, eviction history, damage to units, respecting the rights of other residents, payment of utilities, drug-related criminal activity, other activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

The LHA will provide documented information regarding tenancy history for the past number of years to prospective landlords upon written request from the landlord.

The LHA will provide the following information based on documentation in its possession:

- Eviction history
- Damage to rental units
- Other aspects of tenancy history
- Drug trafficking by family members

The information will be provided orally. Only the Section 8 Program Manager and Housing Assistants may provide this information. The LHA's policy on providing information to owners is included in the briefing packet and will apply uniformly to all families and owners.

H. OWNER DISAPPROVAL [24CFR 982.306]

See Chapter on "Owner Disapproval and Restitution".

I. CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HAP EFFECTIVE DATE

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

J. CONTRACT EXECUTION PROCESS [24CFR982.305(c)]

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

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

The following LHA representatives are authorized to execute a contract on behalf of the LHA in the following order: Executive Director, Assistant Director, and Section 8 Program Manager.

Owners must provide the current address of their residence (not a Post Office Box). If families lease properties owned by relatives, 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 submit a copy of the Management Agreement if the property is managed by a management agent.

The owner must provide a business or home telephone number.

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

K. CHANGE IN OWNERSHIP

The LHA 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 and the Employee Identification Number or Social Security number of the new owner.

L. LEAD-BASED PAINT HQS REQUIREMENTS [24CFR 982.401, Notice PIH 98-54, CFR 35.92(b)]

Prior to execution of the HAP contract, owner must inform the LHA and family of any knowledge of lead-based paint. The LHA must provide lead-based disclosure information to the family prior to the execution of the lease approval of any unit constructed before 1978.

The LHA will try to collect names and addresses of children with identified elevated blood levels (EBLs) and match with families.

Inspection reports will be kept for three years, or if chewable surfaces require testing, indefinitely, with owner certification.

The LHA will provide a copy of HUD's brochure, "Protect Your Family from Lead in Your Home", to every participating household.

Chapter 10

HOUSING QUALITY STANDARDS AND INSPECTIONS

INTRODUCTION

Housing Quality Standards (HQS) are the HUD minimum housing quality standards for tenant-based and project-based programs. HQS standards are required both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, as well as the unit. Newly leased units must pass the HQS inspection before the beginning date of the assisted lease and HAP contract. The LHA will inspect each unit under contract at least annually. The LHA will also have any inspection supervisor perform quality control inspections on the number of files required for file sampling by SEMAP annually to maintain the LHA's required standards and to assure consistency in the LHA's program. This chapter describes the LHA's procedures for performing HQS and other types of inspections, and LHA 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 LHA requirements.

A. GUIDELINES/TYPES OF INSPECTIONS [24CFR 982.401(a), 982.405]

Efforts will be made at all times to encourage owners to provide housing above HQS minimum standards. The LHA 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.

There are five types of inspections the LHA will perform:

Initial/Move-in: Conducted upon receipt of Request For Approval of Tenancy.

Annual: Must be conducted within 12 months of the initial or last annual inspection.

Special/Complaint: At the request of owner, family or an agency or third-party.

Move-Out/Vacate: For pre-October 2, 1995 contracts where there could be a damage claim.

Quality Control: A quality control inspection will be conducted for 5 percent of all units which have been inspected.

B. INITIAL INSPECTIONS [24CFR 982.401(A), 982.305(b)(2)]

The LHA will inspect the unit, determine whether the unit satisfies the HQS and notify the family and owner of the determination within 7-14 business days after the family and the owner have submitted both a request for approval of tenancy and copy of the lease. The same 7-14 day clock will be suspended during any period when the unit is not available for inspection.

The Initial Inspection will be conducted to:

Determine if the unit and property meet the HQS defined in this Plan.

Document the current condition of the unit as to assist in future evaluations whether the condition of the unit exceeds normal wear and tear.

Document the information to be used for determination of rent reasonableness.

If the unit fails the Initial Housing Quality Standards inspection, the family and owner will be advised to notify the LHA once repairs are completed.

On an initial inspection, the owner will be given up to 30 days to correct the items noted as Fail, at the inspector's discretion, depending on the amount and complexity of work to be done.

The owner will be allowed up to 2 re-inspections for repair work to be completed.

If the time period given by the inspector to correct the repairs has elapsed, or the maximum number of failed re-inspections has occurred, the family must select another unit.

C. ANNUAL HQS INSPECTIONS [24CFR 982.405(a)]

The LHA conducts an inspection in accordance with Housing Quality Standards at least annually.

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 LHA to inspect the unit at reasonable times with reasonable notice. [24CFR 982.551(d)]. Reasonable hours to conduct an inspection are between 8:30AM and 5:00PM, Monday through Friday.

The family and the owner are notified of the date and time of the inspection appointment by mail. If the family is unable to be present, they must reschedule the appointment so that the inspection is completed within 60 days before the renewal date.

The family is notified that it is a Family Obligation to allow the LHA to inspect the unit. If a family does not contact the LHA to reschedule, or if the family misses 2 inspection appointments, the LHA will consider the family to have violated a Family Obligation and their assistance will be terminated in accordance with the termination procedures in the Plan.

If the family was responsible for a breach of HQS identified in Chapter 15, "Denial or Termination of Assistance", they will be advised of their responsibility to correct.

D. MOVE OUT/VACATE INSPECTIONS

A move out inspection will be performed only at the landlord's request if claim is to be submitted for contracts effective before 1/2/95.

E. SPECIAL/COMPLAINT INSPECTIONS [24CFR 982.405(c)]

If at any time the family or owner notifies the LHA that the unit does not meet Housing Quality Standards, the LHA will conduct an inspection.

The LHA may also conduct a special inspection based on information from third parties such as neighbors or public officials.

The LHA 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 anniversary date is within 120 days of a special inspection, the special inspection will be categorized as annual and all annual procedures will be followed.

F. QUALITY CONTROL INSPECTIONS [24CFR 982.405(B)]

Quality Control inspections will be performed by the Program Manager on the number of files required by SEMAP. The purpose of the 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 month), a cross-section of neighborhoods, and a cross-section of inspectors.

G. TIME STANDARD FOR REPAIRS

- 1. Emergency items which endanger the family's health or safety must be corrected within 24 hours of notification.**
- 2. For non-emergency items, repairs must be made within 30 days.**
- 3. For major repairs, the LHA may approve an extension beyond 30 days.**

H. EMERGENCY REPAIR ITEMS [24CFR 982.404(a)]

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

- Lack of security for the unit**
- Waterlogged ceiling in imminent danger of falling**
- Major plumbing leaks or flooding**
- Natural gas leak or fumes**
- Electrical problem which could result in shock or fire**
- No heat during the winter months**
- Utilities not in service**
- No running hot water**
- Broken glass where someone could be injured**
- Obstacle which prevents tenant's entrance or exit**
- Lack of functioning toilet**

Smoke Detectors

Inoperable smoke detectors are a serious health threat and will be treated by the LHA as an emergency (24 hour) fail item.

If the LHA 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 24 hours.

In cases where there is leaking gas or potential fire or other threat to public safety, and the responsible party cannot be notified or it is impossible to make the repair, proper authorities will be notified by the LHA.

The LHA may give a short extension (not more than 24 additional hours) whenever the responsible party cannot be notified or it is impossible to effect the repair within the 24-hour period.

If the emergency repair item(s) are not corrected in the time period required by the LHA 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 corrected in the time period required by the LHA, and it is an HQS breach which is a family obligation, the LHA will terminate the assistance to the family and the owner's payment will not be abated for the breach of HQS.

I. CONSEQUENCES IF OWNER IS RESPONSIBLE (NON EMERGENCY ITEMS [24CFR 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 LHA, the assistance payment to the owner will be abated/reduced.

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 LHA will inspect abated units after 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.

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 LHA's portion of rent that is abated.

Reduction of Payments

The LHA will reduce payments/grant an extension in lieu of abatement in the following cases:

The owner has a good history of HQS compliance.

The failed item(s) are minor in nature.

There is an unavoidable delay in completing repairs due to difficulties in obtaining parts or contracting for services.

The owner makes a good faith effort to make the repairs.

The repairs are expensive (such as exterior painting or roof repair) and the owner needs time to obtain the funds.

The repairs must be delayed due to climate conditions.

The extension/reduction will be made for a period of time not to exceed 30 days. At the end of that time, at the LHA's discretion, if the work is not completed or substantially completed, the LHA will begin the abatement/termination of assistance.

Termination of the Contract

If the owner is responsible for repairs, and fails to correct all the deficiencies cited prior to the end of the abatement period, the owner will be sent a HAP Contract Proposed Termination notice. Prior to the effective date of the termination, the abatement will remain in effect.

If repairs are completed before the effective termination date, the termination may be rescinded by the LHA if the tenant chooses to remain in the unit.

J. DETERMINATION OF RESPONSIBILITY [24CFR 982.404, 982.54(d)(14)]

Certain HQS deficiencies are considered the responsibility of the family:

Tenant-paid utilities not in service.

Failure to provide or maintain family-supplied appliances.

Damage to the unit or premises caused by a household member or guest beyond normal wear and tear.

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 LHA may terminate the family's assistance on that basis.

If the family is responsible but the owner does 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 THE FAMILY IS RESPONSIBLE [982.404(B)]

If non-emergency violations of HQS are determined to be the responsibility of the family, the LHA will require the family to make any repair(s) or corrections within 30 days. If the repair(s) or corrections are not made in this time period, the LHA will terminate assistance to the family after providing an opportunity for an informal hearing. Extensions in these cases must be approved by the Program Manager. The owner's rent will not abated for items which are the family's responsibility.

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

Chapter 11

OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS

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 Assistance Program. These amendments became effective 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.

In accordance with the regulations, effective 10/1/99, for those Section 8 participant families where there is a HAP contract in effect entered into prior to October 1, 1999, the LHA will:

Continue to uphold the rent calculation methods of the pre-merger certificate (regular) tenancies until the 2nd regular reexamination of family income and composition following the “merger date”.

Utilize the Housing Choice Voucher rent calculation methods described at 24CFR 982.502 and 982.505 for pre-merger voucher (and OFTO) tenancies.

However, all new leases, moves and new admissions taking effect on or after October 1, 1999 will be subject to the regulations of the new Housing Choice Voucher Program.

The LHA will determine rent reasonableness in accordance with 24CFR 982.507(a). It is the LHA’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 24CFR 982.507(b).

This chapter explains the LHA’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 LHA 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 (24CFR 982.508). At the time a family initially receives Voucher 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 40 percent of the family's monthly adjusted income.

During the initial term of the lease, the owner may not raise the rent to owner.

B. MAKING PAYMENTS TO OWNERS [24CFR 982.451]

Once the HAP Contract is executed, the LHA begins processing payments to the landlord. A LHA Register will be used as a basis for monitoring the accuracy and timeliness of payments. Changes are made to the HAP Register for the following month. Checks are disbursed by the Accounting Department to the owners each month.

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.

To assist the LHA in its outreach efforts to owners, and to provide better customer service, the LHA will offer to make automatic monthly HAP deposits into the bank account of the owner.

Excess Payments

The total of rent paid by the tenant plus the LHA housing assistance payment to the owner may not be more than the rent to the owner. The owner must immediately return any excess payment to the LHA.

Owners who do not return excess payments will be subject to penalties as outlined in the "Owner or Family Debts to the LHA" chapter of this Administrative Plan.

C. RENT REASONABLENESS DETERMINATIONS [24CFR 982.507]

The LHA will determine and document on a case-by-case basis that the approved rent is reasonable in comparison to rent for other comparable unassisted units in the market. This applies to all programs.

The LHA will not approve a lease until it determines that the initial rent to owner is a reasonable rent. The LHA must re-determine the reasonable rent before any increase in the rent to owner, and if there is a five percent decrease in the

Published FMR in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect one year before the contract anniversary.

The LHA must re-determine rent reasonableness if directed by HUD and based on a need identified by the LHA's auditing system. The LHA 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 by the LHA.

The owner will be advised that by accepting each monthly housing assistance payment she/he will be certifying that the rent charged by the owner for comparable unassisted units in the premises.

If requested, the owner must give the LHA information on rents charged by the owner for other units on the premises or elsewhere. The LHA will only request information on the owner's units elsewhere if the LHA has cause to demonstrate that the owner has a tendency to charge higher rents to program participants or if needed for rent reasonableness comparables.

The data for other unassisted units will be gathered from newspapers, realtors, market surveys, inquiries of owners and other available sources.

The market areas for rent reasonableness are neighborhoods within the LHA'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:

- Size (number of bedrooms/square footage)**
- Location**
- Quality**
- Amenities (bathrooms, dishwasher, air conditioning, etc.)**
- Housing services**
- Age of the unit**
- Unit type**
- Maintenance**
- Utilities**

The LHA maintains a notebook which includes data on unassisted units for use by staff in making rent reasonableness determinations. The data is updated and purged on an ongoing basis.

D. PAYMENT STANDARDS FOR THE VOUCHER PROGRAM
[24CFR 982.503] [24CFR 982.505]

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

The LHA will establish a single voucher payment standard amount for the LHA jurisdiction. The LHA will establish payment standard amounts for each "unit size". The LHA may have a higher payment standard within the LHA'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 LHA 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.

Decrease in the payment standard amount during the HAP contract term

If the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly housing assistance payment for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount. The LHA will determine the payment standard for the family as follows:

1. The payment standard for the family is the lower of the payment standard amount for the family unit size; or the payment standard amount for the size of the dwelling unit rented by the family.

The LHA has established only one payment standard for its jurisdiction.

2. First reexamination payment standard amount: the LHA shall compare the payment standard from #1 to the payment standard amount last used to calculate the monthly housing assistance payment for the family. The payment standard amount used by the LHA to calculate the monthly housing assistance payment at the first regular reexamination following the decrease in the payment standard amount is the higher of these two payment standard amounts. The LHA shall advise the family that the application of the lower

Payment standard amount will be deferred until the second regular reexamination following the effective date of the decrease in the payment standard amount.

3. At the second regular reexamination following the decrease in the payment standard amount, the lower payment standard amount shall be used to calculate the monthly housing assistance payment for the family.

If the LHA has subsequently increased the payment standard amount during the term of the HAP contract, the increased payment standard amount shall be used to calculate the monthly housing assistance payment for the family beginning at the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard amount.

Change in family unit size during the HAP contract term

Irrespective of any increase or decrease in the payment standard amount, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard amount for the family beginning at the family's first regular reexamination following the change in family unit size.

PHA approval of higher payment standard as a reasonable accommodation

If the family includes a person with disabilities and requires a higher payment standard for the family, as a reasonable accommodation for such person, the LHA may establish a higher payment standard for the family within the basic range.

Payment Standards may be adjusted, within HUD regulatory limitations, to increase Housing Assistance Payments in order to keep families' rents affordable. The LHA will not raise Payment Standards solely to make "high end" units available to Voucher holders.

The LHA will review the Payment Standard annually to determine whether an adjustment should be made for some or all unit sizes.

Quality of Units Selected

The LHA 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.

Rent to Owner Increases

The LHA 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 LHA may consider the average time period for families to lease up under the Voucher program. If Voucher holders are unable to locate suitable housing within the term of the voucher and the LHA determines that this is due to rents in the jurisdiction being unaffordable for families even with the presence of a voucher the Payment Standard may be adjusted.

Rent Reasonableness Data Base/Average Contract Rents

The LHA will compare the Payment Standards to average rent in its Rent Reasonableness Data Base and to the average contract rents by unit size.

Lowering the Payment Standard

Lowering 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 of the FMR without authorization from HUD.

Financial Feasibility

Before increasing the Payment Standard, the LHA 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 LHA 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 LHA for at least three years to document the analysis and findings to justify whether or not the Payment Standard was changed.

E. PAYMENT STANDARDS FOR A FAMILY [24CFR 982.505 (d)]

A payment standard is used to calculate the monthly housing assistance payment for a family. The "payment standard" is the maximum monthly subsidy payment.

The LHA will pay a monthly housing assistance payment on behalf of the family that is equal to the lower of:

- 1) The payment standard for the family minus the total tenant payment; or
- 2) The gross rent minus the total tenant payment.

The payment standard for the family is the lower of:

- 1) The payment standard amount for the family unit size; or
- 2) The payment standard amount for the size of the dwelling unit rented by the family.

Decrease in the payment standard amount during the HAP contract term.

If the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly housing assistance payment for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount. The LHA must determine the payment standard for the family as follows:

- 1) At the first regular reexamination following the decrease in the payment standard for the family in accordance to the above.
- 2) First reexamination payment standard amount: The LHA shall compare the payment standard amount from #1 to the payment standard amount last used to calculate the monthly housing assistance payment for the family. The payment standard amount used by the LHA to calculate the monthly housing assistance payment standard amount is the higher of these two payment standard amounts. The LHA shall advise the family that the application of the lower payment standard will be deferred until the second regular reexamination following the effective date of the decrease in the payment standard amount.
- 3) Second reexamination payment standard amount: At the second regular reexamination following the decrease in the payment standard amount, the lower payment standard amount shall be used to calculate the monthly housing assistance payment for the family unless the LHA has subsequently increased the payment standard amount, in which case the payment standard amount is determined.

Moves

If the family moves into a different unit prior to their next recertification and the LHA has had a change in the payment standard the new payment standard will be used. The applicable payment standard will be that which is the lower of either the voucher size issued or the unit size selected at the time of the move.

F. AREA EXCEPTION RENTS [24CFR 982.504(b)]

Area exception rents may exceed 120 percent of the published FMR/exception rent limit. If the dwelling unit is located in an exception area, the LHA must use the appropriate payment standard established by the LHA for the exception area in accordance with regulation 24CFR 982.503(c).

**G. OWNER PAYMENT IN THE HOUSING CHOICE VOUCHER PROGRAM
[24CFR 982.308(g)]**

The owner is required to notify the LHA, in writing, at least sixty days before any change in the amount of the rent to owner is scheduled to go into effect. Any requested change in rent to owner will be subject to rent reasonableness requirements.

