

U.S. Department of Housing and Urban Development  
Office of Public and Indian Housing

---

**TOWN OF BERNALILLO (NM) DEPARTMENT OF HOUSING SERVICES**  
857 CALLE LOS MAYORES  
P.O. BOX 70  
BERNALILLO, NM 87004-0070

# PHA Plans

5 Year Plan for Fiscal Years 2000 - 2004  
Annual Plan for Fiscal Year 2000



## PHA Plan Agency Identification

**PHA Name:** Bernalillo Department of Housing Services

**PHA Number:** NM035

**PHA Fiscal Year Beginning:** 07/2000

### Public Access to Information

**Information regarding any activities outlined in this plan can be obtained by contacting:**

- Main administrative office of the PHA
- PHA development management offices
- PHA local offices

### Display Locations For PHA Plans and Supporting Documents

The PHA Plans (including attachments) are available for public inspection at:

- Main administrative office of the PHA
- PHA development management offices
- PHA local offices
- Main administrative office of the local government
- Main administrative office of the County government
- Main administrative office of the State government
- Public library
- PHA website
- Other

PHA Plan Supporting Documents are available for inspection at:

- Main business office of the PHA
- PHA development management offices
- Other

**5-YEAR PLAN**  
**PHA FISCAL YEARS 2000 - 2004**  
[24 CFR Part 903.5]

**A. Mission**

- The mission of the PHA is the same as that of the Department of Housing and Urban Development: To promote adequate and affordable housing, economic opportunity and a suitable living environment free from discrimination.
- The PHA's mission is:

**B. Goals**

**HUD Strategic Goal: Increase the availability of decent, safe, and affordable housing.**

- PHA Goal: Expand the supply of assisted housing  
Objectives:
- Apply for additional rental vouchers:
  - Reduce public housing vacancies:
  - Leverage private or other public funds to create additional housing opportunities:
  - Acquire or build units or developments
  - Other
- PHA Goal: Improve the quality of assisted housing  
Objectives:
- Improve public housing management: (PHAS score)
  - Improve voucher management: (SEMAP score)
  - Increase customer satisfaction:
  - Concentrate on efforts to improve specific management functions:  
(list; e.g., public housing finance; voucher unit inspections)
  - Renovate or modernize public housing units:
  - Demolish or dispose of obsolete public housing:
  - Provide replacement public housing:
  - Provide replacement vouchers:
  - Other:
- PHA Goal: Increase assisted housing choices  
Objectives:

- Provide voucher mobility counseling:
- Conduct outreach efforts to potential voucher landlords
- Increase voucher payment standards
- Implement voucher homeownership program:
- Implement public housing or other homeownership programs:
- Implement public housing site-based waiting lists:
- Convert public housing to vouchers:
- Other:

**HUD Strategic Goal: Improve community quality of life and economic vitality**

- PHA Goal: Provide an improved living environment
  - Objectives:
    - Implement measures to deconcentrate poverty by bringing higher income public housing households into lower income developments:
    - Implement measures to promote income mixing in public housing by assuring access for lower income families into higher income developments:
    - Implement public housing security improvements:
    - Designate developments or buildings for particular resident groups (elderly, persons with disabilities)
    - Other:
      - *Rehab and maintain housing*

**HUD Strategic Goal: Promote self-sufficiency and asset development of families and individuals**

- PHA Goal: Promote self-sufficiency and asset development of assisted households
  - Objectives:
    - Increase the number and percentage of employed persons in assisted families:
    - Provide or attract supportive services to improve assistance recipients' employability:
    - Provide or attract supportive services to increase independence for the elderly or families with disabilities.
    - Other:

**HUD Strategic Goal: Ensure Equal Opportunity in Housing for all Americans**

- PHA Goal: Ensure equal opportunity and affirmatively further fair housing
  - Objectives:
    - Undertake affirmative measures to ensure access to assisted housing regardless of race, color, religion national origin, sex, familial status, and disability:

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

**Other PHA Goals and Objectives:**

- *None*

**Annual PHA Plan**  
**PHA Fiscal Year 2000**

[24 CFR Part 903.7]

**i. Annual Plan Type:**

**Standard Plan**

**Streamlined Plan:**

- High Performing PHA**
- Small Agency (<250 Public Housing Units)**
- Administering Section 8 Only**

**Troubled Agency Plan**

**ii. Executive Summary of the Annual PHA Plan**

[24 CFR Part 903.7 9 (r)]

*The Town of Bernalillo, Department of Housing Services will build its capacity in all performance areas under PHMAP in the transition to PHAS, and also SEMAP. Plans and goals outlined ensure that DHS will be a standard performer next year in all areas of management and operations in both public housing and Section 8.*

**iii. Annual Plan Table of Contents**

[24 CFR Part 903.7 9 (r)]