Owners may not request rent adjustments to be effective prior to the expiration of the first year of the lease. Rent adjustments are effective with a sixty-day notice to the family and a copy to the LHA. The LHA will advise the family as to whether the rent is reasonable and shall approve or disapprove the rent increase.

Chapter 12

RECERTIFICATIONS

INTRODUCTION

In accordance with HUD requirements, the LHA will reexamine the income and household composition of all families at least annually. Families will be provided accurate annual and interim rent adjustments. Recertifications and interim examinations 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 regulations. It is a HUD requirement that families report all changes in household composition. This Chapter defines the LHA's policy for conducting annual recertifications and coordinating annual activities. It also explains the interim reporting requirements for families, and the standards for timely reporting.

A. ANNUAL ACTIVITIES [24CFR 982.516. 982.405]

There are three activities the LHA must conduct on an annual basis. These activities will be coordinated whenever possible:

Recertification of Income and Family Composition

HQS Inspections

Contract Rent Adjustment when requested by Owner

The LHA produces a monthly listing of units under contract to ensure that timely reviews of rent, housing quality, and factors related to Total Tenant Payment can be made.

Annual inspections: See Chapter 1, "Housing Quality Standards and Inspections".

Rent Adjustments: See Chapter 1, "Owner Rents, Rent Reasonableness and Payment Standards"

B. ANNUAL RECERTIFICATION/REEXAMINATION [24CFR 982.516]

Families are required to be recertified at least annually.

Moves Between Reexaminations

When families move to another dwelling unit;

An annual recertification will be scheduled (unless a recertification has occurred in the last 120 days) and the anniversary date will be changed.

Income limits are not used as a test for continued eligibility at recertification.

Reexamination Notice to the Family

The LHA will maintain a reexamination tracking system and the household will be notified by mail of the date and time for their interview, at least 120 days in advance of the anniversary date. If requested as an accommodation by a person with a disability, the LHA will provide the notice in an accessible format. The LHA will also mail the notice to a third party, if requested as a reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

Procedure

The LHA will schedule the date and time of appointments and mail a notification to the family.

Persons with Disabilities

Persons with disabilities, who are unable to come to the LHA's office will be granted an accommodation of conducting the interview at the person's home or by mail, upon verification that the accommodation requested meets the need presented by the disability.

Completion of Annual Recertification

The LHA will have all recertifications for families completed before the anniversary date. This includes notifying the family of any changes in rent at least 30 days before the scheduled date of the change in family rent.

Collection of Information

The LHA has established appropriate recertification procedures necessary to ensure that the income data provided by families is complete and accurate.

The LHA will allow the family to complete the recertification form, and then review the form with the family.

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 fails to appear for the second appointment, and has not rescheduled or made prior arrangements, the LHA will:

Schedule a third and final appointment. After the third appointment, the LHA will terminate assistance to the family, and offer them an informal hearing.

The Section 8 Program Manager may make exceptions to these policies if the family is able to document an emergency situation that prevented them from canceling or attending the appointment.

Documents Required from the Family

In the notification letter to the family, the LHA will include instructions for the family to bring the following:

- Documentation of income for all family members
- Documentation of liquid and no-liquid assets
- Documentation of any deductions/allowances
- Copy of prior years' Individual Income Tax Return
- Reapplication form completed by head of household or spouse, and signed by all family members over 18

Verification of Information

The LHA will follow the verification procedures and guidelines described in this Plan. Verifications for reexaminations must be less than 120 days old.

Tenant Rent Increases

If tenant rent increases, a thirty day notice is mailed to the family prior to the scheduled effective date of the annual recertification.

If less than thirty 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 day notice.

If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination 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 reexamination is not complete by the anniversary date, rent change will be effective on the first day of the month following completion of the reexamination processing by the LHA.

C. REPORTING INTERIM CHANGES [24CFR 982.516]

Program participants must report all changes in household composition to the LHA between annual reexaminations. This includes additions due to birth, adoption and court-awarded custody. The family must obtain LHA 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 LHA will conduct a reexamination 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.

Reduction in Benefits

If the family's benefits, such as Social Security, SSI or TANF, are reduced through no fault of the family, the LHA will use the net amount of the benefit.

The LHA will not reduce the family share of rent for families whose welfare assistance is reduced specifically because of:

Fraud

Failure to participate in an economic self-sufficiency program

Noncompliance with a work activities requirement

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

The family will be advised that they may use the informal hearing procedures.

Other Interim Reporting Issues

An interim reexamination does not affect the date of the annual recertification.

An interim reexamination will be scheduled for families with zero/unstable income every 60 days.

The LHA may conduct the interim recertification by mail as a reasonable accommodation, when requested.

PHA Errors

If the LHA makes a calculation error at admission to the program or at an annual reexamination, an interim reexamination will be conducted to correct the error, but the family will not be charged retroactively. Families will be given decreases, when applicable; retroactive to when the decrease for the change would have been effective if calculated correctly.

Any changes reported by participants other than those listed in this section will be noted in the file by the staff person but will not be processed between regularly scheduled annual recertifications.

D. NOTIFICATION OF RESULTS OF RECERTIFICATIONS

[HUD Notice PIH 98-6]

The HUD 50058 will be completed and transmitted as required by HUD.

The Notice of Rent Change is mailed to the owner and the tenant. The LHA does not require signatures. If the family disagrees with the rent adjustment they may request an informal hearing.

E. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS [24CFR 5.615]

The LHA 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:

Fraud in connection with the welfare program; or
Failure to participate in an economic self-sufficiency program; or
Noncompliance with a work activities requirement economic self-sufficiency program.

However, the LHA will reduce the rent 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 complied with welfare program 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.

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 reduction, that is included in the family’s income for purposes of determining rent.

The amount of imputed welfare income is determined by the PHA, based on written information supplied to the LHA 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 reexamination, during the term of the welfare benefits reduction (as specified by the welfare agency).

The amount of imputed welfare income is offset by the amount of additional income a family receives that commences 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.

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 Program Manager will review the calculation for accuracy. If the imputed welfare income amount is correct, the LHA will provide written notice to the family that includes:

A brief explanation of how the amount of imputed welfare income was determined; and

A statement that the family may request an informal hearing if they do not agree with the LHA determination.

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 LHA's determination of the amount of imputed welfare income, not the welfare agency's determination to sanction the welfare benefits.

Verification Before Denying a Request to Reduce Rent

The LHA 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.

Cooperation Agreements [24CFR 5.613]

The LHA has a written cooperation agreement in place with the local welfare agency which assists the LHA in obtaining the necessary information regarding welfare sanctions.

The LHA will rely on the welfare agency's written notice regarding the amount of specified benefit reduction.

The LHA and the local welfare agency have mutually agreed to exchange information regarding any economic self-sufficiency and/or appropriate programs or services that would benefit Section 8 assistance families.

F. TIMELY REPORTING OF CHANGES IN INCOME AND ASSETS [CFR 982.516(c)]

Standard for Timely Reporting of Changes

The LHA requires that families report interim changes to the LHA within 30 calendar 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 30 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 LHA 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 days' notice.

Decreases in the Tenant Rent are effective the first of the month following that in which the change is reported. Requests must be made by the 15th of the month.

The change may be implemented based on documentation provided by the family, pending third-party written verification.

Procedures when the Change is Not Reported by the Tenant 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 reexamination 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 in a timely manner. The family will be liable for any overpaid housing assistance and may be required to sign a Repayment Agreement or make a lump sum payment. Families may be terminated from the program if failure to report changes in a timely manner was due to intent to fraud.

Decrease in Tenant Rent will be effective on the first of the month following completion of processing by the LHA and not retroactively.

Procedures when the Change is Not Processed by the LHA 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 LHA in a timely manner.

In this case, an increase will be effective after the required thirty days' notice prior to the first of the month after the completion of processing by the LHA.

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.

G. REPORTING CHANGES IN FAMILY COMPOSITION [24CFR 982.516(c)]

All changes in family composition must be reported within 30 days of the occurrence.

Increases in Family Size

Increases other than by birth, adoption or court-custody must have the prior approval of the owner and the LHA.

Families who need a larger Voucher because of voluntary additions will have a lower priority for changing unit size than other families who are required to change unit size.

If a change due to birth, adoption, court-awarded custody or need for a live-in attendant requires a larger size unit due to overcrowding; the change in Voucher shall be made effective immediately.

H. CONTINUANCE OF ASSISTANCE FOR "MIXED FAMILIES" [24CFR 5.518]

Under the Noncitizens Rule, "mixed" families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

The Noncitizens Rule was implemented prior to November 29, 1996, and "mixed" families who were participants as of June 19, 1995, shall continue receiving full assistance if they meet all the following criteria:

The head of household or spouse is a U.S. citizen or has eligible immigrant status; AND

All members of the family other than the head, the spouse, parents of the head or the spouse, and children of the head or spouse are citizens or eligible immigrants. The family may change the head of household to qualify under this provision.

I. MISREPRESENTATION OF FAMILY CIRCUMSTANCES

If any participant deliberately misrepresents the information on which eligibility or tenant rent is established, the LHA may terminate assistance and may refer the family file/record to the proper authorities for appropriate disposition. (See Program Integrity Addendum.)

Chapter 13

MOVES WITH CONTINUED ASSISTANCE/PORTABILITY

INTRODUCTION

HUD regulations permit families to move with continued assistance to another unit within the PHA's jurisdiction, or to a unit outside of the PHA's jurisdiction under Portability procedures. The regulations also allow the PHA the discretion to develop policies that define any limitations or restrictions on moves. This Chapter defines the procedures for moves, both within and outside of, the LHA's jurisdiction, and the policies for restriction and limitations on moves.

A. ALLOWABLE MOVES

A family may move to a new unit if:

1. The assisted lease for the old unit has terminated because the LHA 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 (if the family has a right to terminate the lease on notice to owner).

B. RESTRICTIONS ON MOVES [24CFR 982.314, 982.552]

Families will not be permitted to move within the LHA's jurisdiction during the initial year of assisted occupancy.

Families will not be permitted to move outside the LHA's jurisdiction under portability procedures during the initial year of assisted occupancy.

Families will not be permitted to move more than once in a 12-month period.

The LHA will deny permission to move if there is insufficient funding for continued assistance.

The LHA may deny permission to move if:

The family has violated a Family Obligation

The family owes the LHA money.

The family has moved or been issued a Voucher within the last twelve months.

The Section 8 Program Manager may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control or to accommodate persons with disabilities. The file will be documented to reflect the emergency or need.

C. PROCEDURE FOR MOVES [24CFR 982.314]

Issuance of Vouchers

If the family has not been recertified within the last 120 days, the LHA will issue the voucher to move (after conducting the recertification, if needed, or as soon as the family requests the move).

If the family does not locate a new unit, they may remain in the current unit so long as the owner permits.

The annual recertification date will be changed to coincide with the new lease-up date.

Notice Requirements

Briefing sessions emphasize the family's responsibility to give the owner and the LHA proper written notice of any intent to move.

The family must give the owner the required number of days written notice of intent to vacate specified in the lease and must provide a copy to the LHA simultaneously.

For units under a Certificate HAP contract effective before October 2, 1995, if the family vacates the unit without proper notice in writing to the owner, the family may be responsible for any vacancy loss paid by the LHA.

Time to 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).

Due to budget restraints, the LHA will not start a new contract for a transferring tenant until the end of the 30-day notice. In cases of hardship or accommodation the PHA will allow no more than five working days overlap time when a tenant gives notice and wishes to start another contract before the 30-day notice period is complete.

D. PORTABILITY [24CFR 982.353]

Portability applies to families moving out of or into the LHA's jurisdiction within the United States and its territories. Under portability, families are eligible to receive assistance to lease a unit outside of the initial LHA's jurisdiction.

Restrictions of Portability

Families will not be permitted to exercise portability:

- If neither the head of household nor the spouse/co-head of an applicant family had a legal residence in the LHA's jurisdiction at the time the family's application for assistance was submitted, the family must live in the LHA's jurisdiction with voucher assistance for at least 12 months before requesting portability.
- If the family is in violation of a family obligation.
- If the family owes money to the LHA.
- If the family has moved out of its assisted unit in violation of the lease.

The LHA will consider exceptions to this policy for purposes of reasonable accommodation to make the program accessible to and usable by a person with disabilities. Applicants will be given the opportunity to request a reasonable accommodation during the interview process. The LHA will verify the need for an exception and either approve or deny such request prior to voucher issuance.

Exceptions may also be made for hard to house families with the approval of the Executive Director, and for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of an individual who is or has been a 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 unit. However, any exception to this policy is subject to the approval of the Receiving housing authority.

E. OUTGOING PORTABILITY [24CFR 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 LHA's jurisdiction, anywhere in the United States and its territories, in the jurisdiction of a LHA with a Voucher.

When a family requests to move outside of the LHA's jurisdiction, the request must specify the area to which the family wants to move.

Outgoing Portability Procedures

The LHA will provide pre-portability counseling for those families who express an interest in portability. If the family is utilizing portability for their initial lease-up, the LHA will determine if the family is within the very low-income limit of the receiving PHA. The LHA will advise the family how to contact and request assistance from the receiving LHA.

The LHA will advise the family how to contact and request assistance from the receiving PHA.

The LHA will provide the following documents and information to the receiving PHA:

- A copy of the family's Voucher, with issue and expiration dates, formally acknowledging the family's ability to move under portability.
- The most recent HUD 50058 form and verifications.
- Declarations and verifications of U.S. citizenship/eligible immigrant status.
- Persons designated for inquiries on eligibility and billing.
- The Administrative Fee Schedule for billing purposes.

The Receiving PHA must notify the LHA regarding the following:

- If the receiving PHA decides to absorb the family into their own program.
- If the family leases up or fails to submit a Request for Approval of Tenancy by the required date.
- If assistance to a portable family is terminated by the Receiving PHA.
- If the family requests to move to an area outside the Receiving PHA's jurisdiction.

Payment to the Receiving PHA

The LHA will requisition funds from HUD based on the anticipated lease-ups of portable Vouchers in other PHA's jurisdictions. Payments for families in other jurisdictions will be made to other PHA's when billed or in accordance with other HUD approved procedures for payment.

When billed, the LHA will reimburse the Receiving PHA for 100% of the Housing Assistance

Payment, 100% of the Special Claims paid on HAP contracts effective prior to 10/02/95, and 80% of the Administrative Fee and any other HUD-approved fees.

Claims

The LHA will be responsible for collecting amounts owed by the family for claims paid and for monitoring the repayment. The LHA will notify the Receiving PHA if the family is in arrears or if the family has refused to sign a Repayment Agreement, and the Receiving PHA will be asked to terminate assistance to the family as allowed by this Administrative Plan.

F. INCOMING PORTABILITY [24CFR 982.354, 982.355]

Absorption or Administration

The LHA 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 LHA. The LHA will grant extensions in accordance with this Administrative Plan.

When the receiving PHA does not absorb the incoming Voucher, it will administer the Initial PHA's Voucher and the receiving PHA's policies will prevail.

For initial lease-up, the family must be income eligible in the area where the family initially leases a unit with the 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 program.

The LHA 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 LHA will change to the proper size based on its own Subsidy Standards.

The LHA will decide whether to extend the "Portability Voucher" and for what period of time. The LHA's policy on suspensions will apply. However, if the Family decides not to lease-up in the LHA's jurisdiction, the Family must request an extension from the Initial PHA.

Income and TTP of Incoming Portables [24CFR 982.353 (d)]

As the Receiving PHA, the LHA will conduct a recertification interview but only verify the information provided if the documents are missing or are over 120 days old, whichever is applicable, or there has been a change in the family's circumstances.

If the family's income exceeds the income limit of the LHA, the family will not be denied assistance unless the family is an applicant and over the very-low income limit.

If the family's income is such that a \$0 subsidy amount is determined prior to lease up in the LHA 's jurisdiction, the LHA will refuse to enter into a contract on behalf of the family at \$0 assistance.

Requests for Approval of Tenancy

When the family submits a Request for Approval of Tenancy, it will be processed using the LHA's policies. If the family does not submit a Request for Approval or does not execute a lease, the initial PHA will be notified by the LHA.

If the family leases up successfully, the LHA will notify the initial PHA if the family will be absorbed or the billing process will commence if not absorbed.

If the LHA denies assistance to the family, the LHA will notify the Initial PHA and the family will be offered a review or hearing.

The LHA will notify the family of its responsibility to contact the initial PHA if the family wishes to move outside the incoming PHA's jurisdiction under continued portability.

Regular Program Functions

The LHA will perform all program functions applicable to the assistance program, such as:

- Annual reviews of family income and composition;
- Annual inspections of the unit; and
- Interim exams when requested or deemed necessary by the PHA.

Terminations

The LHA will notify the Initial PHA in writing of any termination of assistance. If an Informal Hearing is required and requested by the family, the hearing will be conducted by the LHA, 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 LHA that the family is in arrears or the family has refused to sign a Repayment Agreement, the PHA will terminate assistance to the family.

Required Documents

As Receiving PHA, the LHA will require the following documents from the Initial PHA:

- A copy of the family's Voucher, with issue and expiration dates, formally acknowledging the family's ability to move under portability;
- The most recent 50058 form and verifications;
- Declarations and verifications of U.S. citizenship/eligible immigrant status;
- Persons designated for inquiries on eligibility and billing;
- The Administrative fee schedule for billing purposes.

Billing Procedures

As the Receiving PHA, the LHA may choose to bill the initial PHA for Housing Assistance Payments, Administrative fees, or Special Claims.

The LHA will bill 100% of the Housing Assistance Payment, 100% of Special Claims and 80% of the Administrative Fee and any other HUD-approved fees, for each "Portability Voucher" leased as of the first day of the month.

The LHA 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

INTRODUCTION

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

A. CONTRACT TERMINATION [24CFR 982.311]

The term of the HAP Contract is the same as the term of the lease. The Contract between the owner and the LHA may be terminated by the LHA, or by the owner or tenant terminating the lease.

No future subsidy payments on behalf of the family will be made by the LHA to the owner after the month in which the Contract is terminated. The owner must reimburse the LHA for any subsidies paid by the LHA 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 LHA for vacancy loss under the provisions of Certificate HAP contracts effective on or after 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.

TERMINATION BY THE FAMILY: MOVES [24CFR 982.314 (c)(2)]

Family termination of the lease must be in accordance with the terms of the lease.

C. TERMINATION BY THE OWNER: EVICTION [24CFR 982.310, 982.455]

If the owner wishes to terminate the lease, the owner must 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:

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;

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 or any drug-related criminal activity on or near the premises.

Other good cause.

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 and without satisfying the standard of proof used for a criminal conviction.

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 (982.310).

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 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; and

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 24CFR 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 notice. 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 notice to the tenant.

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 LHA 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.

If the action is finalized in court, the owner must provide the LHA with documentation, including notice of the lock-out date.

The LHA 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 LHA, the owner certifies that the tenant is still in the unit, the rent is reasonable and she/he is in compliance with the contract.

If the eviction is not due to a serious or repeated violation of the lease, and if the LHA has no other grounds for termination of assistance, the LHA may issue a new voucher so that the family can move with continued assistance.

If the lease is for successive definite terms, after the initial term, the owner can terminate tenancy at the end of the initial term or any successive term without cause.

D. TERMINATION OF THE CONTRACT BY THE LHA
[24CFR 982.404(a), 982.453, 982.522(a)(3)]

The term of the HAP contract terminates when the lease terminates, when the LHA terminates program assistance for the family, and when the owner has breached the HAP contract.

Any of the following actions will be considered a breach of contract by the owner:

The owner has violated any obligation under the HAP contract for the dwelling unit, including the owner's obligation to maintain the unit to HQS standards, including any standards the LHA adopted in this policy.

The owner has violated any obligation under any other housing assistance payments contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).

The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

The owner 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.

The owner has engaged in drug trafficking.

The LHA may also terminate the contract if:

The LHA terminates assistance to the family.

The family is required to move from the unit when the subsidy is too big for the family size (pre-merger Certificate Program) or the unit does not meet the

HQS space standards because of an increase in family size or a change in family composition.

Funding is no longer available under the ACC.

The contract will terminate automatically if 180 days have passed since the last housing assistance payment to the owner.

Notice of Termination

The LHA will provide the owner and family with at least thirty days written notice of termination of the contract.

When the LHA terminates the HAP contract under the violation of HQS space standards, the LHA 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 LHA gives such notice to the owner.

Termination of Pre-merger Certificate HAPS [24CFR 982.502(d)]

The LHA must terminate program assistance under any outstanding HAP contract for a regular tenancy under the pre-merger certificate program at the effective date of the second regular reexamination of family income and composition on or after the merger date. At such termination of assistance, the HAP contract will automatically terminate. The LHA will give the owner and family at least 120 days written notice of such termination. The LHA will offer the family the opportunity for continued tenant-based assistance under the voucher program.

Any OFTO tenancy HAP contract entered into prior to the merger date will automatically be considered as a tenancy under the voucher program. Such tenancies will be subject to the requirements of the voucher program, including calculation of the housing assistance payment.

E. TERMINATIONS DUE TO INELIGIBLE IMMIGRATION STATUS
[24CFR 812.9]

For families who were participants on June 19, 1995, terminations due to the ineligible immigration status of all members of the family, or because a "mixed" Family chooses not to accept pro-ration of assistance, may be temporarily deferred for intervals not to exceed six months (up to a maximum of three years) if necessary to permit the family additional time for transition to affordable housing.

The family will be notified in writing at least 60 days in advance of the expiration of the deferral period that termination of assistance will not be deferred because:

- a) **granting another deferral will result in an aggregate deferral period of longer than three years, or**
- b) **a determination has been made that other affordable housing is available.**

F. TERMINATION DUE TO OWNER DISAPPROVAL [24CFR 982.453]

If the LHA terminates the contract due to owner disapproval (See Chapter 9, “Request for Lease Approval and Contract Execution”), the LHA will provide the owner and family with at least thirty days written notice of termination of the contract.

Chapter 15

DENIAL OR TERMINATION OF ASSISTANCE

INTRODUCTION

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

A. GROUND FOR DENIAL/TERMINATION [24CFR 982.552, 982.553, 982.54]

If denial or termination is based upon behavior resulting from a disability, the LHA 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:

Denial for placement on the LHA waiting list

Denying or withdrawing a voucher

Refusing to enter into a HAP contract or approve a tenancy

Refusing to process or provide assistance under portability procedures

Termination of assistance for a participant may include any or all of the following:

Refusing to enter into a HAP contract or approve a tenancy

Terminating housing assistance payments under an outstanding HAP contract

Refusing to process or provide assistance under portability procedures

Mandatory Denial and Terminations [24CFR 982.552 (b), 982.54, 982.553(a) 982.553(b)]

The LHA must deny assistance to applicants, and terminate assistance for participants if the family is under contract and 180 days (or 12 months, depending on the HAP contract used) have elapsed since the LHA's last housing assistance payment was made.

The LHA must permanently deny assistance to applicants, and terminate assistance of persons convicted of manufacturing or producing methamphetamine (commonly referred to as "speed") on the premises of federally assisted housing.

The LHA must deny admission to the program for applicants, and terminate assistance for program participants if the LHA determines that any household member is currently engaging in illegal use of a drug.

The LHA must deny admission to the program for applicants, and terminate assistance for program participants if the LHA 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.

The LHA must deny admission to an applicant if the LHA determines that any member of the household is subject to a lifetime registration requirement under a State sex offender registration program.

The LHA must terminate program assistance for a family evicted from a housing assisted program for serious violation of the lease.

The LHA 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 forms for obtaining information in accordance with Part 5, subparts B and F.

The LHA must deny admission or terminate assistance when required under the regulations to establish citizenship or eligible immigration status.

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

The LHA may at any time deny program assistance for an applicant, or terminate program assistance for a participant, for any of the following reasons:

If the family member violates any family obligation under the program as listed in 24CFR 982.551].

If any family member has violated the family obligation under 24CFR 982.551 not to engage in any drug-related criminal activity.

If any family member has violated the family obligation under 24CFR 982.551 not to engage in any violent criminal activity.

Any member of the family has ever been evicted from federally assisted housing.

The family currently owes rent or other amounts to the LHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

If any member of the family commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

The family has not reimbursed any PHA for amounts paid 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.

The family breaches an agreement with a PHA to pay amounts owed a PHA, or amounts paid to an owner by the LHA.

The family has engaged in or threatened abusive or violent behavior toward LHA personnel.

“Abusive or violent behavior towards LHA 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.

Actual physical abuse or violence will always be cause for termination.

If any member of the family engages in, or has engaged in drug or alcohol abuse that interferes with the health, safety or peaceful enjoyment of other residents.

If any member of the family commits drug-related criminal activity, or violent criminal activity.

Family Self Sufficiency (FSS)

Failure to fulfill the obligations and conditions of the FSS is grounds for termination from the FSS Program.

However, the LHA will not terminate Section 8 assistance for FSS families who fail to comply with the FSS Contract of Participation. The families may continue as Section 8 participants.

B. FAMILY OBLIGATIONS [24CFR 982.551]

The family must supply any information that the LHA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status. "Information" includes any requested certification, release or other documentation.

The family must supply any information requested by the LHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.

The family must disclose and verify Social Security Numbers (as provided by 24CFR 5.216) and must sign and submit consent forms for obtaining information (in accordance with 24CFR 5.230).

All information supplied by the family must be true and complete.

The family must allow the LHA to inspect the unit at reasonable times and after reasonable notice.

The family may not commit any serious or repeated violation of the lease.

The family must notify the owner and, at the same time, notify the LHA before the family moves out of the unit or terminates the lease on notice to the owner.

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

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

If the LHA has given approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or LHA 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 supply any information or certification requested by the LHA to verify that the family is living in the unit, or relating to family absence from the unit, including any LHA-requested information or certification on the purposes of family absences. The family must cooperate with the LHA for this purpose. The family must promptly notify the LHA of absence from 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 household members may not engage in drug-related criminal activity, violent criminal activity, alcohol abuse 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.

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 member of the family, may not receive Section 8 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 [24CFR 982.552(c)]

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the LHA has discretion to consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, the length of time since the violation occurred and more recent record of compliance, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure to act.

The LHA may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. The LHA 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 30 days”. Denial or termination of assistance is always optional except where this Plan or the regulations state otherwise.

HQS Breach: The Section 8 Program Manager will determine if an HQS breach as identified in 24CFR 982.404(b) is the responsibility of the family. Families may be given extensions to cure HQS breaches by the Housing Assistants.

Lease Violations: The following criteria will be used to decide if a serious or repeated violation of the lease will cause a 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 assistance for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action, and the LHA determines that the cause is a serious or repeated violation of the lease based on available evidence.

If the owner notifies the family of termination of assistance for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action.

If there are police reports, neighborhood complaints or other third party

information, and the LHA has verified the information.

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 LHA of an eviction within 30 days of receiving the Notice of Lease Termination, the move will be denied.

Proposed additions to the family: The LHA will deny a family's request to add additional family members who are:

Persons who have been evicted from public housing.

Persons who have previously violated a family obligation listed in 24CFR 982.51 of the HUD regulations.

Persons who have been part of a family whose assistance has been terminated under the Certificate or Voucher program.

Persons who commit drug-related criminal activity, violent criminal activity, or alcohol abuse activity.

Persons who do not meet the LHA's definition of family.

Persons who commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

Persons who currently owe rent or other amounts to the LHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

Persons who have engaged in or threatened abusive or violent behavior toward LHA personnel.

Family Member moves out: Families are required to notify the LHA if any family member leaves the assisted household. When the family notifies the LHA, they must furnish the following information:

The date the family member moved out;

The new address, if known, of the family member; and

A statement as to whether the family member is temporally 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 LHA determines that the use of the unit as a business is not incidental to its use as a dwelling unit.

If the LHA determines that 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 she/he is a member of the assisted family, unless the family owns the mobile home and rents the pad.

Fraud: In each case, the LHA will consider which family members were involved, the circumstances, and any hardship that might be caused to innocent members.

Drug-related Criminal Activity: Drug-related criminal activity is the illegal manufacture, sale or distribution, or the possession with intent to manufacture, sell or distribute, a controlled substance (as defined in the Controlled Substance Act).

The use or possession (other than with intent to manufacture, sell or distribute) of a controlled substance.

Drug-related criminal activity means on or off the premises, not just on or near the premises.

Drug-related criminal activity does not include the prior use or possession of a controlled substance if the family member had an addiction to the substance and has recovered or is recovering from the addiction and does not currently use or possess the substance.

Violent Criminal Activity includes:

Any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against a person or property, and

The Activity is being engaged in by any Family member.

Applicants will be denied assistance if the preponderance of evidence indicates the applicant family engaged in drug-related or violent criminal activity within the last 3 years prior to the date of the certification regardless of whether the applicant family member was arrested or convicted.

Participants may be terminated when the preponderance of evidence indicates the participant engaged in drug-related or violent criminal activity, regardless of whether the participant has been arrested or convicted.

If the family violates the lease for drug-related or violent criminal activity, the LHA will terminate assistance.

Alcohol Abuse Activity Means: The person's abuse of alcohol interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents. The Housing Authority may terminate assistance for alcohol abuse activity.

In appropriate cases, the LHA may permit the family to continue receiving assistance provided the family members determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the LHA may consider individual circumstances with the advice of Juvenile Court officials.

C. SCREENING AND TERMINATION FOR DRUG ABUSE AND OTHER CRIMINAL BEHAVIOR

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 Livermore Housing Authority to fully endorse and implement a policy designed to:

Help create and maintain a safe and drug-free community;

Keep our program participants free from threats to their personal and family;

Support parental efforts to instill values of personal responsibility and hard work;

Help maintain an environment where children can live safely, learn and grow up to be productive citizens; and

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, color, nationality, religion, familial status, disability, sex, or other legally protected groups.

To the maximum extent possible, the LHA will involve other community and governmental entities in the promotion and enforcement of this policy.

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 24CFR 982, Subpart L and CFR Part 5, Subpart J, the LHA will endeavor to screen applicants as thoroughly and fairly as possible.

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 24CFR 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 the intent to manufacture, sell, distribute or use the drug.

Guest for purposes of this chapter and 24CFR Part 5, subpart A and 24CFR 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 purposes of 24CFR Part 982 and this chapter, means the family and PHA approved live-in aide.

Other person under the tenant's consent for the purposes of the definition of *covered person* and for 24CFR 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 LHA will deny participation in the program to applicants and terminate assistance to participants in cases where the LHA determines there is reasonable cause to believe that a household member is illegally using a drug or if the person abuses alcohol in a way that may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents, including cases where the LHA determines that there is a pattern of illegal use of a drug or a pattern of alcohol abuse.

“Engaged in or engaging in” violent criminal activity means any act within the past three 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 activity is being engaged in by any family 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 LHA 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 three year period beginning on the date of such eviction.

Applicants will be denied assistance if they have been arrested/convicted/evicted from Federally assisted housing for violent criminal activity within the last three

years prior to the date of the certification interview.

Denial of Assistance for Sex Offenders

The LHA 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 LHA will perform criminal 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 24CFR 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 24CFR 982.553 (b) require the PHA to establish standards for termination of assistance when this family obligation is violated. The Livermore Housing Authority 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 three 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 LHA will terminate assistance.

The LHA may terminate tenancy for a fugitive felon or parole violator.

In appropriate cases, the LHA 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 LHA may consider individual circumstances with the advice of Juvenile Court officials.

Terminating Assistance for Alcohol Abuse by Household Members

Under the family obligations listed at 24CFR 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 LHA 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, or incarcerated for any alcohol-related criminal activity on or near the premises within any 12-month period.

In appropriate cases, the LHA may 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 LHA may consider individual circumstances with the advice of Juvenile Court officials.

Notice of Termination of Assistance

In any case where the LHA decides to terminate assistance to the family, the LHA must give the family written notice which states:

The reason(s) for the proposed termination

The effective date of the proposed termination

The family's right, if they disagree, to request an Informal Hearing to be held before termination of assistance

The date by which a request for an informal hearing must be received by the LHA

If the LHA proposes to terminate assistance for criminal activity as shown by a criminal record, the LHA will provide the subject of the record and the tenant with a copy of the criminal record.

The LHA 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.

Confidentiality of Criminal Records

The LHA 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 and to upper level Section 8 management.

If the family is determined eligible for initial or continued assistance, the criminal report shall be shredded as soon as the information is no longer needed for eligibility or continued assistance determination.

If the family's assistance is denied or terminated, the criminal record information shall be shredded immediately upon completion of the review or hearing procedures and a final decision has been made.

The LHA will document in the family's file the circumstances of the criminal report and the date the report was destroyed.

D. PROCEDURES FOR NON-CITIZENS [24cfr 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 LHA must offer the family an opportunity for a hearing.

Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

False or Incomplete Information

When the LHA 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 given an opportunity to present relevant information.

If the individual is unable to verify their citizenship, the LHA may give him/her an opportunity to provide a new declaration as an eligible immigrant or to elect not to contend their status. The LHA will then verify eligible status, deny, terminate, or prorate as applicable.

The LHA 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 LHA either after the INS appeal or in lieu of the INS appeal.

After the LHA 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. \$0 ASSISTANCE TENANTS [24cfr 982.455 (a)]

HAP Contracts Prior to October 2, 1995

For contracts which were effective prior to 10/2/95, the LHA is liable for unpaid rent and damages if the family vacates during the allowable 12 months after the last HAP payment. The LHA must perform all of the functions normally required, such as reexaminations and inspections.

The participant will be notified of the right to remain on the program at \$0 assistance for 12 months. If the family is still in the unit after 12 months, the assistance will be terminated.

In order for a family to move to another unit during the 12-month period, the rent for the new unit would have to be high enough to necessitate a housing assistance payment.

HAP Contracts on or after October 2, 1995 [24CFR 982.455(a)]

For contracts effective after 10/2/95, the LHA has no liability for unpaid rent or damages, and the family may remain in the unit at \$0 assistance for up to 180 days after the last HAP payment. If the family is still in the unit after 180 days, the assistance will be terminated. If within the 180 day timeframe an owner rent increase or a decrease in the Total tenant Payment causes the family to be eligible for a housing assistance payment, the LHA will resume assistance payments for the family.

In order for a family to move to another unit during the 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
[24CFR 982.551, 982.552(c)]

If the family has misrepresented any facts that caused the LHA to overpay assistance, the LHA may choose not to terminate and may offer to continue assistance provided that the family executes a Repayment Agreement and makes payments in accordance with the agreement, or reimburses the LHA in full within 30 calendar days.

G. MISREPRESENTATION IN COLLUSION WITH OWNERS

If the family intentionally, willingly, and knowingly commits fraud or is involved in any other illegal scheme with the owner, the LHA will deny or terminate assistance.

In making this determination, the LHA will carefully consider the possibility of overt or implied intimidation of the family by the owner and family's understanding of the events.

H. MISSED APPOINTMENTS AND DEADLINES [24CFR 982.551, 982.522(c)]

It is a Family Obligation to supply information, documentation, and certification as needed for the LHA to fulfill its responsibilities. The LHA schedules appointments and sets deadlines in order to obtain the required information. The Obligations also require that the family allow the LHA 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 LHA may be sent a Notice of Denial or Termination of Assistance for failure to provide required information,

or for failure to allow the LHA 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:

- Eligibility for Admissions
- Verification Procedures
- Voucher Issuance and Briefings
- Housing Quality Standards and Inspections
- Recertifications
- Appeals

Acceptable reasons for missing appointments or failing to provide information by deadlines are medical or family emergencies.