**Table of Contents**

	<u>Page #</u>
<b>Annual Plan</b>	
i. Executive Summary	1
ii. Table of Contents	1
1. Housing Needs	5
2. Financial Resources	10
3. Policies on Eligibility, Selection and Admissions	10
4. Rent Determination Policies	18
5. Operations and Management Policies	21
6. Grievance Procedures	22
7. Capital Improvement Needs	23
8. Demolition and Disposition	27
9. Designation of Housing	28
10. Conversions of Public Housing	29
11. Homeownership	30
12. Community Service Programs	32

13. Crime and Safety	34
14. Pets	36
15. Civil Rights Certifications (included with PHA Plan Certifications)	36
16. Audit	36
17. Asset Management	36
18. Other Information	37
19. Standard Deviation, Substantial Amendment or Modification	38

**Attachments**

Required Attachments:

- |                                     |   |            |
|-------------------------------------|---|------------|
| <input checked="" type="checkbox"/> | Admissions Policy for Deconcentration         | See ACOP   |
| <input checked="" type="checkbox"/> | FY 2000 Capital Fund Program Annual Statement | Pgs. 23-24 |
| <input checked="" type="checkbox"/> | Most recent board-approved operating budget   | Hard Copy  |

Optional Attachments:

- |                                     |  |            |
|-------------------------------------|--|------------|
| <input checked="" type="checkbox"/> | PHA Management Organizational Chart                  | Hard Copy  |
| <input checked="" type="checkbox"/> | FY 2000 Capital Fund Program 5 Year Action Plan      | Pgs. 24-26 |
| <input checked="" type="checkbox"/> | Public Housing Drug Elimination Program (PHDEP) Plan | nm035a01   |
| <input type="checkbox"/>            | Comments of Resident Advisory Board or Boards        |            |
| <input checked="" type="checkbox"/> | Other  |            |
| •                                   | <i>Admissions and Continued Occupancy Policy</i>     | nm035b01   |
| •                                   | <i>Section 8 Administrative Plan</i>                 | nm035c01   |
| •                                   | <i>Disposition Policy</i>                            | nm035d01   |
| •                                   | <i>Grievance Procedure</i>                           | nm035e01   |
| •                                   | <i>Pet Policy</i>                                    | nm035f01   |
| •                                   | <i>Rent Collection Policy</i>                        | nm035g01   |
| •                                   | <i>Plan of Action – Supplemental Police Forces</i>   | Hard Copy  |

**Supporting Documents Available for Review**

<b>List of Supporting Documents Available for Review</b>		
<b>Applicable &amp; On Display</b>	<b>Supporting Document</b>	<b>Applicable Plan Component</b>
X	PHA Plan Certifications of Compliance with the PHA Plans and Related Regulations	5 Year and Annual Plans
X	State/Local Government Certification of Consistency with the Consolidated Plan	5 Year and Annual Plans

<b>List of Supporting Documents Available for Review</b>		
<b>Applicable &amp; On Display</b>	<b>Supporting Document</b>	<b>Applicable Plan Component</b>
X	Fair Housing Documentation: Records reflecting that the PHA has examined its programs or proposed programs, identified any impediments to fair housing choice in those programs, addressed or is addressing those impediments in a reasonable fashion in view of the resources available, and worked or is working with local jurisdictions to implement any of the jurisdictions' initiatives to affirmatively further fair housing that require the PHA's involvement.	5 Year and Annual Plans
X	Consolidated Plan for the jurisdiction/s in which the PHA is located (which includes the Analysis of Impediments to Fair Housing Choice (AI)) and any additional backup data to support statement of housing needs in the jurisdiction	Annual Plan: Housing Needs
X	Most recent board-approved operating budget for the public housing program	Annual Plan: Financial Resources;
X	Public Housing Admissions and (Continued) Occupancy Policy (A&O), which includes the Tenant Selection and Assignment Plan [TSAP]	Annual Plan: Eligibility, Selection, and Admissions Policies
X	Section 8 Administrative Plan	Annual Plan: Eligibility, Selection, and Admissions Policies
X	Public Housing Deconcentration and Income Mixing Documentation: 1. PHA board certifications of compliance with deconcentration requirements (section 16(a) of the US Housing Act of 1937, as implemented in the 2/18/99 <i>Quality Housing and Work Responsibility Act Initial Guidance; Notice</i> and any further HUD guidance) and 2. Documentation of the required deconcentration and income mixing analysis	Annual Plan: Eligibility, Selection, and Admissions Policies
X	Public housing rent determination policies, including the methodology for setting public housing flat rents <input checked="" type="checkbox"/> check here if included in the public housing A & O Policy	Annual Plan: Rent Determination
X	Schedule of flat rents offered at each public housing development <input checked="" type="checkbox"/> check here if included in the public housing A & O Policy	Annual Plan: Rent Determination
X	Section 8 rent determination (payment standard) policies <input checked="" type="checkbox"/> check here if included in Section 8 Administrative Plan	Annual Plan: Rent Determination
X	Public housing management and maintenance policy documents, including policies for the prevention or eradication of pest infestation (including cockroach infestation)	Annual Plan: Operations and Maintenance