Chapter 16

OWNER DISAPPROVAL AND RESTRICTION

INTRODUCTION

It is the policy of the LHA to recruit owners to participate in the program. This LHA will provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout the jurisdiction of the LHA. The regulations define when the LHA must disallow an owner participation in the program, and they provide the LHA 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 [24CFR 982.306, 982.54 (D)(8)]

For purposes of this section, “owner” includes a principal or other interested party.

The LHA will disapprove the owner for the following reasons:

HUD (or other agency directly related) has informed the LHA that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24CFR Part 24.

HUD has informed the LHA 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.

HUD has informed the LHA that a court or administrative agency has determined that the owner has violated the Fair Housing Act or other federal equal opportunity requirements.

The owner has violated obligations under a housing assistance payments contract under Section 8 of the 1937 Act (42 U.S.C. 2437f).

The owner has committed fraud, bribery or any other corrupt act in connection with any federal housing program.

The owner has engaged in drug-related criminal activity or any violent criminal activity.

The owner has a history or practice of non-compliance with the HQS for units leased under any federal housing program.

The owner has a history or practice of renting units that fail to meet State or local housing codes.

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:

Threatens the right to peaceful enjoyment of the premises by other residents;

Threatens the health or safety of other residents, of employees of the LHA, or of owner employees or other persons engaged in management of the housing.

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; or

Is drug-related criminal activity or violent criminal activity.

B. OWNER RESTRICTIONS AND PENALTIES [24CFR 982.453]

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

If an owner has committed fraud or abuse or is guilty of frequent or serious contract violations, the LHA will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. The LHA may also terminate some or all contract with the owner.

Before imposing any penalty against an owner the LHA 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.

C. OTHER REMEDIES FOR OWNER VIOLATIONS

Overpayments

If the landlord has been overpaid as a result of fraud, misrepresentation or violation of the Contract, the LHA may terminate the Contract and arrange for restitution to

the LHA and/or family as appropriate.

The LHA will attempt to recover any overpayments made as a result of landlord fraud or abuse. Payments otherwise due to the owner may be debited in order to repay the LHA or the tenant, as applicable.

D. CHANGE IN OWNERSHIP

A change in ownership does not require execution of a new contract.

The LHA may approve the assignment of the HAP contract at the old owner's request. The LHA may approve the assignment, since they are a party to the contract. The LHA may deny approval of assignment of the contract, for any of the reasons listed in Section A of this Chapter.

The LHA must receive a written request by the old owner in order to change the HAP payee and/or the address to which payment is to be sent.

If the new owner does not want an assignment of the contract, the LHA 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

PROGRAM INTEGRITY

INTRODUCTION

The U.S. Department of HUD conservatively estimates that 200 million dollars is paid annually to program participants who falsify or omit material facts in order to gain more rental assistance than they are entitled to under the law. HUD further estimates that 12% of all HUD-assisted families are either totally ineligible, or are receiving benefits which exceed their legal entitlement.

The LHA committed to assuring that the proper level of benefits is paid to all participating families, and that housing resources reach only income-eligible families so that program integrity can be maintained.

The LHA will take all steps necessary to prevent fraud, waste, and mismanagement so that program resources are utilized judiciously.

This chapter outlines the LHA's policies for the prevention, detection and investigation of program abuse and fraud.

A. CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD

Under no circumstances will the LHA undertake an inquiry or an audit of a participating family arbitrarily. The LHA's expectation is that participating families will comply with HUD requirements, provisions of the voucher, and other program rules. The LHA staff will make every effort (formally and informally) to orient and educate all families in order to avoid unintentional violations. However, the LHA has a responsibility to HUD, to the Community, and to eligible families in need of housing assistance, to monitor participants and owners for compliance and, when indicators of possible abuse come the LHA's attention, to investigate such claims.

The LHA will initiate an investigation of a participating family only in the event of one or more of the following circumstances:

1. *Referrals, Complaints, or Tips.* The LHA will follow up on referrals from other agencies, companies or persons which are received by mail, by telephone or in person, which allege that a family is in non-compliance with, or otherwise violating the family obligations or any other program rules.

Such follow-up will be made providing that the referral contains at least one

item of information that is independently verifiable. A copy of the allegation will be retained in the family's file.

2. *Internal File Review.* A follow-up will be made if LHA staff discovers (as a function of certification or recertifications, interim determination, or a quality control review), information or facts which conflict with previous file data, the LHA's knowledge of the family, or is discrepant with statements made by the family.
3. *Verification of Documentation.* A follow-up will be made if the LHA receives independent verification or documentation which conflicts with representations in the family's file (such as public record information or credit bureau reports, reports from other agencies).

B. STEPS THE LHA WILL TAKE TO PREVENT PROGRAM ABUSE & FRAUD

The LHA management and staff will utilize various methods and practices (listed below) to prevent program abuse, non-compliance, and willful violations of program rules by applicants and participating families. This policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by families.

1. *Things You Should Know.* This program integrity bulletin (created by HUD's Inspector General) will be furnished and explained to all applicants to promote understanding of program rules, and to clarify the LHA's expectations for cooperation and compliance.
2. *Program Orientation Session.* Mandatory orientation sessions will be conducted by the LHA staff for all prospective program participants, either prior to or upon issuance of a certificate or voucher.
3. *Resident Counseling.* The LHA will routinely provide participant counseling as a part of every recertification interview in order to clarify any confusion pertaining to program rules and requirements.
4. *Review and Explanation of Forms.* Staff will explain all required forms and review the contents of all (re)certification documents prior to signature.
5. *Use of Instructive Signs & Warnings.* Instructive signs will be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse.
6. *Participant Certification.* All family representatives will be required to sign a Tenant Responsibilities Form.

C. STEPS THE LHA WILL TAKE TO DETECT PROGRAM ABUSE & FRAUD

The LHA staff will maintain a high level of awareness to indicators of possible abuse and fraud by assisted families.

1. ***Quality Control File Reviews.*** Prior to initial certification, and at the completion of all subsequent recertifications, 5% of files will be reviewed. Such reviews shall include, but are not limited to:

Assurances that verification of all income and deductions is present.

Changes in reported Social Security Numbers or dates of birth.

Authenticity of file documents.

Ratio between reported income and expenditures.

Review of signatures for consistency with previously signed file documents.

All forms are correctly dated and signed.

2. ***Observation.*** The LHA Management and Staff will maintain high awareness of circumstances which may indicate program abuse and fraud, such as unauthorized persons living in the household and unreported income.

Observations will be documented in the family's file.

3. ***Public Record Bulletins*** may be reviewed by Management and Staff.
4. ***State Wage Data Record Keepers.*** Inquires to State Wage and Employment record keeping agencies as authorized under the Public Law 100-628, the Steward B. McKinley Homeless Assistance Amendments Act of 1988, may be made annually in order to detect unreported wages or unemployment compensation benefits.
5. ***Credit Bureau Inquiries.*** Credit Bureau inquiries may be made (with proper authorization by the participant) in the following instances:

At the time of final eligibility determination.

When an allegation is received by the LHA wherein unreported income sources are disclosed.

When a participant's expenditures exceed his/her reported income, and no plausible explanation is given.

D. THE LHA'S HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE & FRAUD

The LHA staff will encourage all participating families to report suspected abuse to Management. All such referrals, as well as referrals from community members and other agencies, will be thoroughly documented and placed in the participant's file. All allegations, complaints and tips will be carefully evaluated in order to determine if they warrant follow-up. The LHA will not follow up on allegations which are vague or otherwise non-specific. They will only review allegations which contain one or more independently verifiable facts.

1. *File Review.* An internal file review will be conducted to determine:

If the subject of the allegation is a client of the LHA and, if so, to determine whether or not the information reported has been previously disclosed by the family.

It will then be determined if the LHA is the most appropriate authority to do a follow-up (more so than police or social services). Any file documentation of past behavior as well as corroborating complaints will be evaluated.

2. *Conclusion of Preliminary Review.* If at the conclusion of the preliminary file review there is/are fact(s) contained in the allegation which conflict with file data, and the fact(s) are independently verifiable, the LHA will initiate an investigation to determine if the allegation is true or false.

E. OVERPAYMENTS TO OWNERS

The LHA will make every effort to recover any overpayments made as a result of landlord fraud or abuse. Payments otherwise due to the owner may be debited in order to repay the LHA or the tenant, as applicable.

F. HOW THE LHA WILL INVESTIGATE ALLEGATIONS OF ABUSE OR FRAUD

If the LHA determines that an allegation or referral warrants follow-up, either the staff person who is responsible for the file, or a person designated by the Executive Director to monitor the program compliance will conduct the investigation. The steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below. In all cases, the LHA will secure the written authorization from the program participant for the release of information.

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

Verification of Credit. In cases where the financial activity conflicts with the file data, a Verification of Credit form may be mailed to the creditor in order to determine the unreported income source.

Employers and Ex-Employers. Employers or ex-employers may be contacted to verify wages which may have been previously undisclosed or misreported.

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

Other Agencies. Investigators, caseworkers or representatives of other benefit agencies may be contacted.

Public Records. If relevant, the LHA will review public records kept in a jurisdictional courthouse. Examples of public records which may be checked are: Real estate, marriage, divorce, uniform commercial code financing statements, voter registration, judgments, court or police records, utility records and postal records.

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

G. PLACEMENT OF DOCUMENTS, EVIDENCE AND STATEMENTS OBTAINED BY THE PHA

Documents and other evidence obtained by the LHA during the course of an investigation will be considered "work product" and will either be kept in the participant's file, or in a separate cabinet. Such cases under review will not be discussed among LHA staff unless they are involved in the process, or have information which may assist in the investigation.

H. CONCLUSION OF THE PHA'S INVESTIGATIVE REVIEW

At the conclusion of the investigative review, the reviewer will report the findings to the Executive Director or the designee. It will then be determined whether a violation has occurred, a violation has not occurred, or if the facts are inconclusive.

I. EVALUATION OF THE FINDINGS

If it is determined that a program violation has occurred, the LHA will review the facts to determine:

1. The type of violation (procedural, non-compliance, fraud);
2. Whether the violation was intentional or unintentional;
3. What amount of money (if any) is owed by the family; and
4. If the family is eligible for continued occupancy.

J. ACTION PROCEDURES FOR VIOLATIONS WHICH HAVE BEEN DOCUMENTED

Once a program violation has been documented, the LHA will propose the most appropriate remedy based upon the type and severity of the violation.

1. ***Procedural Non-compliance.*** This category applies when the family “fails to” observe a procedure or requirement of the LHA, but does not misrepresent a material fact, and there is no retroactive assistance payments owed by the family.

Examples of non-compliance violations are:

Failure to appear at a pre-scheduled appointment.

Failure to return verification in time period specified by the LHA.

Warning Notice to the Family. In such cases a notice will be sent to the family which contains the following:

A description of the non-compliance and the procedure, policy or obligation which was violated.

2. ***Procedural Non-compliance-Overpaid Assistance.*** When the family owes money to the LHA for failure to report changes in income or assets, the LHA will issue a Notification of Overpayment of Assistance. This notice will contain the following:

A description of the violation and date(s).

Any amounts owed to the LHA.

A 10 calendar day response period.

The right to disagree and to request an informal hearing with instructions for the request of such hearing.

- (a) Participant Fails to comply with the LHA's Notice. If the participant fails to comply with the LHA's notice, and a family obligation has been violated, the LHA will initiate termination of assistance.
- (b) Participant Complies with the LHA's Notice. When a family complies with the LHA's notice, the staff person responsible will meet with him/her to discuss and explain the Family Obligation or program rule which was violated.

3. *Intentional Misrepresentations.* When a participant falsifies, misstates, omits or otherwise misrepresents a material fact which results (or would have resulted) in an overpayment of housing assistance by the LHA, the LHA will evaluate whether or not:

The participant had knowledge that his/her actions were wrong, and

The participant willfully violated the family obligations or the law.

Knowledge that the action or inaction was wrong. This will be evaluated by determining if the participant was made aware of program requirements and prohibitions. The participant's signature on various certifications, briefing certificates, Personal Declaration and Things You Should Know are adequate to establish knowledge of wrongdoing.

The participant willfully violated the law. Any of the following circumstances will be considered adequate to demonstrate willful intent:

- (a) An admission by the participant of the misrepresentation.
- (b) That the act was done repeatedly.
- (c) If a false name or Social Security Number was used.
- (d) If there were admissions to others of the illegal action or omission.
- (e) That the participant omitted material facts which were known to him/her (e.g., employment of self or other household member).
- (f) That the participant falsified, forged or altered documents.
- (g) That the participant uttered and certified to statements at a interim (re)determination which were later independently verified to be false.

4. *Dispositions of Cases Involving Misrepresentations.* In all cases of misrepresentations involving efforts to recover monies owed, the LHA may pursue, depending upon its evaluation of the criteria state above, one or more of the following actions:

(a) Criminal Prosecution: If the LHA has established criminal intent, and the case meets the criteria for prosecution, the LHA will:

Refer the case to the local State or District Attorney,

Notify and then refer to HUD's RIGI, and

Terminate rental assistance.

(b) Administrative Remedies: The LHA may:

Terminate assistance and demand payment of restitution in full;

Terminate assistance and execute an administrative repayment agreement in accordance with the LHA's Repayment Policy;

Terminate assistance and pursue restitution through civil litigation; or

Permit continued assistance at the correct level and execute an administrative repayment agreement in accordance with the LHA's Repayment Policy.

6. *The Case Conference for Serious Violations and Misrepresentations.* When the LHA has established that material misrepresentation(s) have occurred, a Case Conference will be scheduled with the family representative and the LHA staff person who is most knowledgeable about the circumstances of the case.

This conference will take place prior to any proposed action by the LHA. The purpose of such conference is to review the information and evidence obtained by the LHA with the participant, and to provide the participant an opportunity to explain any document findings which conflict with representations in the family's file. Any documents or mitigating circumstances presented by the family will be taken into consideration by the LHA. The family will be given 30 calendar days to furnish any mitigating evidence.

A secondary purpose of the Participant Conference is to assist the LHA in determining the course of action most appropriate for the case. Prior to final determination of the proposed action, the LHA will consider:

The duration of the violation and number of false statements;

The family's ability to understand the rules;

The family's willingness to cooperate, and to accept responsibility for his/her Actions;

The amount of money involved;

The family's past history; and

Whether or not criminal has been established.

- 7. *Notification to Participant of Proposed Action.* The LHA will notify the family of the proposed action no later than 30 business days after the case conference.**

Chapter 18

OWNER OR FAMILY DEBTS TO THE LHA

INTRODUCTION

This Chapter describes the LHA '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 LHA'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 LHA'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 LHA, the LHA will make every effort to collect it. The LHA will use a variety of collection tools to recover debts including, but not limited to:

- Requests for lump sum payments
- Payment Agreements
- Abatements
- Civil suits
- Reduction in HAP payments to owners
- Collection agencies

A. REPAYMENT AGREEMENT FOR FAMILIES [24CFR 792.103, 982.552 (c) (v-vii)]

A Repayment Agreement as used in this Plan is a document entered into between the LHA and a person who owes a debt to the LHA. It is similar to a promissory note, but contains more detail regarding the nature of the debt, and the remedies available to the LHA upon default of the agreement.

The LHA will prescribe the terms of the payment agreement, including determining whether to enter into a repayment agreement with the family based on the circumstances surrounding the debt to the LHA.

There are some circumstances in which the LHA may not enter into a repayment agreement. They are:

- If the family already has a Payment Agreement in place.
- If the LHA determines that the family knowingly and willingly committed fraud.

If the family requests a move to another unit and has a repayment agreement in place and the agreement is not in arrears, the family will be permitted to move.

If the family request a move to another unit and is in arrears on a repayment agreement, they will be permitted to move if the family repays the past due amount.

Families requesting portability will be required to pay the balance of the repayment agreement before portability will be approved.

Guidelines for Repayment Agreements [24CFR 982.522 (c)(v-vii)]

Down Payment Requirement

Before executing a repayment agreement with the family, LHA will generally require a down payment of 5 percent of the total amount owed. If the family can provide evidence satisfactory to LHA that a down payment of 5 percent would impose an undue hardship, LHA may, in its sole discretion, require a lesser percentage or waive the requirement.

Payment Thresholds

Total Family Debts to LHA

<u>Amount Owed</u>	<u>Repayment Term</u>
<\$500	6 months
\$501-\$1,000	1 year
\$1,001-\$2,500	2 years
\$2,501-\$5,000	3 years
\$5,001-\$7,500	4 years
\$7,501-\$10,000	5 years

If the amount is greater than \$10,000, a repayment agreement may only be entered into with the Executive Director's written approval.

If a family can provide evidence satisfactory to LHA that the threshold applicable to the family's debt would impose an undue hardship, LHA may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, LHA will consider all relevant information, including the following:

- The amount owed by the family to LHA;
- The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family's control;
- The family's current and potential income and expenses;
- The family's current family rent share, as calculated under 24 CFR 982.515;

- The family's history of meeting its financial responsibilities.

Execution of Agreement

Any repayment agreement between LHA and a family must be signed and dated by the LHA and by the head of household or spouse/co-head.

Due Dates

Initial 5 percent down payment is due by the close of business 30 calendar days from the date of Repayment Agreement notice. If the 30th calendar day does not fall on a business day, the due date is the close of business on the first business day after the 30th calendar day.

Monthly 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.

Late or Missed Payments

If a payment is not received by the end of the business day on the due date, a late payment notice will be sent in accordance to the following:

- Late Payment Notice #1 - LHA will allow a 5-day grace period from due date; if not received by close of business day, LHA will mail notice #1 to family. Payment will be due by close of business 10 calendar days from date of notice. If the 10th calendar days does not fall on a business day, the due date is the close of business on the first business day after the 10th.
- Late Payment Notice #2 - If payment is not received by the 10 calendar day due date, LHA will mail notice #2. Such notice will require family to pay late payment #1 and include their next monthly payment to be due by the close of business on the 15th 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. Family will also be advised in this notice, that their failure to comply will require the family to pay the balance in full.
- Late Payment Notice #3 - If family fails to bring their repayment agreement current, LHA will require the balance to be paid in full. Payment will be due 30 calendar days from the date of the notice. If the 30 calendar day does not fall on a business day, the due date is the close of business on the first business day. Family will also be advised in this notice, that their failure to comply will result in termination of their assistance.