<b>List of Supporting Documents Available for Review</b>		
<b>Applicable &amp; On Display</b>	<b>Supporting Document</b>	<b>Applicable Plan Component</b>
X	Public housing grievance procedures <input type="checkbox"/> check here if included in the public housing A & O Policy	Annual Plan: Grievance Procedures
X	Section 8 informal review and hearing procedures <input checked="" type="checkbox"/> check here if included in Section 8 Administrative Plan	Annual Plan: Grievance Procedures
X	The HUD-approved Capital Fund/Comprehensive Grant Program Annual Statement (HUD 52837) for the active grant year	Annual Plan: Capital Needs
X	Most recent CIAP Budget/Progress Report (HUD 52825) for any active CIAP grant	Annual Plan: Capital Needs
X	Most recent, approved 5 Year Action Plan for the Capital Fund/Comprehensive Grant Program, if not included as an attachment (provided at PHA option)	Annual Plan: Capital Needs
NA	Approved HOPE VI applications or, if more recent, approved or submitted HOPE VI Revitalization Plans or any other approved proposal for development of public housing	Annual Plan: Capital Needs
NA	Approved or submitted applications for demolition and/or disposition of public housing	Annual Plan: Demolition and Disposition
NA	Approved or submitted applications for designation of public housing (Designated Housing Plans)	Annual Plan: Designation of Public Housing
NA	Approved or submitted assessments of reasonable revitalization of public housing and approved or submitted conversion plans prepared pursuant to section 202 of the 1996 HUD Appropriations Act	Annual Plan: Conversion of Public Housing
NA	Approved or submitted public housing homeownership programs/plans	Annual Plan: Homeownership
NA	Policies governing any Section 8 Homeownership program <input type="checkbox"/> check here if included in the Section 8 Administrative Plan	Annual Plan: Homeownership
X	Any cooperative agreement between the PHA and the TANF agency	Annual Plan: Community Service & Self-Sufficiency
X	FSS Action Plan/s for public housing and/or Section 8	Annual Plan: Community Service & Self-Sufficiency
X	Most recent self-sufficiency (ED/SS, TOP or ROSS or other resident services grant) grant program reports	Annual Plan: Community Service & Self-Sufficiency
X	The most recent Public Housing Drug Elimination Program (PHEDEP) semi-annual performance report for any open grant and most recently submitted PHDEP application (PHDEP Plan)	Annual Plan: Safety and Crime Prevention
X	The most recent fiscal year audit of the PHA conducted under section 5(h)(2) of the U.S. Housing Act of 1937 (42 U.S.C. 1437c(h)), the results of that audit and the PHA's response to any findings	Annual Plan: Annual Audit
X	Troubled PHAs: MOA/Recovery Plan	Troubled PHAs
NA	Other supporting documents (optional) (list individually; use as many lines as necessary)	(specify as needed)



# 1. Statement of Housing Needs

[24 CFR Part 903.7 9 (a)]

## A. Housing Needs of Families in the Jurisdiction/s Served by the PHA

- *Data on housing needs is not yet available.*

Housing Needs of Families in the Jurisdiction by Family Type							
Family Type	Overall	Afford-ability	Supply	Quality	Access-ibility	Size	Loca-tion
Income <= 30% of AMI	NA	5	5	5	5	5	5
Income >30% but <=50% of AMI	NA	5	5	5	5	5	5
Income >50% but <80% of AMI	NA	5	5	5	5	5	5
Elderly	NA	5	5	5	5	5	5
Families with Disabilities	NA	5	5	5	5	5	5
Race/Ethnicity	NA	5	5	5	5	5	5

What sources of information did the PHA use to conduct this analysis?

- Consolidated Plan of the Jurisdiction/s  
Indicate year: 2000
- U.S. Census data: the Comprehensive Housing Affordability Strategy (“CHAS”) dataset
- American Housing Survey data  
Indicate year:
- Other housing market study  
Indicate year:
- Other sources:

## B. Housing Needs of Families on the Public Housing and Section 8 Tenant- Based Assistance Waiting Lists

Housing Needs of Families on the Waiting List			
Waiting list type: <input type="checkbox"/> Section 8 tenant-based assistance <input type="checkbox"/> Public Housing <input checked="" type="checkbox"/> Combined Section 8 and Public Housing <input type="checkbox"/> Public Housing Site-Based or sub-jurisdictional waiting list (optional) If used, identify which development/subjurisdiction:			
	# of families	% of total families	Annual Turnover
Waiting list total	211		25
Extremely low income <=30% AMI	NA	NA	
Very low income (>30% but <=50% AMI)	NA	NA	
Low income (>50% but <80% AMI)	NA	NA	
Families with children	NA	NA	
Elderly families	NA	NA	
Families with Disabilities	NA	NA	
Race/ethnicity	NA	NA	
Characteristics by Bedroom Size (Public Housing Only)			
1BR	51	NA	NA
2 BR	35	NA	NA
3 BR	15	NA	NA
4 BR	4	NA	NA
5 BR	NA	NA	NA
5+ BR	NA	NA	NA

## Housing Needs of Families on the Waiting List

Is the waiting list closed?  No  Yes

If yes:

How long has it been closed? 12 months

Does the PHA expect to reopen the list in the PHA Plan year?  No  Yes

Does the PHA permit specific categories of families onto the waiting list, even if generally closed?  No  Yes

### C. Strategy for Addressing Needs

#### (1) Strategies

**Need: Shortage of affordable housing for all eligible populations**

**Strategy 1: Maximize the number of affordable units available to the PHA within its current resources by:**

- Employ effective maintenance and management policies to minimize the number of public housing units off-line
- Reduce turnover time for vacated public housing units
- Reduce time to renovate public housing units
- Seek replacement of public housing units lost to the inventory through mixed finance development
- Seek replacement of public housing units lost to the inventory through section 8 replacement housing resources
- Maintain or increase section 8 lease-up rates by establishing payment standards that will enable families to rent throughout the jurisdiction
- Undertake measures to ensure access to affordable housing among families assisted by the PHA, regardless of unit size required
- Maintain or increase section 8 lease-up rates by marketing the program to owners, particularly those outside of areas of minority and poverty concentration
- Maintain or increase section 8 lease-up rates by effectively screening Section 8 applicants to increase owner acceptance of program
- Participate in the Consolidated Plan development process to ensure coordination with broader community strategies
- Other:

**Strategy 2: Increase the number of affordable housing units by:**

- Apply for additional section 8 units should they become available
- Leverage affordable housing resources in the community through the creation of mixed - finance housing

- Pursue housing resources other than public housing or Section 8 tenant-based assistance.
- Other:

**Need: Specific Family Types: Families at or below 30% of median**

**Strategy 1: Target available assistance to families at or below 30 % of AMI**

- Exceed HUD federal targeting requirements for families at or below 30% of AMI in public housing
- Exceed HUD federal targeting requirements for families at or below 30% of AMI in tenant-based section 8 assistance
- Employ admissions preferences aimed at families with economic hardships
- Adopt rent policies to support and encourage work
- Other:

**Need: Specific Family Types: Families at or below 50% of median**

**Strategy 1: Target available assistance to families at or below 50% of AMI**

- Employ admissions preferences aimed at families who are working
- Adopt rent policies to support and encourage work
- Other:

**Need: Specific Family Types: The Elderly**

**Strategy 1: Target available assistance to the elderly:**

- Seek designation of public housing for the elderly
- Apply for special-purpose vouchers targeted to the elderly, should they become available
- Other:

**Need: Specific Family Types: Families with Disabilities**

**Strategy 1: Target available assistance to Families with Disabilities:**

- Seek designation of public housing for families with disabilities
- Carry out the modifications needed in public housing based on the section 504 Needs Assessment for Public Housing
- Apply for special-purpose vouchers targeted to families with disabilities, should they become available
- Affirmatively market to local non-profit agencies that assist families with disabilities
- Other:

**Need: Specific Family Types: Races or ethnicities with disproportionate housing needs**

**Strategy 1: Increase awareness of PHA resources among families of races and ethnicities with disproportionate needs:**

- Affirmatively market to races/ethnicities shown to have disproportionate housing needs
- Other:

**Strategy 2: Conduct activities to affirmatively further fair housing**

- Counsel section 8 tenants as to location of units outside of areas of poverty or minority concentration and assist them to locate those units
- Market the section 8 program to owners outside of areas of poverty /minority concentrations
- Other:

**Other Housing Needs & Strategies:**

**(2) Reasons for Selecting Strategies**

Of the factors listed below, select all that influenced the PHA's selection of the strategies it will pursue:

- Funding constraints
- Staffing constraints
- Limited availability of sites for assisted housing
- Extent to which particular housing needs are met by other organizations in the community
- Evidence of housing needs as demonstrated in the Consolidated Plan and other information available to the PHA
- Influence of the housing market on PHA programs
- Community priorities regarding housing assistance
- Results of consultation with local or state government
- Results of consultation with residents and the Resident Advisory Board
- Results of consultation with advocacy groups
- Other:

## **2. Statement of Financial Resources**

[24 CFR Part 903.7 9 (b)]

<b>Financial Resources: Planned Sources and Uses</b>		
<b>Sources</b>	<b>Planned \$</b>	<b>Planned Uses</b>
<b>1. Federal Grants (FY 2000 grants)</b>		
a) Public Housing Operating Fund	\$125,082	
b) Public Housing Capital Fund	\$169,223	
c) HOPE VI Revitalization	\$0	
d) HOPE VI Demolition	\$0	
e) Annual Contributions for Section 8 Tenant-Based Assistance	\$0	
f) PHDEP (including TA funds)	\$25,000	
g) ROSS	\$0	
h) CDBG	\$0	
i) HOME	\$0	
<b>2. Prior Year Federal Grants (unobligated funds only) (list below)</b>	\$0	
<b>3. Public Housing Dwelling Rental Income</b>	\$80,000	Operations
<b>4. Other income</b>	\$0	
<b>5. Non-federal sources</b>	\$0	
<b>Total resources</b>	<b>\$399,305</b>	

## **3. PHA Policies Governing Eligibility, Selection, and Admissions**

[24 CFR Part 903.7 9 (c)]

### **A. Public Housing**

#### **(1) Eligibility**

a. When does the PHA verify eligibility for admission to public housing?