Additional Monies Owed

LHA will generally not enter into a repayment agreement with a family if there is already a

repayment agreement in place with the family, or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

When the family claims a hardship, LHA may, in its sole discretion enter into a hardship repayment agreement. This agreement will require the second balance to be paid in full and due 30 calendar days from the date of the repayment agreement notice. As well as agree to remain in compliance with their current repayment agreement. The family's failure to comply will result in termination of their assistance.

If the family complies with this hardship repayment agreement and incurs a third overpayment of assistance, their assistance will be forwarded for termination that will require their balance to be paid within 30 calendar days of the date of the notice.

Payments may be made by check, money order, or cashier's check. If payment is received by personal check and the check is returned for insufficient funds, the Family will incur a charge of \$20 for processing costs. All future payments made by the family must be made by money order or cashier's check. This will also be considered a non-payment.

Monthly payments may be decreased in cases of hardship with the prior notice of the verification of the hardship.

No move will be approved until the debt is paid in full unless the move is the result of the following causes, and the Repayment Agreement is current:

- The HAP contract is terminated due to owner non-compliance or opt-out.
- A natural disaster.

B. DEBTS DUE TO MISREPRESENTATION OF INFORMATION [24CFR 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 LHA due to the family's failure to report increases in income will be required to repay in accordance with the guidelines in the Repayment Section of this Chapter.

Program Fraud

Families who owe money to the LHA due to program fraud will be required to repay in accordance with the guidelines in the Repayment Section of this Chapter.

C. DEBTS DUE TO MINIMUM RENT TEMPORARY HARDSHIP

If the family owes the LHA money for rent arrears incurred during the minimum rent period, the LHA will calculate the total amount owed and arrive at a reasonable payback amount that the family will be required to pay to the LHA monthly in addition to the family's regular monthly rent payment to the owner. The family will be required to pay the increased amount until the arrears are paid in full to the LHA.

If the family goes into default on the repayment agreement for back rent incurred during a minimum rent period, the LHA will reevaluate the family's financial situation and determine whether the family has the ability to pay the increased rent amount and if not, restructure the existing payment agreement.

D. OWNER DEBTS TO THE LHA [24CFR 982.453(b)]

If the LHA determines that the owner has retained Housing Assistance or Claim Payments the owner is not entitled to, the LHA may reclaim the amounts from future Housing Assistance or Claim Payments owed the owner for any units under contract.

If future housing assistance or claim payments are insufficient to reclaim the amounts owed, the LHA will:

- Require the owner to pay the amount in full;
- Enter into a repayment agreement with the owner for monies owed;
- Pursue collections through the local court system; and/or
- Restrict the owner from future participation.

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 LHA. This Chapter describes the policies, procedures and standards to be used when families disagree with a LHA decision. The procedures and requirements are explained for preference denial meetings, informal reviews and hearings. It is the policy of the LHA to ensure that all families have the benefit of all protections due to them under the law.

A. COMPLAINTS TO THE LHA

The LHA will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. The LHA may require that complaints other than HQS violations, be put in writing. HQS complaints may be reported by telephone. The LHA hearing procedure will be provided to families in the briefing packet.

Categories of Complaints

1. *Complaints from families:* If a family disagrees with an action or inaction of the LHA or owner.
2. *Complaints from Owners:* If an owner disagrees with an action or inaction of the LHA or a family.
3. *Complaints from the general public:* Complaints or referrals from persons in the community in regard to the LHA, a family or an owner.
4. *Complaints from staff:* If a staff person reports an owner or family either violating or not complying with program rules.

Complaints will be referred to the Program Manager for appropriate action.

B. PREFERENCE DENIALS [24CFR 982.210(D)]

When the LHA denies a preference to an applicant, the family will be notified in

writing of the specific reason for the denial and offered the opportunity for a meeting with LHA staff to discuss the reasons for the denial and to dispute the LHA's decision.

C. INFORMAL REVIEW PROCEDURES FOR APPLICANTS
[24CFR 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 citizen or eligible immigrant status, the applicant is entitled to an informal hearing.

When the LHA determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain:

The reason(s) they are ineligible;

The procedure for requesting a review if the applicant does not agree with the decision; and

The time limit for requesting a review.

When denying admission for criminal activity as shown by a criminal record, the LHA 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 LHA must provide applicants with the opportunity for an Informal Review of decisions denying:

Listing on the LHA's waiting list;

Issuance of a Voucher;

Participation in the program; or

Assistance under Portability procedures.

Informal Reviews are not required for established policies and procedures and LHA determinations such as:

Discretionary administrative determinations by the LHA;

General policy issues or class grievances;

A determination of the family unit size under the LHA subsidy standards;
Refusal to extend or suspend a Voucher;
A LHA determination not to grant approval of tenancy;
Determination that unit is not in compliance with HQS; or
Determination that unit is not in accordance with HQS due to family size or Composition.

Procedure for Review

A request for an Informal Review must be received in writing by the close of the business day, no later than 15 calendar days from the date of the LHA's notification of denial of assistance. The informal review will be rescheduled within 10 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 at the Assistant Director level or above; or

An individual from outside the LHA.

The applicant will be given the option of presenting oral or written objections to the decision. Both the LHA and the family may present evidence and witnesses. The family may use an attorney or other representatives to assist them at their own expense.

A Notice of Review findings will be provided in writing to the applicant within 10 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.

D. INFORMAL HEARING PROCEDURES [24CFR 982.555(a-f), 982.54(d)(13)]

The LHA will provide a copy of the hearing procedure in the family briefing packet.

When the LHA makes a decision regarding the eligibility and/or the amount of assistance, applicants and participants must be notified in writing. The LHA will give the family prompt notice of such determinations which will include:

The proposed action or decision of the LHA;

The date the proposed action or decision will take place;

The family's right to an explanation of the basis for the LHA's decision;

The procedures for requesting a hearing if the family disputes the action or decision;

The time limit for requesting the hearing; and

To whom the hearing request should be addressed.

When terminating assistance for criminal activity as shown by a criminal record, the LHA 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.

A copy of the LHA's hearing procedures.

The LHA must provide participants with the opportunity for an Informal Hearing for decisions related to any of the following LHA determinations:

Determination of the family's annual or adjusted income and the computation of the housing assistance payment.

Appropriate utility allowance used from schedule.

Family unit size determination under LHA subsidy standards.

Determination that pre-merger certificate program family is under occupied in their current unit and a request for exception is denied.

Determination to terminate assistance for any reason.

Determination to terminate a family's FSS Contract, withhold supportive services, or propose forfeiture of the family's escrow account.

Determination to pay an owner claim for damages, unpaid rent or vacancy loss.

The LHA must always provide the opportunity for an informal hearing before termination of assistance.

Informal Hearings are not required for established policies and procedures and LHA determinations such as:

Discretionary administrative determinations by the LHA.

General policy issues or class grievances.

Establishment of the LHA schedule of utility allowances for families in the Program.

A LHA determination not to approve an extension or suspension of a voucher term.

A LHA determination not to approve a unit or lease.

A LHA 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).

A LHA determination that the unit is not in accordance with HQS because of family size.

A LHA determination to exercise or not exercise any right or remedy against the owner under a HAP contract.

Notification of Hearing

It is the LHA'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 the protections and rights afforded by the law and the regulations.

When the LHA receives a request for an informal hearing, a hearing shall be scheduled within 10 days. The notification of hearing will contain:

The date and time of the hearing;

The location where the hearing will be held;

The family's right to bring evidence, witnesses, legal or other representation at the family's expense;

The right to view any documents or evidence in the possession of the LHA upon which the LHA based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing. This is called "*discovery*"; and

The right of the LHA to "*discovery*".

Requests for "*discovery*" must be made no later than (2) two working days before the hearing.

The LHA'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.

If a family does not appear at a scheduled hearing and has not rescheduled the hearing in advance, the family must contact the LHA within 24 hours, excluding weekends and holidays. The LHA will reschedule the hearing only if the family can show good cause for the failure to appear. Failure to make the second hearing will result in loss by default.

Families have the right to:

Present written or oral objections to the LHA's determination;

Examine the documents in the file which are the basis for the LHA's action, and all documents submitted to the Hearing Officer;

Copy any relevant documents at their expense;

Present any information or witnesses pertinent to the issue of the hearing;

Request that LHA staff be available or present at the hearing to answer questions pertinent to the case; and

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 LHA will make the copies for the family and assess a charge of 5 cents per copy. In no case will the family be allowed to remove the file from the LHA's office.

In addition to other rights contained in this Chapter, the LHA has a right to:

Present evidence and any information pertinent to the issue of the hearing;

Be notified if the family intends to be represented by legal counsel, advocate, or another party;

Examine and copy any documents to be used by the family prior to the hearing;

Have its attorney present; and

Have staff persons and other witnesses familiar with the case present.

The Informal Hearing shall be conducted by the Hearing Officer appointed by the LHA who is neither the person who made or approved the decision, nor a subordinate of that person.

The hearing shall concern only the issues for which the family has received the opportunity for hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

No documents may be presented which have not been provided to the other party before the hearing if requested by the other party. "Documents" includes records and regulations.

The Hearing Officer may ask the family for additional information and/or might adjourn the Hearing in order to reconvene at a later date, before reaching a decision.

If the family misses an appointment or deadline ordered by the Hearing Officer, the action of the LHA shall take effect and another hearing will be granted.

The Hearing Officer will determine whether the action, inaction or decision of the LHA is legal in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

A notice of the Hearing Findings shall be provided in writing to the LHA and the family within 10 days and shall include:

A clear summary of the decision and reasons for the decision;

If the decision involves money owed, the amount owed; and

The date the decision goes into effect.

The LHA is not bound by the Hearing decision:

Which concerns matters in which the LHA is not required to provide an opportunity for a hearing;

Which conflicts with or contradicts HUD regulations or requirements;

Which conflicts with or contradicts Federal, State or local laws; or

Which exceeds the authority of the person conducting the hearing.

The LHA shall send a letter to the participant if it determines the LHA is not bound by the Hearing Officer's determination within 10 days. The letter shall include the LHA'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.

E. HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS" [24CFR 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 LHA hearing is pending but assistance to an applicant may be delayed pending LHA hearing.

INS Determination of Ineligibility

If a family member claims to be eligible immigrant and the INS SAVE system and manual search do not verify the claim, the LHA notifies the applicant or participant within ten days of their right to appeal to the INS within thirty days or to request an informal hearing with the LHA either in lieu of or subsequent to the INS appeal.

If the family appeals to the INS, they must give the LHA a copy of the appeal and proof of mailing or the LHA may proceed to deny or terminate. The time period to request an appeal may be extended by the LHA for good cause.

The request for a LHA hearing must be made within fourteen days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within fourteen days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in Section D of 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 LHA will:

Deny the applicant family;

Defer termination if the family is a participant and qualifies for deferral; or

Terminate the participant if the family does not qualify for deferral.

If there are eligible members in the family, the LHA 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, 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 pro-rated (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 way as terminations for any other type of fraud.

F. MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES [24CFR 982.204, 982.552]

When applicants are denied placement on the waiting list, or the LHA is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal review process.

Chapter 20

PROJECT-BASED VOUCHERS

INTRODUCTION

This chapter describes HUD regulations and PHA policies related to the project-based voucher (PBV) program in nine parts:

Part I: General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Owner Proposals. This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the factors the PHA will consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, the cap on assistance at projects receiving PBV assistance, subsidy layering requirements, site selection standards, and environmental review requirements.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Rehabilitated and Newly Constructed Units. This part describes requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.

Part V: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution, term, and termination of the HAP contract. In addition, it describes how the HAP contract may be amended and identifies provisions that may be added to the HAP contract at the PHA's discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

Part VII: Occupancy. This part discusses occupancy requirements related to the lease, and describes under what conditions families are allowed or required to move. In addition, exceptions to the occupancy cap (which limits PBV assistance to 25 percent of the units in any project) are also discussed.

Part VIII: Determining Rent to Owner. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract. Rent reasonableness requirements are also discussed.

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.

PART I: GENERAL REQUIREMENTS

20-I.A. OVERVIEW [24 CFR 983.5]

The project-based voucher (PBV) program allows PHAs that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to take up to 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]. PHAs may only operate a PBV program if doing so is consistent with the PHA's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

LHA Policy

LHA will operate a project-based voucher program using up to 20 percent of its budget authority for project-based assistance.

PBV assistance may be attached to existing housing or newly constructed or rehabilitated 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 PHA is not required to reduce the number of these units if the amount of budget authority is subsequently reduced. However, the PHA 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].

20-I.B. 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 PHA 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.

LHA Policy

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

20-I.C. 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. PHAs may not use voucher program funds to cover relocation costs, except that PHAs may use their 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 PHA to ensure the owner complies with these requirements.

20-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]

The PHA 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 PHA must comply with the PHA Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

PART II: PBV OWNER PROPOSALS

20-II.A. OVERVIEW

The PHA must describe the procedures for owner submission of PBV proposals and for PHA selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, the PHA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR 983.53 and 983.54], complies with the cap on the number of PBV units per project [24 CFR 983.56], and meets the site selection standards [24 CFR 983.57]. The PHA may not commit PBVs until or unless it has followed the proposal selection requirements defined in 24 CFR 983.51 [Notice PIH 2011-54].

20-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51(b)]

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

- PHA request for PBV Proposals. The PHA may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the PHA request. The PHA 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 PHA may select proposal 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 LIHTCs 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 selection proposal did not involve any consideration that the project would receive PBV assistance. The PHA need not conduct another competition.

Solicitation and Selection of PBV Proposals [24 CFR 983.51(c)]

PHA procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the PHA. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of the PHA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

LHA Policy

LHA Request for Proposals for Rehabilitated and Newly Constructed Units

LHA will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in the following newspapers:

The Independent

The Valley Times

Tri Valley Herald

Oakland Tribune

In addition, LHA will post the RFP and proposal submission and rating and ranking procedures on its electronic web site.

The advertisement will specify the number of units LHA estimates that it will be able to assist under the funding that LHA is making available and the date proposals will be due.

In order for the proposal to be considered, the owner must submit the proposal to LHA by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

LHA 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 PHA goal of deconcentrating poverty and expanding housing and economic opportunities;
- If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and
- Other criteria stated in the RFP.

LHA Requests for Proposals for Existing Housing Units

LHA will advertise its request for proposals (RFP) for existing housing in the following newspapers:

The Independent

The Valley Times

Tri Valley Herald

Oakland Tribune

In addition, LHA will post the notice inviting such proposal submission and the rating and ranking procedures on its electronic web site.

The advertisement will specify the number of units LHA estimates that it will be able to assist under the funding LHA is making available and the date proposals will be due.

In order for the proposal to be considered, the owner must submit the proposal to LHA by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

LHA will rate and rank proposals for existing housing 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 LHA goal of deconcentrating poverty and expanding housing and economic opportunities;
- If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property;
- Extent to which units are occupied by families that are eligible to participate in the PBV program; and
- Other criteria stated in the RFP.

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

LHA will accept 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 Low-Income Housing Tax Credits on an ongoing basis.

LHA may also directly contact specific owners that have already been selected for Federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

Proposals will be reviewed and LHA will evaluate each proposal on its merits using the following factors:

- Extent to which the project furthers the PHA goal of deconcentrating poverty and expanding housing and economic opportunities; and
- Extent to which the proposal complements 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.

PHA-Owned Units [24 CFR 983.51(e) and 983.59]

A PHA-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 PHA-owned units were appropriately selected based on the selection procedures specified in the PHA administrative plan. If the PHA selects a proposal for housing that is owned or controlled by the PHA, the PHA must identify the entity that will review the PHA proposal selection process and perform specific functions with respect to rent determinations and inspections.

In the case of PHA-owned units, the initial contract rent must be approved by an independent entity. 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 PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

LHA Policy

LHA may submit, accept, and process a proposal for project-based housing that is owned or controlled by LHA, including public housing that is in the process of being disposed of. LHA may conditionally select public housing units or projects while they are going through the disposition process and while HUD approves LHA's proposal selection process. LHA will not finally select public housing units or projects until disposition approval has been received from HUD's Special Applications Center and HUD has approved the proposal selection process.

If the proposal for LHA-owned housing is selected, LHA will use HUD or a HUD approved entity, to review the LHA selection. LHA will also use a standard or high performer housing authority in or adjacent to Alameda County to establish the initial contract rent, based on an appraisal by a licensed, state certified appraiser, and to perform HQS inspections of the LHA selection, prior to approving the proposal for LHA-owned housing.

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

PHA Notice of Owner Selection [24 CFR 983.51(d)]

The PHA 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 procedures 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.

LHA Policy

LHA will promptly notify the selected owner in writing of the owner selection for the PBV program. LHA will also publish a notice in newspapers of general circulation to provide public notice of such selection.

Documents regarding LHA's basis of selection for PBV proposals will be made available for public inspection. This excludes sensitive owner information, e.g., financial statements and similar information about the owner.

LHA will make these documents available for review during normal business hours. The cost for reproduction of allowable documents will be in accordance with the established schedule of fees and charges in effect at the time.

20-II.C. HOUSING TYPE [24 CFR 983.52]

The PHA 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 a 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 PHA selection, the units substantially comply with HQS. Units for which new construction or rehabilitation began after the owner's proposal submission but prior to the execution of the HAP do not subsequently qualify as existing housing. Units that were newly constructed or rehabilitated in violation of program requirements also do not qualify as existing housing.

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

20-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

Ineligible Housing Types [24 CFR 983.53]

The PHA 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; and transitional housing. In addition, the PHA may not attach or pay PBV assistance for a unit occupied by an owner and the PHA 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. A member of a cooperative who owns shares in the project assisted under the PBV program is not considered an owner for purposes of participation in the PBV program. Finally, PBV assistance may not be attached to units for which construction or rehabilitation has started after the proposal submission and prior to the execution of an AHAP.

Subsidized Housing [24 CFR 983.54]

A PHA 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 Section 236 rental assistance payments (except that a PHA 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 PHA in accordance with HUD requirements.

20-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, FR Notice 11/24/08, FR Notice 7/9/10, and FR Notice 6/25/14]

The PHA 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.

Subsidy layering requirements do not apply to existing housing. A further subsidy layering review is not required for new construction or rehabilitation if HUD's designee has conducted a review that included a review of PBV assistance in accordance with the PBV subsidy layering guidelines.

The PHA must submit the necessary documentation to HUD for a subsidy layering review. Except in cases noted above, the PHA may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD, or a HUD-approved housing credit agency (HCA), has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements. However, in order to satisfy applicable requirements, HCAs must conduct subsidy layering reviews in compliance with the guidelines set forth in the *Federal Register* notice published July 9, 2010.

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.

20-II.F. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT

25 Percent per Project Cap [24 CFR 983.56]

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

Exceptions to 25 Percent per Project Cap [24 CFR 983.56(b)]

Exceptions are allowed and PBV units are not counted against the 25 percent per project cap if:

- The units are in a single-family building (one to four units);
- The units are *excepted units* in a multifamily project because they are specifically made available for elderly and/or disabled families or families receiving supportive services (also known as *qualifying families*).

PHAs must include in the PHA administrative plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. It is not necessary that the services be provided at or by the project, if they are approved services. To qualify, a family must have at least one member receiving at least one qualifying supportive service. A PHA may 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 an excepted unit has received, FSS supportive services or any other supportive services as defined in the PHA administrative plan, and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

The PHA must monitor the excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. The PHA administrative plan must state the form and frequency of such monitoring.

LHA Policy

LHA will provide PBV assistance for excepted units. LHA will develop housing for occupancy by elderly families and disabled families and/or families receiving supportive services. Families in need of services may include elderly families, disabled families, families in need of particular supportive services, or families participating in the Family Self-Sufficiency (FSS) Program.

Elderly and disabled families may live in excepted units without the requirement of receiving supportive services. Families qualified as receiving supportive services and families in the Family Self-Sufficiency Program must receive the services, and/or successfully complete the service program, to be eligible for continued occupancy.

Families qualified as receiving supportive services and families in the Family Self-Sufficiency Program that do not continue to receive the services or complete the required service program will be terminated in accordance with LHA policies in Chapter 22.

The following types of services will be provided depending on the needs of the family:

- Transportation for activities such as, (but not limited to) grocery shopping, job training, education, attending medical and dental appointments, etc.

- Supervised taking of medications
- Treatment for drug addiction (for recovering and current users)
- Treatment for alcohol addiction (for recovering and current users)
- Training and development of housekeeping and homemaking skills
- Family budgeting
- Child care
- Parenting skills
- Computer access and training
- Library access
- Work skills development, job training and employment counseling
- Educational/vocational opportunities
- Case management services and/or counseling
- Access to Health and Psychiatric Services, i.e. nurse/medical staff, mental health professional, etc.
- Life skills training
- Access to on-site/off-site social activities

LHA Policy

Annually, during the recertification process, LHA will examine the families' receipt of supportive services to determine and confirm that the families still qualify to continue receiving PBV assistance.

LHA will require families receiving services to provide written evidence from each service provider that the family has received all of the required services stated in the statement of family obligations or FSS contract of family participation. Alternately, each service provider will monitor and submit a report to LHA identifying the services received by each family, and LHA will document if all services required in the statement of family obligations or FSS contract of participation were received. If the family fails without good cause to receive all of the required services stated in the statement of family obligations or FSS contract of participation between the time of the annual reports, the family and service provider must notify LHA of the failure in writing within 10 business days of the failure.

Promoting Partially-Assisted Projects [24 CFR 983.56(c)]

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

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

LHA Policy

LHA will not impose any cap beyond HUD regulations on the number of PBV units assisted per project.

20-II.G. SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]

The PHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP contract or HAP contract for units on the site, unless the PHA 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 PHA Plan under 24 CFR 903 and the PHA administrative plan.

In addition, prior to selecting a proposal, the PHA 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 HQS site and neighborhood standards at 24 CFR 982.401(l).

LHA Policy

It is LHA's goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal LHA will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, LHA will consider exceptions to the 20 percent standard where LHA 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 20 percent, such as sites in:

- A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;
- A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;

- A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;
- A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area;
- A census tract where there has been an overall decline in the poverty rate within the past five years; or
- A census tract where there are meaningful opportunities for educational and economic advancement.

Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]

The PHA 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 size, 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 PHA determines that sufficient, comparable opportunities exist for housing for minority families in the income 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.

20-II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]

The PHA 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 PHA may not enter into an agreement to enter into a HAP contract nor 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 part 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 PHA may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the PHA, 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 PHA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The PHA 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.

PART III: DWELLING UNITS

20-III.A. OVERVIEW

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.

20-III.B. 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, 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 do 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.

20-III.C. 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)

20-III.D. INSPECTING UNITS

Pre-selection Inspection [24 CFR 983.103(a)]

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

Pre-HAP Contract Inspections [24 CFR 983.103(b)]

The PHA must inspect each contract unit before execution of the HAP contract. The PHA 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 PHA must inspect the unit. The PHA may not provide assistance on behalf of the family until the unit fully complies with HQS.

Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14]

At least once every 24 months during the term of the HAP contract, the PHA must inspect a random sample consisting of at least 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 inspection requirement.

LHA Policy

LHA will inspect on an annual basis a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS.

If more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, the PHA must reinspect 100 percent of the contract units in the building.

Other Inspections [24 CFR 983.103(e)]

The PHA must 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 PHA must take into account complaints and any other information coming to its attention in scheduling inspections.

The PHA must 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 PHA supervisory quality control HQS inspections, the PHA should include a representative sample of both tenant-based and project-based units.

Inspecting PHA-Owned Units [24 CFR 983.103(f)]

In the case of PHA-owned units, the inspections must be performed by an independent agency designated by the PHA and approved by HUD. The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located. The PHA 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 PHA-owner.

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS

20-IV.A. OVERVIEW [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.

20-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT

In order to offer PBV assistance in rehabilitated or newly constructed units, the PHA 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(b)]. The PHA may not enter into an Agreement if construction or rehabilitation has started after proposal submission [24 CFR 983.152(c)]. Construction begins when excavation or site preparation (including clearing of the land) begins for the housing. Rehabilitation begins with the physical commencement of rehabilitation activity on the housing.

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

Content of the Agreement [24 CFR 983.152(d)]

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 PHA, specifications and plans. For new construction units, the description must include the working drawings and specifications.
- Any additional requirements for quality, architecture, or design over and above HQS.

Execution of the Agreement [24 CFR 983.153]

The Agreement must be executed promptly after PHA notice of proposal selection to the selected owner. The PHA may not enter into the Agreement if construction or rehabilitation has started after proposal submission. Generally, the PHA may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, the PHA may not enter into the Agreement until the environmental review is completed and the PHA has received environmental approval. However, the PHA does not need to conduct a subsidy layering review in the case of a HAP contract for existing housing or if the applicable state or local agency has conducted such a review. Similarly, environmental reviews are not required for existing structures unless otherwise required by law or regulation.

LHA Policy

LHA will enter into an Agreement with the selected owner promptly after receiving 1) environmental approval, 2) notice that the subsidy layering requirements, if applicable, have been met, and 3) Authority to Use Grant Funds, if applicable. The Agreement must be executed before construction or rehabilitation work is started.

20-IV.C. 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 relations laws and regulations. The PHA must 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.

20-IV.D. 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 PHA in the form and manner required by the PHA:

- 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 requirements in development of the housing.

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

LHA Policy

LHA 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. LHA will specify any additional documentation requirements in the Agreement to enter into HAP contract.

PHA Acceptance of Completed Units [24 CFR 983.156]

Upon notice from the owner that the housing is completed, the PHA 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 PHA 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 PHA must not enter into the HAP contract.

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

PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

20-V.A. OVERVIEW

The PHA 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. With the exception of single-family scattered-site projects, a HAP contract shall cover a single project. If multiple projects exist, each project is covered by a separate HAP contract. The HAP contract must be in the form required by HUD [24 CFR 983.202(a)].

20-V.B. 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 the 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 project that will exceed the 25 percent per project cap, which will be set aside for occupancy by qualifying families (elderly and/or disabled families and families receiving supportive services); and
- The initial rent to owner for the first 12 months of the HAP contract term.

Execution of the HAP Contract [24 CFR 983.204]

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

LHA Policy

For existing housing, the HAP contract will be executed promptly pursuant to LHA determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed promptly pursuant to LHA determining that the units have been completed in accordance with the agreement to enter into HAP, all units meet HQS, and the owner has submitted all required evidence of completion.

Term of HAP Contract [24 CFR 983.205]

The PHA may enter into a HAP contract with an owner for an initial term of no less than one year and no more than 15 years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year, nor more than 15 years. In the case of PHA-owned units, the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

LHA Policy

All PBV HAP contracts will be negotiated with the owner for a fifteen-year term.

At the time of the initial HAP contract term or any time before expiration of the HAP contract, the PHA may extend the term of the contract for an additional term of up to 15 years if the PHA determines an extension is appropriate to continue providing affordable housing for low-income families. A HAP contract extension may not exceed 15 years. A PHA may provide for multiple extensions; however, in no circumstances may such extensions exceed 15 years, cumulatively. Extensions after the initial extension are allowed at the end of any extension term, provided that not more than 24 months prior to the expiration of the previous extension contract the PHA agrees to extend the term, and that such extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. Extensions after the initial extension term shall not begin prior to the expiration date of the previous extension term. 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. In the case of PHA-owned units, any extension of the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

LHA Policy

When determining whether or not to extend an expiring PBV contract, the PHA 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;
- 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 PHA [24 CFR 983.205(c)]

The HAP contract must provide that the term of the PHA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the PHA 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 PHA 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 PHA. In this case, families living in the contract units must be offered tenant-based assistance.

Statutory Notice Requirements: Contract Termination or Expiration [24 CFR 983.206]

Not less than one year before the HAP contract terminates, or if the owner refuses to renew the HAP contract, the owner must notify the PHA and assisted tenants of the termination. The notice must be provided in the form prescribed by HUD. If the owner does not give timely notice, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of the owner's inability to collect an increased tenant portion of rent. An owner may renew the terminating contract for a period of time sufficient to give tenants one-year advance notice under such terms as HUD may require.

Remedies for HQS Violations [24 CFR 983.208(b)]

The PHA 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 PHA determines that a contract does not comply with HQS, the PHA 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.

LHA Policy

LHA 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.

20-V.C. AMENDMENTS TO THE HAP CONTRACT

Substitution of Contract Units [24 CFR 983.207(a)]

At the PHA's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same project for a previously covered contract unit. Before any such substitution can take place, the PHA must inspect the proposed unit and determine the reasonable rent for the unit.

Addition of Contract Units [24 CFR 983.207(b)]

At the PHA's discretion and subject to the restrictions on the number of dwelling units that can receive PBV assistance per project and on the overall size of the PHA'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 project. This type of amendment is subject to all PBV program requirements except that a new PBV proposal is not required.

LHA Policy

LHA will consider adding contract units to the HAP contract when LHA determines that additional housing is needed to serve eligible low-income families. Circumstances 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 finding units that meet program requirements.

20-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.207(b) and 983.302(e)]

The HAP contract year is the period of 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.

20-V.E. OWNER RESPONSIBILITIES UNDER THE HAP [24 CFR 983.210]

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 PHA, 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 unit;
- 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;
- The family does not own or have any interest in the contract unit (does not apply to family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

20-V.F. ADDITIONAL HAP REQUIREMENTS

Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.208(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 PHA 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 PHA may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional 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.

LHA Policy

LHA will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. LHA 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 PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-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 PHA 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).

LHA Policy

For HAP contracts that provide for vacancy payments, LHA will provide vacancy payments to the owner equal to the contract rent in effect at the time of the vacancy for a period not to exceed one month. The HAP contract with the owner will contain the terms under which vacancy payments will be made.

PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS

20-VI.A. 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.

20-VI.B. 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. For all others, eligibility for admission must be determined 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 PHA, 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 PHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. The PHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

LHA Policy

LHA will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 2.

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 PHA 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 PHA's waiting list. Once the family's continued eligibility is determined (the PHA 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 PHA 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.

20-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]

The PHA may establish a separate waiting list for PBV units or it may use the same waiting list for both tenant-based and PBV assistance. The PHA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the PHA. If the PHA chooses to offer a separate waiting list for PBV assistance, the PHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If a PHA decides to establish a separate PBV waiting list, the PHA may use a single waiting list for the PHA's whole PBV program, or it may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units.

LHA Policy

LHA will use one waiting list for the tenant-based voucher program, project-based voucher program, Affordable Housing program, and the Low Rent Public Housing program. Selection for each program is subject to the federal regulations and requirements for the particular program.

20-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

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

Income Targeting [24 CFR 983.251(c)(6)]

At least 75 percent of the families admitted to the PHA's tenant-based and project-based voucher programs during the PHA 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 [24 CFR 983.251(c)(7)]

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

Preferences [24 CFR 983.251(d), FR Notice 11/24/08]

The PHA 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 in Section 20-VI.B. 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 not be required to accept the particular services offered as a condition of occupancy.

If the PHA has projects with more than 25 percent of the units receiving project-based assistance because those projects include “excepted units” (units specifically made available for elderly or disabled families, or families receiving supportive services), the PHA must give preference to such families when referring families to these units [24 CFR 983.261(b)].

LHA Policy

LHA will provide a selection preference when required by the regulations (e.g., eligible in-place families, qualifying families for “excepted units,” mobility impaired persons for accessible units). Additional preferences have been established for the programs listed in Section 20-VI.C. above.

20-VI.E. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

The PHA 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 PHA’s selection policy;
- Remove the applicant from the tenant-based voucher waiting list.

Disapproval by Landlord [24 CFR 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 PHA 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 PHA must provide a briefing packet that explains how the PHA 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 PHA 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 2). In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

The PHA 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 2).

20-VI.F. 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(a)(2) and (a)(3)].

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 PHA from the PHA'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 PHA's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

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

LHA Policy

The owner must notify LHA in writing (mail, fax, or e-mail) within 5 business days of learning about any vacancy or expected vacancy.

LHA will make every reasonable effort to refer families to the owner within 10 business days of receiving such notice from the owner.

Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, the PHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period.

LHA Policy

If any contract units have been vacant for 120 days, LHA may give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period. LHA will provide the notice to the owner within 10 business days of the 120th day of the vacancy. The amendment to the HAP contract will be effective the 1st day of the month following the date of LHA's notice.

20-VI.G. TENANT SCREENING [24 CFR 983.255]

PHA Responsibility

The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

LHA Policy

LHA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The PHA must provide the owner with an applicant family's current and prior address (as shown in PHA records) and the name and address (if known by the PHA) of the family's current landlord and any prior landlords.

In addition, the PHA may offer the owner other information the PHA 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 PHA must provide applicant families a description of the LHA Policy on providing information to owners, and the PHA must give the same types of information to all owners.

The PHA may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(a)(4)].

LHA Policy

LHA 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. LHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

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.

PART VII: OCCUPANCY

20-VII.A. OVERVIEW

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

20-VII.B. 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(b)]

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.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a PHA model lease.

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

LHA Policy

LHA will not review the owner's lease for compliance with state and/or local law. However, if LHA becomes aware that an owner's lease does not comply with the state and/or local law, then LHA will require the owner to modify the lease in order to comply with state and/or local law. If the owner does not do this within 15 business days, then LHA will decline to approve the tenancy.

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 PHA (the names of family members and any PHA-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)]

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g. month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- The owner terminates the lease for good cause
- The tenant terminates the lease
- The owner and tenant agree to terminate the lease
- The PHA terminates the HAP contract
- The PHA terminates assistance for the family

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 PHA a copy of all changes.

The owner must notify the PHA 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 PHA and in accordance with the terms of the lease relating to its amendment. The PHA 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 an 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), FR Notice 11/24/08]

If a family is living in a project-based unit that is excepted from the 25 percent per project cap on project-basing because of participation in a supportive services program (e.g., Family Self-

Sufficiency), 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 lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by LHA Policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 981.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

Continuation of Housing Assistance Payments [24 CFR 982.258]

Housing assistance payments shall continue until the tenant rent equals the rent to owner. The cessation of housing assistance payments at such point will not affect the family's other rights under its lease, nor will such cessation preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within 180 days following the date of the last housing assistance payment by the PHA. After the 180-day period, the unit shall be removed from the HAP contract pursuant to 24 CFR 983.211.

LHA Policy

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify LHA of the change and request an interim reexamination before the expiration of the 180-day period.

Security Deposits [24 CFR 983.259]

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

LHA Policy

LHA will allow the owner to collect a security deposit amount the owner determines is appropriate, as long as it does not exceed that allowed under state law.

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 lease, the owner may seek to collect the balance from the tenant. The PHA has no liability or responsibility for payment of any amount owed by the family to the owner.

20-VII.C. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260]

If the PHA determines that a family is occupying a wrong size unit, based on the PHA'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 PHA must promptly notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

LHA Policy

LHA 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 within 10 business days of LHA's determination. LHA 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 PHA offers the family a tenant-based voucher, the PHA must terminate the housing assistance payments for a wrong-sized or accessible unit at the earlier of the expiration of the term of the family's voucher (including any extension granted by the PHA) or the date upon which the family vacates the unit. If the family does not move out of the wrong-sized unit or accessible unit by the expiration of the term of the family's voucher, the PHA must remove the unit from the HAP contract.