- When families are within a certain number of being offered a unit:
- When families are within a certain time of being offered a unit:
- Other:
- *When units are available*

b. Which non-income (screening) factors does the PHA use to establish eligibility for admission to public housing?

- Criminal or Drug-related activity
- Rental history
- Housekeeping

Other:

- c.  Yes  No: Does the PHA request criminal records from local law enforcement agencies for screening purposes?
- d.  Yes  No: Does the PHA request criminal records from State law enforcement agencies for screening purposes?
- e.  Yes  No: Does the PHA access FBI criminal records from the FBI for screening purposes? (either directly or through an NCIC-authorized source)

**(2)Waiting List Organization**

a. Which methods does the PHA plan to use to organize its public housing waiting list?

- Community-wide list
- Sub-jurisdictional lists
- Site-based waiting lists
- Other:

b. Where may interested persons apply for admission to public housing?

- PHA main administrative office
- PHA development site management office
- Other:

c. If the PHA plans to operate one or more site-based waiting lists in the coming year, answer each of the following questions; if not, skip to subsection **(3) Assignment**

1. How many site-based waiting lists will the PHA operate in the coming year?

2.  Yes  No: Are any or all of the PHA's site-based waiting lists new for the upcoming year (that is, they are not part of a previously-HUD-approved site based waiting list plan)?  
If yes, how many lists?

3.  Yes  No: May families be on more than one list simultaneously  
If yes, how many lists?

4. Where can interested persons obtain more information about and sign up to be on the site-based waiting lists?

- PHA main administrative office
- All PHA development management offices
- Management offices at developments with site-based waiting lists
- At the development to which they would like to apply
- Other:

**(3) Assignment**

a. How many vacant unit choices are applicants ordinarily given before they fall to the bottom of or are removed from the waiting list?

- One  
 Two  
 Three or More

b.  Yes  No: Is this policy consistent across all waiting list types?

c. If answer to b is no, list variations for any other than the primary public housing waiting list/s for the PHA:

#### **(4) Admissions Preferences**

a. Income targeting:

Yes  No: Does the PHA plan to exceed the federal targeting requirements by targeting more than 40% of all new admissions to public housing to families at or below 30% of median area income?

b. Transfer policies:

In what circumstances will transfers take precedence over new admissions?

- Emergencies  
 Overhoused  
 Underhoused  
 Medical justification  
 Administrative reasons determined by the PHA (e.g., to permit modernization work)  
 Resident choice:  
 Other:
- ***Section 504***
  - ***Victims of Domestic Violence***
  - ***Witnesses to Hate Crimes***

c. Preferences

1.  Yes  No: Has the PHA established preferences for admission to public housing (other than date and time of application)? (If “no” is selected, skip to subsection **(5) Occupancy**) yes

2. Which of the following admission preferences does the PHA plan to employ in the coming year?

Former Federal preferences:

- Involuntary Displacement (Disaster, Government Action, Action of Housing Owner, Inaccessibility, Property Disposition)  
 Victims of domestic violence  
 Substandard housing  
 Homelessness

High rent burden (rent is > 50 percent of income)

Other preferences:

- Working families and those unable to work because of age or disability
- Veterans and veterans' families
- Residents who live and/or work in the jurisdiction
- Those enrolled currently in educational, training, or upward mobility programs
- Households that contribute to meeting income goals (broad range of incomes)
- Households that contribute to meeting income requirements (targeting)
- Those previously enrolled in educational, training, or upward mobility programs
- Victims of reprisals or hate crimes
- Other preference(s):

3. If the PHA will employ admissions preferences, please prioritize by placing a "1" in the space that represents your first priority, a "2" in the box representing your second priority, and so on. If you give equal weight to one or more of these choices (either through an absolute hierarchy or through a point system), place the same number next to each. That means you can use "1" more than once, "2" more than once, etc.