If the PHA 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 PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

LHA Policy

When LHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 60 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 60-day time frame, LHA will terminate the housing assistance payments at the expiration of this 60-day period.

LHA may make exceptions to this 60-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

Family Right to Move [24 CFR 983.261]

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 PHA 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 PHA 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 PHA 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.

20-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.262]

The PHA may not pay housing assistance under a PBV HAP contract for more than 25 percent of the number of dwelling units in a project unless the units are [24 CFR 983.56]:

- In a single-family building;
- Specifically made available for elderly and/or disabled families; or
- Specifically made available for families receiving supportive services as defined by the PHA. At least one member must be receiving at least one qualifying supportive service.

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined by the PHA and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a "qualifying family" in connection with the 25 percent per project cap exception (e.g. a family that does not successfully complete its FSS contract of participation or supportive services requirements, or a family that is no longer elderly or disabled due to a change in family composition where the PHA does not exercise discretion to allow the family to remain in the excepted unit), must vacate the unit within a reasonable period of time established by the PHA, and the PHA 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 PHA.

The PHA may allow a family that initially qualified for occupancy of an excepted unit based on elderly or disabled family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death of the elderly or disabled family member or long-term or permanent hospitalization or nursing care), the elderly or disabled family member no longer resides in the unit. In this case, the unit may continue to be counted as an excepted unit for as long as the family resides in that unit. Once the family vacates the unit, in order to continue as an excepted unit under the HAP contract, the unit must be made available to and occupied by a qualified family.

LHA Policy

When LHA determines that a family no longer meets the criteria for a “qualifying family” in connection with the 25 percent per project cap exception, LHA will provide written notice to the family and owner within 10 business days of making the determination. The family will be given 60 days from the date of the notice to move out of the PBV unit. If the family does not move out within this 60-day time frame, LHA will terminate the housing assistance payments at the expiration of this 60-day period.

LHA may make exceptions to this 60-day period if needed for reasons beyond the family’s control such as death, serious illness, or other medical emergency of a family member.

LHA may refer other eligible families to the excepted units. However, if there are no eligible families on the waiting list and the owner does not refer eligible families to LHA, LHA will amend the HAP contract to reduce the total number of units under contract.

PART VIII: DETERMINING RENT TO OWNER

20-VIII.A. 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.

20-VIII.B. 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 PHA, 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. 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 project, 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 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 is designated as a qualified census tract by HUD.

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

Reasonable Rent [24 CFR 983.301(e) and 983.302(c)(2)]

The PHA must determine reasonable rent in accordance with 24 CFR 983.303. The rent to owner for each contract unit may at no time exceed the reasonable rent, except in cases where the PHA has elected within the HAP contract not to reduce rents below the initial rent to owner and, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent. However, the rent to owner must be reduced in the following cases:

- To correct errors in calculations in accordance with HUD requirements
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 24 CFR 983.55
- If a decrease in rent to owner is required based on changes in the allocation of the responsibility for utilities between owner and tenant

If the PHA has not elected within the HAP contract to establish the initial rent to owner as the rent floor, the rent to owner shall not at any time exceed the reasonable rent.

LHA Policy

LHA will elect within the HAP contract not to reduce rents below the initial level, with the exception of circumstances listed in 24 CFR 983.302(c)(2). If, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent, LHA will use the higher initial rent to owner amount.

Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 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 standard 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.

LHA Policy

Upon written request by the owner, LHA will consider using the FMR or utility allowances in effect during the 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. LHA 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, LHA may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent, if LHA determines it is necessary due to LHA budgetary constraints.

Redetermination of Rent [24 CFR 983.302]

The PHA must redetermine the rent to owner upon the owner's request or when there is a five 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 PHA, it must be requested at the annual anniversary of the HAP contract (see Section 20-V.D.). The request must be in writing and in the form and manner required by the PHA. The PHA 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).

LHA Policy

An owner's request for a rent increase must be submitted to LHA 90 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

The PHA 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, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

Notice of Rent Change

The rent to owner is redetermined by written notice by the PHA to the owner specifying the amount of the redetermined rent. The PHA 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 12 calendar months from the annual anniversary of the HAP contract.

LHA Policy

LHA will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

PHA-Owned Units [24 CFR 983.301(g)]

For PHA-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 PHA must use the rent to owner established by the independent entity.

20-VIII.C. 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 PHA, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

When Rent Reasonable Determinations Are Required

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

- There is a five percent or greater decrease in the published FMR in effect 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 PHA 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 project; 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 PHA 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 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 PHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

PHA-Owned Units

For PHA-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 PHA-owned units to the PHA 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 PHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

20-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL

In addition to the rent limits discussed in Section 20-VIII.B 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 (see Section 20-II.D).

Other Subsidy [24 CFR 983.304]

To comply with HUD subsidy layering requirements, at the discretion of HUD or its designee, a PHA shall reduce the rent to owner because of other governmental subsidies, including tax credits or tax exemptions, grants, or other subsidized funding.

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;
- 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.

PART IX: PAYMENTS TO OWNER

20-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]

During the term of the HAP contract, the PHA 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 PHA agree on a later date.

Except for discretionary vacancy payments, the PHA 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 PHA 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.

20-IX.B. 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 PHA determines that the vacancy is the owner's fault.

LHA Policy

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

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

- The owner gives the PHA 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 PHA 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 PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payment.

LHA 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 PHA of the vacancy in accordance with the policy in Section 20-VI.F. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within 10 business 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 PHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the PHA within 10 business days of the PHA's request, no vacancy payments will be made.

20-IX.C. 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 PHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the PHA 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 PHA 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 PHA. The owner must immediately return any excess payment to the tenant.

Tenant and PHA 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 PHA.

Likewise, the PHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The PHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The PHA 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 PHA must 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 PHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

LHA Policy

LHA will make utility reimbursements to the family.

20-IX.D. 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 21

SPECIAL HOUSING TYPES [24CFR 982.54, 982.601]

INTRODUCTION

The LHA will permit the use of any special housing types in its program only if the applicant/participant can demonstrate that is needed as a reasonable accommodation for a person with a disability. Acceptable demonstration will include documentation from one or more knowledgeable professionals who are familiar with the applicant/participant and/or the type of special housing requested as accommodation.

The LHA will not set aside any program funding for special housing types, or for a special housing type.

The HUD requirements are the same even if the LHA only permits special housing types for families needing reasonable accommodation for persons with disabilities.

Verification of Need for Reasonable Accommodation

An example of acceptable documentation as verification of the need for a reasonable accommodation would be a letter to the LHA describing how the special housing type requested provides the accommodation that the person is in need of. The request and documentation will be reviewed by a supervisor and a written response stating approval or disapproval will be sent to the applicant/participant within 10 business days of receipt of the request.

A copy of the LHA'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 24CFR 982 Section M-Special Housing Types.

A. MANUFACTURED HOMES [24CFR 982.620]

Although manufactured homes are listed as a special housing type by HUD, the LHA must allow a family to lease a manufactured home and/or space with assistance under the program.

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

Housing Quality Standards [24CFR 982.621]

A manufactured home must meet all the HQS requirements outlined in the “Housing Quality Standards and Inspections” chapter and regulated by 24CFR 982.401. In addition, the manufactured home also must meet the following requirements:

- 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.
- A manufactured home 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 [24CFR 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 LHA.

The LHA will not approve a lease for a manufactured home space until the LHA has determined that the initial rent to owner for the space is reasonable rent. At least annually during the assisted tenancy, the LHA will re-determine that the rent is reasonable.

The LHA will determine whether the rent to owner for a manufactured home space is a reasonable rent in comparison to rents for other comparable manufactured home spaces. The LHA 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 LHA, 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 LHA, the owner must provide the LHA information on rents for other manufactured home space.

Housing Assistance Payments for Manufactured Home Space [24CFR 982.623]

There is a separate FMR for a family renting a manufactured home space. The payment standard is used to calculate the monthly housing assistance payment for a family. The FMR for rental of a manufactured home space is generally 40 percent of the published FMR for a two-bedroom unit.

Subsidy Calculation for the Voucher Program

During the term of the 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 LHA:

Rent to owner for the manufactured home space;

Owner maintenance and management charges for the space;

The utility allowance for tenant paid utilities.

Chapter 22

FAMILY SELF-SUFFICIENCY

INTRODUCTION

The objective of the PHA's Family Sufficiency (FSS) program is to assist low-income families in becoming economically independent of government assistance. This objective is met through the integration of the Section 8 Housing Choice Voucher Program with other public and private benefit programs to meet the specific self-sufficiency needs of low-income families. Components of the FSS Program include job development and training, personal and career counseling, child-care, transportation, and housing.

A. PROGRAM COORDINATION

The LHA's Self-Sufficiency Coordinator is responsible for the day-to-day operations of the Program. The Coordinator will work closely with representatives from local agencies and business that assist in carrying for the objectives of the Program.

B. ELIGIBILITY FOR PARTICIPATION

In addition to meeting Section 8 Program Participant requirements, prospective FSS participants must meet the following criteria:

1. Agree to cooperate with all FSS program requirements, including case management;
2. Agree to follow their prescribed Action Plan, developed in consultation with the FSS Coordinator, in meeting their individual plan to become self-sufficient; and
3. Attend an orientation on the FSS program.

C. OUTREACH EFFORTS

The LHA shall utilize the following methods to notify current Section 8 voucher program participants of the availability and advantages of participating in the FSS Program:

1. Written notification to all existing program participants;
2. FSS orientations conducted at the LHA's office;
3. Written notification to current participants from another LHA's jurisdiction who are utilizing the portability feature of the Section 8 voucher programs and who are relocating to this jurisdiction; and
4. Brochures provided to current program participants during their annual reexamination interview.

D. DEVELOPMENT OF ACTION PLANS

Each FSS participant shall sign an FSS Contract of Participation and complete an individual Action Plan upon acceptance into the FSS Program. The Action Plan shall be developed in consultation with the Self-Sufficiency coordinator and shall outline the specific goals and objectives necessary for the family to achieve economic self-sufficiency.

E. PROGRAM MONITORING

Participants shall meet with the FSS Coordinator as often as necessary to evaluate progress towards goals and objectives listed in the Action Plan. The Coordinator will assist participants in linking up to available services. Participation in the FSS Program shall continue so long as the family fulfills their FSS contract and the family meets all eligibility requirements relative to the Section 8 Program.

F. FSS PROGRAM GRADUATION

An FSS participant can graduate from the program if the participant has:

1. Met their goals as stated in their *Contract of Participation* and they have been off of all welfare assistance for at least one year before they graduate;
2. Maintained their current job for at least a year and their total household income equals or exceeds 60% of the Area Median Income as established by the Federal Reserve Bank; or
3. Has a TTP that is equal or greater than the Fair Market Rent.

G. FSS PROGRAM TERMINATION

FSS participants who breach their FSS contract and fail to work towards the goals and objectives of their individual Action Plan may be terminated from further participation in the FSS Program. In the case of program termination, the family may continue to receive housing assistance so long as they are otherwise eligible. Any FSS participant that is terminated from the program will lose all of their escrow account.

Participants may be terminated from the FSS program for any of the following violations:

- 1. The participant and the LHA agree to terminate the contract;**
- 2. The LHA determines the family has not fulfilled its responsibilities under the FSS program; or**
- 3. An act occurs that is inconsistent with the purpose of the FSS program such as noncompliance with the lease, noncompliance with the Section 8 program family obligations.**

H. WITHDRAWAL OF ESCROW FUNDS

The Family Self-Sufficiency Coordinator is responsible for evaluating any request made by a participant to withdraw escrow funds for purposes related to the goals of the FSS Contract while the family is enrolled.

SECTION 8 HOUSING CHOICE VOUCHER HOMEOWNERSHIP PROGRAM OF THE HOUSING AUTHORITY OF THE CITY OF LIVERMORE

CHAPTER 23

23.0 SECTION 8 HOUSING CHOICE VOUCHER HOMEOWNERSHIP PROGRAM [24CFR 982.625]

INTRODUCTION

The Livermore Housing Authority Board of Commissioners approved the agency participating in the Section 8 Housing Voucher Homeownership Program on October 10, 2007 (Resolution Number 531).

The Section 8 Housing Choice Voucher Homeownership Program permits eligible participants in the Housing Choice Voucher Homeownership Program, including participants with portable vouchers, the option of purchasing a home with their voucher assistance rather than renting.

The homeownership is limited to 5% of the total Voucher Program in any fiscal year. The Authority will exceed this limit only if needed as a reasonable accommodation. In addition, families can have no outstanding debt to the Housing Authority

A. FAMILY ELIGIBILITY REQUIREMENTS [24CFR 982.627]

Participation in the Housing Choice Voucher Homeownership program is voluntary. Each homeownership participant must meet the general requirement for admission to the Housing Choice Voucher Program as set forth in this Administrative Plan.

1. Must meet the general requirements for admission or continued participation in the Section 8 Voucher Choice Program. Must be in full compliance with their lease and Section 8 program requirements.
2. Must be a first time homeowner as defined by the regulations or have a member who is a person with disability.
3. Must meet the minimum program requirements.
4. At least one adult must be employed fulltime (an average of thirty (30) hours per week) and have been continuously employed during the year prior to commencement of home ownership assistance. Homeownership assistance commences upon the first HAP payment toward the mortgage. Elderly and disabled families are exempt from this provision.

5. Must have completed all required Home Ownership Counseling programs.
6. Must have fully repaid any outstanding debt to any Housing Authority.
7. Must have not defaulted on a mortgage security debt to purchase a home under the Section 8 Housing Choice Voucher Homeownership Program.
8. Must not have any member who has a present ownership interest in the residence at the commencement of home ownership assistance or any other residential property. Cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance are exempt from this requirement

B. FIRST TIME HOMEOWNER

Participants in the homeownership program must be "first time homeowners" except those households which include a person with disabilities. "First-time homeowners" means that no member of the household has had an ownership interest in the residence of any family member during the three (3) years preceding commencement of home ownership assistance. However, a single parent or displaced homemaker who, while married, owned a home with a spouse (or resided in a home owned by spouse) is considered a "first-time homeowner" for the purpose of the Section 8 Homeownership Program. Cooperative members are considered to be first-time homeowners.

C. MINIMUM INCOME REQUIREMENT [CFR982.627]

Amount of Earned Income:

The minimum gross income is two thousand (2000) hours per year, of full-time employment at federal minimum wage standards.

Exclusion of Welfare Assistance Income:

With the exception of elderly and disabled families, the Housing Authority will disregard any "welfare assistance" income in determining whether the family meets the minimum income requirements. Welfare assistance includes assistance from Temporary assistance for Needy Families (TANF); Supplemental Security Income (SSI) that is subject to an income eligibility test; food stamps; general assistance; or other welfare assistance specified by HUD. The Disregard of welfare assistance income under this section affects the determination of minimum monthly income in determining initial qualification for the homeownership program. The disregard of welfare assistance does not effect the calculation of the family's total tenant payment or the calculation for the amount of homeownership assistance payment.

D. EMPLOYMENT HISTORY [CFR982.627]

Families must demonstrate that one or more adult members of the family who will own the home at commencement of homeownership assistance is employed full-time an average of 30 hours per week and has been so continuously employed for one year prior to execution of the sales agreement.

Elderly and Disabled families are exempt from the employment requirements. In the case of an elderly or disabled family, the housing Authority will consider income from all sources including welfare assistance.

E. ELIGIBLE UNITS [CFR 982.628]

The unit must meet both of the following requirements;

1. The unit either already exists or is under construction at the time the family enters into a contract of Sale.
2. The unit is either a one-unit property or a single dwelling unit in a cooperative or condominium.

Homeownership assistance may also be provided for the purchase of a home where the family will not own fee title to the real property on which the home is located. This will only occur if the home is located on a permanent foundation and the family has the right to occupy the home site for a period of forty (40) years.

F. PRE-PURCHASE HOMEOWNERSHIP COUNSELING PROGRAM [24 CFR 982.630]

A family's participation in the homeownership program is a condition of the family successfully completing Pre-Purchase Homeownership Counseling sessions conducted by a homebuyer and counseling authority approved by the Housing Authority.

At a minimum the following topics will be included in the homeownership counseling sessions:

1. Budgeting and money management
2. Credit counseling
3. Home maintenance (including care of the grounds)
4. How to negotiate the purchase price of a home
5. How to find a home
6. Fair Housing Issues
7. How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing
8. Anti-Predatory Lending

G. PURCHASE REQUIREMENTS [24CFR 982.629]

The Housing Authority has established the maximum time allowed for a family to locate and purchase a home.

The family's deadline date for locating a home to purchase will be one hundred and eighty (180) days from the date the family is issued a homeownership voucher. The family will be issued a homeownership voucher once they have completed all required pre-purchase counseling. Extensions may be granted on a case-by case basis.

The Housing Authority of the City of Livermore will require periodic reports on the family's progress in finding and purchasing a home. The family will provide such reports on a monthly basis to the Homeownership Coordinator.

If the family is unable to purchase a home within the maximum time limit, the Housing Authority of the City of Livermore will issue the family a voucher to lease a unit if the family is in compliance with the Section 8 program rules, or place the family's name on a waiting list for a voucher.

H. CONTRACT [24CFR 982.631]

The family must enter into a contract of sale with the seller of the unit. A copy of the contract must be given to the Housing Authority. The contract of sale must specify the price and terms of sale, and provide that the purchaser will arrange for a pre-purchase independent inspection of the home. The contract shall also state that the purchaser is not obligated to buy the unit unless the inspection is satisfactory. The contract of sale must provide that the purchaser is not obligated to pay for any necessary repairs. Additionally, the seller must certify in the sales contract that he/she has not been debarred, suspended, or subject to a limited denial of participation under part 24 of the Code of Federal Regulations.