Date and Time

Former Federal preferences:

- Involuntary Displacement (Disaster, Government Action, Action of Housing Owner, Inaccessibility, Property Disposition)
- Victims of domestic violence
- Substandard housing
- Homelessness
- High rent burden

Other preferences

- 3  Working families and those unable to work because of age or disability
- Veterans and veterans' families
- 1  Residents who live and/or work in the jurisdiction
- 2  Those enrolled currently in educational, training, or upward mobility programs
- Households that contribute to meeting income goals (broad range of incomes)
- Households that contribute to meeting income requirements (targeting)
- Those previously enrolled in educational, training, or upward mobility programs
- Victims of reprisals or hate crimes
- Other preference(s):

4. Relationship of preferences to income targeting requirements:

- The PHA applies preferences within income tiers
- Not applicable: the pool of applicant families ensures that the PHA will meet income targeting requirements

**(5) Occupancy**

a. What reference materials can applicants and residents use to obtain information about the rules of occupancy of public housing

- The PHA-resident lease
- The PHA's Admissions and (Continued) Occupancy policy
- PHA briefing seminars or written materials
- Other source:

b. How often must residents notify the PHA of changes in family composition?

- At an annual reexamination and lease renewal
- Any time family composition changes
- At family request for revision
- Other:

**(6) Deconcentration and Income Mixing**

a.  Yes  No: Did the PHA's analysis of its family (general occupancy) developments to determine concentrations of poverty indicate the need for measures to promote deconcentration of poverty or income mixing?

b.  Yes  No: Did the PHA adopt any changes to its **admissions policies** based on the results of the required analysis of the need to promote deconcentration of poverty or to assure income mixing?

c. If the answer to b was yes, what changes were adopted?

- Adoption of site-based waiting lists  
If selected, list targeted developments below:
  
- Employing waiting list "skipping" to achieve deconcentration of poverty or income mixing goals at targeted developments  
If selected, list targeted developments below:
  
- Employing new admission preferences at targeted developments  
If selected, list targeted developments below:
  
- Other:

d.  Yes  No: Did the PHA adopt any changes to **other** policies based on the results of the required analysis of the need for deconcentration of poverty and income mixing?

e. If the answer to (d) was yes, how would you describe these changes?

- Additional affirmative marketing
- Actions to improve the marketability of certain developments

- Adoption or adjustment of ceiling rents for certain developments
- Adoption of rent incentives to encourage deconcentration of poverty and income-mixing
- Other:

f. Based on the results of the required analysis, in which developments will the PHA make special efforts to attract or retain higher-income families?

- Not applicable: results of analysis did not indicate a need for such efforts
- List (any applicable) developments below:

g. Based on the results of the required analysis, in which developments will the PHA make special efforts to assure access for lower-income families?

- Not applicable: results of analysis did not indicate a need for such efforts
- List (any applicable) developments below:

## B. Section 8

### (1) Eligibility

a. What is the extent of screening conducted by the PHA?

- Criminal or drug-related activity only to the extent required by law or regulation
- Criminal and drug-related activity, more extensively than required by law or regulation
- More general screening than criminal and drug-related activity
- Other:

b.  Yes  No: Does the PHA request criminal records from local law enforcement agencies for screening purposes?

c.  Yes  No: Does the PHA request criminal records from State law enforcement agencies for screening purposes?

d.  Yes  No: Does the PHA access FBI criminal records from the FBI for screening purposes? (either directly or through an NCIC-authorized source)

e. Indicate what kinds of information you share with prospective landlords?

- Criminal or drug-related activity – On request of Landlord***
- Other:

### (2) Waiting List Organization

a. With which of the following program waiting lists is the section 8 tenant-based assistance waiting list merged?

- None
- Federal public housing
- Federal moderate rehabilitation
- Federal project-based certificate program

Other federal or local program:

b. Where may interested persons apply for admission to section 8 tenant-based assistance?

PHA main administrative office

Other:

**(3) Search Time**

a.  Yes  No: Does the PHA give extensions on standard 60-day period to search for a unit?

If yes, state circumstances below:

- ***When housing market is tight and it is likely to take longer to identify potential owners with available units.***

**(4) Admissions Preferences**

a. Income targeting

Yes  No: Does the PHA plan to exceed the federal targeting requirements by targeting more than 75% of all new admissions to the section 8 program to families at or below 30% of median area income?

b. Preferences

1.  Yes  No: Has the PHA established preferences for admission to section 8 tenant-based assistance? (other than date and time of application) (if no, skip to subcomponent **(5) Special purpose section 8 assistance programs**)

2. Which of the following admission preferences does the PHA plan to employ in the coming year?

Former Federal preferences

Involuntary Displacement (Disaster, Government Action, Action of Housing Owner, Inaccessibility, Property Disposition)

Victims of domestic violence

Substandard housing

Homelessness

High rent burden (rent is > 50 percent of income)

Other preferences

Working families and those unable to work because of age or disability

Veterans and veterans' families

Residents who live and/or work in your jurisdiction

Those enrolled currently in educational, training, or upward mobility programs

Households that contribute to meeting income goals (broad range of incomes)

Households that contribute to meeting income requirements (targeting)

Those previously enrolled in educational, training, or upward mobility programs

- Victims of reprisals or hate crimes
- Other preference(s):

3. If the PHA will employ admissions preferences, please prioritize by placing a “1” in the space that represents your first priority, a “2” in the box representing your second priority, and so on. If you give equal weight to one or more of these choices (either through an absolute hierarchy or through a point system), place the same number next to each. That means you can use “1” more than once, “2” more than once, etc.

Date and Time

Former Federal preferences

- Involuntary Displacement (Disaster, Government Action, Action of Housing Owner, Inaccessibility, Property Disposition)
- Victims of domestic violence
- Substandard housing
- Homelessness
- High rent burden

Other preferences

- 3  Working families and those unable to work because of age or disability
- Veterans and veterans’ families
- 1  Residents who live and/or work in your jurisdiction
- 2  Those enrolled currently in educational, training, or upward mobility programs
- Households that contribute to meeting income goals (broad range of incomes)
- Households that contribute to meeting income requirements (targeting)
- Those previously enrolled in educational, training, or upward mobility programs
- Victims of reprisals or hate crimes
- Other preference(s):

4. Among applicants on the waiting list with equal preference status, how are applicants selected?

- Date and time of application
- Drawing (lottery) or other random choice technique

5. If the PHA plans to employ preferences for “residents who live and/or work in the jurisdiction,”

- This preference has previously been reviewed and approved by HUD
- The PHA requests approval for this preference through this PHA Plan

6. Relationship of preferences to income targeting requirements: (select one)

- The PHA applies preferences within income tiers
- Not applicable: the pool of applicant families ensures that the PHA will meet income targeting requirements

**(5) Special Purpose Section 8 Assistance Programs**

a. In which documents or other reference materials are the policies governing eligibility, selection, and admissions to any special-purpose section 8 program administered by the PHA contained?

- The Section 8 Administrative Plan
- Briefing sessions and written materials
- Other:

b. How does the PHA announce the availability of any special-purpose section 8 programs to the public?

- Through published notices
- Other:

**4. PHA Rent Determination Policies**

[24 CFR Part 903.7 9 (d)]

**A. Public Housing**

**(1) Income Based Rent Policies**

a. Use of discretionary policies:

- The PHA will not employ any discretionary rent-setting policies for income based rent in public housing. Income-based rents are set at the higher of 30% of adjusted monthly income, 10% of unadjusted monthly income, the welfare rent, or minimum rent (less HUD mandatory deductions and exclusions). (If selected, skip to sub-component (2))

---or---

- The PHA employs discretionary policies for determining income based rent (If selected, continue to question b.)

b. Minimum Rent

1. What amount best reflects the PHA's minimum rent?

- \$0
- \$1-\$25
- \$26-\$50

2.  Yes  No: Has the PHA adopted any discretionary minimum rent hardship exemption policies?

3. If yes to question 2, list these policies below:

c. Rents set at less than 30% than adjusted income

1.  Yes  No: Does the PHA plan to charge rents at a fixed amount or percentage less than 30% of adjusted income?

2. If yes to above, list the amounts or percentages charged and the circumstances under which these will be used below:

d. Which of the discretionary (optional) deductions and/or exclusions policies does the PHA plan to employ?

For the earned income of a previously unemployed household member

For increases in earned income

Fixed amount (other than general rent-setting policy)

If yes, state amount/s and circumstances below:

Fixed percentage (other than general rent-setting policy)

If yes, state percentage/s and circumstances below:

For household heads

For other family members

For transportation expenses

For the non-reimbursed medical expenses of non-disabled or non-elderly families

Other:

e. Ceiling rents

1. Do you have ceiling rents? (rents set at a level lower than 30% of adjusted income)

Yes for all developments

Yes but only for some developments

No

2. For which kinds of developments are ceiling rents in place?

For all developments

For all general occupancy developments (not elderly or disabled or elderly only)

For specified general occupancy developments

For certain parts of developments; e.g., the high-rise portion

For certain size units; e.g., larger bedroom sizes

Other:

3. Select the space or spaces that best describe how you arrive at ceiling rents

Market comparability study

Fair market rents (FMR)

- 95<sup>th</sup> percentile rents
- 75 percent of operating costs
- 100 percent of operating costs for general occupancy (family) developments
- Operating costs plus debt service
- The “rental value” of the unit
- Other:

f. Rent re-determinations:

1. Between income reexaminations, how often must tenants report changes in income or family composition to the PHA such that the changes result in an adjustment to rent?

- Never
- At family option – *for decreases in income expected to last 30 days and for increase in allowances or deductions*
- Any time the family experiences an income increase – *or has a change in family composition*
- Any time a family experiences an income increase above a threshold amount or percentage: (if selected, specify threshold)\_\_\_\_\_
- Other:

g.  Yes  No: Does the PHA plan to implement individual savings accounts for residents (ISAs) as an alternative to the required 12 month disallowance of earned income and phasing in of rent increases in the next year?

**(2) Flat Rents**

1. In setting the market-based flat rents, what sources of information did the PHA use to establish comparability?

- The section 8 rent reasonableness study of comparable housing
- Survey of rents listed in local newspaper
- Survey of similar unassisted units in the neighborhood
- Other

**B. Section 8 Tenant-Based Assistance**

**(1) Payment Standards**

a. What is the PHA’s payment standard?