I. INSPECTION [CFR 982.631]

Two types of physical inspections must be completed on the unit. One inspection must be completed by the Housing Authority to verify HUD's Housing Quality Standards (HQS). The other inspection must be completed by an independent professional inspector, selected and paid for by the family. The Professional Property Inspector's inspection must cover major building systems and components. The inspector must be qualified to identify physical defects and report on property conditions, including major building systems and components include, but are not limited to:

- Foundation and structure
- Housing interior and exterior
- Roofing
- Plumbing, electrical and heating systems. Copies of the independent inspection report will be provided to the family and the Housing Authority of the City of Livermore will determine whether any pre-purchase repairs are necessary.

The Housing Authority of the City of Livermore may disapprove the unit for homeownership assistance because of information in the report. The Housing Authority's own Housing Quality Standards inspection may disqualify the unit.

J. FINANCING [24CFR 982.632]

The family is responsible for securing financing. The Housing Authority of the City of Livermore has established financing requirements, listed below, and may disapprove proposed financing if the Housing Authority of the City of Livermore determines that the debt is unaffordable. The Housing Authority of the City of Livermore may prohibit the following forms of financing:

1. Balloon payment mortgages
2. Variable interest rate loans
3. Seller financing on a case-by-case basis
4. All costs can not exceed 50% monthly gross income.

If the mortgage is not FHA-insured, LHA will require the lender to comply with generally accepted mortgage underwriting standards consistent with those of HUD/FHA, Ginnie Mae, Fannie Mae, Freddie Mac, California Finance Authority (CHFA), USDA Rural Housing Services, The Federal Home Loan Bank or other private lending institutions.

The Housing Authority of the City of Livermore will require minimum cash down payment of 1% percent of purchase price to be paid by the participating household from their own resources.

K. PARTNERSHIPS

The Housing Authority of the City of Livermore has created partnerships with agencies and lenders to assist eligible families obtain homeownership via the Section 8 Program.

L. CONTINUED ASSISTANCE [24CFR 982.633]

Homeownership assistance may only be paid while the family is residing in the home. The family or lender is not required to refund homeownership assistance for the month when the family moves out. Payments will not be made once the family moves out.

The family must comply with the following obligations:

1. The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.
2. The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to the Housing Choice Obligations of the participant. [24CFR 551 (h) & (I)]
3. The family must supply information to the Housing Authority as specified in obligations of the participant. The family must further supply any information required by the Housing Authority of the City of Livermore or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.
4. The family must notify the Housing Authority before moving out of the home.
5. The family must notify the Housing Authority if the family defaults on the mortgage used to purchase the home.
6. No family member may have any ownership interest in any other residential property.
7. The family must notify the Housing Authority before re-financing or incurring any additional debt.
8. The family's monthly payment must not exceed 50% of their gross monthly income.
9. The family will be required to attend post purchase counseling courses.

Before commencement of homeownership assistance, the family must execute statement on which the family agrees to comply with all family obligations under the Section 8 Housing Choice Voucher Homeownership Program.

M. MAXIMUM TERM OF HOMEOWNERSHIP ASSISTANCE [24CFR 982.634
Except in the case of elderly or disabled families (for whom there is no maximum term), the maximum term of homeownership assistance is:

- Fifteen (15) years, if the initial mortgage term is twenty (20) years or longer, or
- Ten (10) years in all other cases.

The elderly exception only applies if the family qualified as elderly at the start of homeownership assistance. The disabled exception applies if, at any time during receipt of homeownership assistance, the family meets HUD's definition of a disabled family.

If the family ceases to qualify as elderly or disabled during the course of homeownership assistance, the maximum term becomes applicable from the date assistance commenced.

N. HOMEOWNERSHIP ASSISTANCE PAYMENTS [24CFR 982.635]

Amount of monthly homeownership assistance payment. While the family is residing in the home; the PHA shall pay a monthly homeownership assistance payment on behalf of the family that is equal to the lower of:

- (1) The payment standard minus the total tenant payment; or
 - (2) The family's monthly homeownership expenses minus the total tenant payment.
- (b) Payment standard for family. (1) The payment standard for a family is the lower of:
- (i) The payment standard for the family unit size; or
 - (ii) The payment standard for the size of the home.
- (2) If the home is located in an exception payment standard area, the PHA must use the appropriate payment standard for the exception payment standard area.
- (3) The payment standard for a family is the greater of:
- (i) The payment standard (as determined in accordance with

- paragraphs (b)(1) and (b)(2) of this section) at the commencement of homeownership assistance for occupancy of the home; or
- (ii) The payment standard (as determined in accordance with paragraphs (b)(1) and (b)(2) of this section) at the most recent regular reexamination of family income and composition since the commencement of homeownership assistance for occupancy of the home.
- (4) The PHA must use the same payment standard schedule, payment standard amounts and subsidy standards pursuant to Secs. 982.402 and 982.503 for the Section 8 Housing Choice Voucher Homeownership Program as for the rental voucher program.

O. HOMEOWNERSHIP EXPENSES [24CFR 982.635]

Determination of homeownership expenses.

(1) The PHA shall adopt policies for determining the amount of homeownership expenses to be allowed by the PHA in accordance with HUD requirements.

(2) Homeownership expenses for a homeowner (other than a cooperative member) may only include amounts allowed by the PHA to cover:

(i) Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;

(ii) Real estate taxes and public assessments on the home;

(iii) Home insurance;

(iv) The PHA allowance for maintenance expenses;

(v) The PHA allowance for costs of major repairs and replacements;

(vi) The PHA utility allowance for the home;

(vii) Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the Section 8 Housing Choice Voucher Homeownership program is readily accessible to and usable by such person, in accordance with part 8 of this title; and

(viii) Land lease payments (where a family does not own fee title to the real property on which the home is located; see Sec. 982.628(b)).

(3) Homeownership expenses for a cooperative member may only include amounts allowed by the PHA to cover:

(i) The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;

(ii) Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;

(iii) Home insurance;

(iv) The PHA allowance for maintenance expenses;

(v) The PHA allowance for costs of major repairs and replacements;

(vi) The PHA utility allowance for the home; and

(vii) Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the Section 8 Housing Choice Voucher Homeownership Program is readily accessible to and usable by such person, in accordance with part 8 of this title.

(4) If the home is a cooperative or condominium unit, homeownership expenses may also include cooperative or condominium operating charges or maintenance fees assessed by the condominium or cooperative homeowner association.

(d) The PHA will pay homeownership assistance payments:

(1) To the family.

(e) Automatic termination of homeownership assistance.

Homeownership assistance for a family terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the family. However, a PHA has the discretion to grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

P. PORTABILITY [24CFR 982.636, 982.353 (B) AND (C), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations, the family may exercise portability if the receiving Housing Authority is administering a Voucher Homeownership Program and accepting new homeownership families.

The receiving Housing Authority may absorb the family into its Voucher Program, or bill the initial Housing Authority. The receiving Housing Authority homeownership policies apply.

Q. MOVING WITH CONTINUED ASSISTANCE [24CFR 982.637]

A family receiving homeownership assistance may move with continued tenant based assistance. The family may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

R. DENIAL OR TERMINATION OF ASSISTANCE [24CFR 982.638]

Termination of homeownership assistance is governed by the applicable policies for the Housing Choice Voucher program.

The Housing Authority will terminate homeownership assistance if the family is dispossessed from the home due to a judgment or order of foreclosure.

The Housing Authority of the City of Livermore will terminate homeownership assistance if the family violates any of the Family Obligations, or transfer or conveyance of the ownership of the home, or fails to provide requested information to the Housing Authority or commits fraud in relation to the Section 8 Program or Section 8 Housing Choice Voucher Homeownership Program.

S. AUTOMATIC TERMINATION OF HOMEOWNERSHIP ASSISTANCE [24CFR 982.635 (E)]

Homeownership assistance for a family terminates automatically one hundred and eighty (180) calendar days after the last housing assistance payment on behalf of the family. However, a PHA has the discretion to grant relief from this requirement in cases where automatic termination would result in hardship for the family.

CHAPTER 24

PROVISION OF HOUSING ASSISTANCE FOR ENHANCED AND PROJECT BASED VOUCHERS

The Livermore Housing Authority will administer housing assistance for enhanced vouchers and project based vouchers.

Per HUD notice 2013-08 and an owner's request for assistance, the Livermore Housing Authority will determine the eligibility of all Tier One, Tier Two, and Tier Three as applicable at risk households identified by an owner. The Administrative Plan allows for the provision of Housing Choice Voucher assistance to any affected low income families.

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 adjustments.
ACC	Annual Contributions Contract
BR	Bedroom
CDBG	Community Development Block Grant
CFP	Certificate of Family Participation
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.
CR	Contract Rent
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration
FICA	Federal Insurance Contributions Act-Social Security taxes
FMR	Fair Market Rent
FMV	Fair Market Value
FY	Fiscal Year
GAO	Government Accounting Office
GFC	Gross Family Contribution. Note: Has been replaced by the term Total Tenant Payment (TTP)
GR	Gross Rent
HA	Housing Agency

HAP	Housing Assistance Payment
HCDA	Housing and Community Development Act
HQS	Housing Quality Standards
HUD	The Department of Housing and Urban Development or its designee
HV	Housing Voucher
IG	Inspector General
IGR	Independent Group Residence
IRA	Individual Retirement Account
LHA	Livermore Housing Authority
MSA	Metropolitan Statistical Area established by the U.S. Census
PHA	Public Housing Agency
PMSA	Primary Metropolitan Statistical Area established by the U.S. Census Bureau
PS	Payment Standard
QC	Quality Control
RFAT	Request for Approval of Tenancy
RFLA	Request for Lease Approval (RFAT)
RRP	Rental Rehabilitation Program
SRO	Single Room Occupancy
SSMA	Standard Statistical Metropolitan Area – replaced by MSA
TR	Tenant Rent
TTP	Total Tenant Payment
UA	Utility Allowance
URP	Utility Reimbursement Payment

B. GLOSSARY OF TERMS IN SUBSIDIZED HOUSING

ADMINISTRATIVE PLAN. The HUD required written policy of the PHA governing its administration of the Section 8 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.

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 the 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.

ALCOHOL ABUSE ACTIVITY. Persons whose abuse of alcohol interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

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").

ASSETS. (See 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 PHA's 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 pre-merger Rental Certificate Assistance 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.

CHILDCARE 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.

CONGREGATE HOUSING. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing.

CONSOLIDATED ANNUAL CONTRIBUTIONS CONTRACT. (Consolidated ACC). See 24CFR 982.151.

CONTIGUOUS MSA. In portability, a 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 program when the family is admitted to the voucher program.

CONTRACT. (See Housing Assistance Payments Contract).

CONTRACT AUTHORITY. The maximum annual payment by HUD to a PHA for a funding increment.

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 bedrooms.

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 which enable a family member (including the disabled family member) to work.

DISABLED PERSON. A person who is any of the following:

A person who has a disability as defined in section 223 of the Social Security Act. (42 U.S.C. 423).

A person who has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently; and is of such a nature that ability to live independently could be improved by more suitable housing conditions.

A person who has a developmental disability as defined in Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7)).

DISABLED FAMILY. A family where the head or spouse meet any of the above criteria for disabled person.

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.

DOMICLILE. The legal residence of the household head or spouse as determined in accordance with State and local law.

DRUG-RELATED CRIMINAL ACTIVITY. Term means:

- (1) Drug-trafficking or
- (2) Illegal use, or possession for personal use of a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)).

DRUG TRAFFICKING. The illegal manufacture, sale, distribution, use, or possession with the 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)).

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.

ELDERLY FAMILY. A family is defined by the LHA in the Administrative Plan.

EXCESS MEDICAL EXPENSES. Any medical expenses incurred by elderly or disabled families only in excess of 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 of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.

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 modes (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:

An Elderly Family or Single Person as defined in 24CFR5.403(b),

The remaining member of a tenant family, and

A Displaced Person.

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 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 she/he was (a) formerly the head of 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 she/he is legally responsible and the spouse has not remarried; or (b) not the head of household but is permanently hospitalized; provided, that she/he was a family member at the time of hospitalization and there remain in the family at least two related persons.

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 size of the Voucher issued to the family based on the PHA's subsidy standards.

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 the 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 may adopt a payment standard up the FMR/exception rent limit.

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.

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).

HANDICAP ASSISTANCE. Anticipated costs for care attendants and auxiliary apparatus for handicapped or disabled family members which enable a family member (including the handicapped family member) to work.

HANDICAPPED PERSON. (Referred to as a Person with a Disability). A person having a physical or mental impairment which:

- (1) Is expected to be on long-continued and indefinite duration;
- (2) Substantially impedes his or her ability to live independently; and
- (3) Is of such a nature that such ability could be improved by more suitable housing conditions.

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 authorized to administer the program. The term "PHA" includes an Indian Housing Authority (IHA).

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974. Act in which the U.S. Housing Act of 1937 (sometimes referred to as the Act) was re-codified, and which added the Section 8 Programs.

HOUSING ASSISTANCE PAYMENT. The monthly assistance payment by a PHA. The total assistance payment consists of:

- (1) A payment to the owner for rent to owner under the family's lease.
- (2) 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. (1) 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 570.303 (c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD. (2) A Housing Assistance Plan meeting the requirements of 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 units.

HUD. 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.

HURRA. The Housing and Urban/Rural Recovery Act of 1983 legislation that resulted in most of the 1984 HUD regulation changes to the definition of income, allowances, and rent calculations.

IMPUTED ASSET. Asset disposed of for less than Fair Market Value during the two years preceding examination or reexamination.

IMPUTED INCOME. HUD passbook rate X total cash value of assets. Calculation used when assets exceed \$5000.

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.

INDIAN. Any person recognized as an Indian or Alaska Native by an Indian Tribe, the federal government, or any State.

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.

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.

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. The agreement establishes the conditions for occupancy of the member's family with housing assistance payments.

LEASE ADDENDUM. See Tenancy Addendum.

LIVE-IN AIDE. A person who resides with an elderly person or disabled person and who:

- (1) Is determined to be essential to the care and well-being of the person.
- (2) Is not obligated for the support of the person.
- (3) Would not be living in the unit except to provide necessary supportive services.

LOCAL PREFERENCE. A preference used by the PHA to select among applicant families in its jurisdiction.

LOW-INCOME FAMILY. A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger 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.

MANUFACTURED HOME SPACE. In manufactured home space rental: A space leased by an owner to the family. A manufactured home owned and occupied by the family is located on the space.

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 Households only. These allowances are given when calculating adjusted income for medical expenses in excess of 3% of Annual Income.

MERGER DATE. August 12, 1999.

MINOR. A member of the family household (excluding foster children) other than the family head or spouse who is under 18 years of age.

MONTHLY ADJUSTED INCOME. 1/12 of the Annual Income after Allowances or Adjusted Income.

MONTHLY INCOME. 1/12 of the Annual Income.

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.

NONCITIZEN. 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 an PHA to determine the appropriate number of bedrooms for families of different sizes and compositions.

OWNER. Any persons or entity having the legal right to lease or sublease a unit to a participant.

PARTICIPANT. A family that has been admitted to the PHA's programs. 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 subsidy payment for a family (before deducting the family contribution). The PHA sets a payment standard in the range from 90 to 110 percent of the current FMR/exception rent limit.

PERSONS WITH DISABILITIES. Individuals with any condition or characteristic that renders a person an individual with a handicap as defined in 24CFR 8.2.

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 assistance outside the jurisdiction of the initial PHA.

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.

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 consolidate 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 administrating a Section 8 tenant-based assistance program pursuant to a contract with the contract administer of such program (HUD or a PHA) on October 21, 1998; or

For any area outside the jurisdiction of a PHA that is administrating a tenant-based program, or where HUD determines that such PHA is not administrating 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 on 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 voucher and provides program assistance to the family.

RANKING PREFERENCE. A preference used by the PHA to select among applicant families.

RECERTIFICATION. Sometimes call 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 recertifications.

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.

RESIDENTCY PREFERENCE. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area ("residency preference area").

RESIDENCY PREFERENCE AREA. The specified area where families must reside to qualify for a residency preference.

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 receiving Section 8 housing assistance and who is essential to these individuals' care and well-being. A Resident Assistant shall not be related by blood, marriage or operation of the 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 or project-based 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.

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 ADMISSION. Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

SPECIAL HOUSING TYPES. See Subpart M of 24CFR 982(m) which states the special regulatory requirements for SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing) and manufactured home (including manufactured home space rental).

SPOUSE. The husband or wife of the head of household.

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:

- (1) Below-market interest rates pursuant to Section 22(d)(3) and (5) or interest reduction payments pursuant to Section 236 of the National Housing Act;
- (2) Rent supplement payments under Section 101 of the Housing and Urban Development Act of 19651;
- (3) Direct loans pursuant to Section 202 of the Housing Act of 1959;

- (4) 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;
- (5) Payments under the Section 8 Housing Assistance Payments Program pursuant to Section 8 of the United States Housing Act after amendments by the Housing and Community Development Act unless the project is owned by the Public Housing Project.
- (6) 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.

SUSPENSION/TOLLING. Stopping the clock on the term of a families 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 decides to allow extensions or suspensions

TENANCY ADDENDUM. In the lease between the tenant and the owner, the lease language required by HUD.

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).

TOTAL TENANT PAYMENT (TTP). The total amount the HUD debt formula requires the tenant to pay toward rent and utilities.

UNIT. Residential space for the private use of a family.

UTILITIES. Utilities means 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 PAYMENT. 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.

VERY LOW INCOME FAMILY. A Lower-Income Family whose Annual Income does not exceed 50% of the median income for the area.

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 under honorable conditions.

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 HOLDER. A family holding a voucher with an un-expired term.

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 willing 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.

C. GLOSSARY OF TERMS USED IN THE NONCITIZEN 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. Evidence of citizenship of eligible immigration status means the documents which must be submitted to evidence citizenship or eligible immigration status.

PHA. A housing authority which may be 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 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 national of the United States.

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.

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".