- At or above 90% but below 100% of FMR
- 100% of FMR
- Above 100% but at or below 110% of FMR
- Above 110% of FMR (if HUD approved; describe circumstances below)

b. If the payment standard is lower than FMR, why has the PHA selected this standard?

- FMRs are adequate to ensure success among assisted families in the PHA's segment of the FMR area
- The PHA has chosen to serve additional families by lowering the payment standard
- Reflects market or submarket
- Other:

c. If the payment standard is higher than FMR, why has the PHA chosen this level?

- FMRs are not adequate to ensure success among assisted families in the PHA's segment of the FMR area
- Reflects market or submarket
- To increase housing options for families
- Other:

d. How often are payment standards reevaluated for adequacy?

- Annually
- Other

e. What factors will the PHA consider in its assessment of the adequacy of its payment standard?

- Success rates of assisted families
- Rent burdens of assisted families
- Other:

## **(2) Minimum Rent**

a. What amount best reflects the PHA's minimum rent?

- \$0
- \$1-\$25
- \$26-\$50

b.  Yes  No: Has the PHA adopted any discretionary minimum rent hardship exemption policies?

## **5. Operations and Management**

[24 CFR Part 903.7 9 (e)]

### **A. PHA Management Structure**

- An organization chart showing the PHA's management structure and organization is attached. (*Hard Copy*)
- A brief description of the management structure and organization of the PHA follows:

### **B. HUD Programs Under PHA Management**

<b>Program Name</b>	<b>Units or Families Served at Year Beginning</b>	<b>Expected Turnover</b>
Public Housing	75	5
Section 8 Vouchers	75	20
Section 8 Certificates	0	NA
Section 8 Mod Rehab	0	NA
Special Purpose Section 8 Certificates/Vouchers (list individually)	0	NA
PHDEP	75	NA
Other Federal Programs	NA	NA

### **C. Management and Maintenance Policies**

(1) Public Housing Maintenance and Management:

- *Admissions and Continued Occupancy Policy*
- *Rent Collection Policy*
- *Grievance Procedures*
- *Pet Policy*
- *Maintenance Plan*

(2) Section 8 Management:

- *Section 8 Administrative Plan*

## **6. PHA Grievance Procedures**

[24 CFR Part 903.7 9 (f)]

### **A. Public Housing**

1.  Yes  No: Has the PHA established any written grievance procedures in addition to federal requirements found at 24 CFR Part 966, Subpart B, for residents of public housing?

If yes, list additions to federal requirements below:

2. Which PHA office should residents or applicants to public housing contact to initiate the PHA grievance process?

PHA main administrative office

- PHA development management offices
- Other:

**B. Section 8 Tenant-Based Assistance**

1.  Yes  No: Has the PHA established informal review procedures for applicants to the Section 8 tenant-based assistance program and informal hearing procedures for families assisted by the Section 8 tenant-based assistance program in addition to federal requirements found at 24 CFR 982?

If yes, list additions to federal requirements below:

2. Which PHA office should applicants or assisted families contact to initiate the informal review and informal hearing processes?

- PHA main administrative office
- Other:

## **7. Capital Improvement Needs**

[24 CFR Part 903.7 9 (g)]

### **A. Capital Fund Activities**

#### **(1) Capital Fund Program Annual Statement**

The Capital Fund Program Annual Statement is provided as an attachment to the PHA Plan at Attachment (state name)

-or-

The Capital Fund Program Annual Statement is provided below:

#### **Annual Statement**

#### **Capital Fund Program (CFP) Part I: Summary**

Capital Fund Grant Number 2000 FFY of Grant Approval: (07/2000)

Original Annual Statement

Line No.	Summary by Development Account	Total Estimated Cost
1	Total Non-CGP Funds	\$0
2	1406 Operations	\$0
3	1408 Management Improvements	\$16,922
4	1410 Administration	\$0
5	1411 Audit	\$0
6	1415 Liquidated Damages	\$0
7	1430 Fees and Costs	\$0
8	1440 Site Acquisition	\$0
9	1450 Site Improvement	\$0
10	1460 Dwelling Structures	\$120,301
11	1465.1 Dwelling Equipment-Nonexpendable	\$32,000
12	1470 Nondwelling Structures	\$0
13	1475 Nondwelling Equipment	\$0
14	1485 Demolition	\$0
15	1490 Replacement Reserve	\$0
16	1492 Moving to Work Demonstration	\$0
17	1495.1 Relocation Costs	\$0
18	1498 Mod Used for Development	\$0
19	1502 Contingency	\$0
20	<b>Amount of Annual Grant (Sum of lines 2-19)</b>	<b>\$169,223</b>
21	Amount of line 20 Related to LBP Activities	\$0
22	Amount of line 20 Related to Section 504 Compliance	\$0
23	Amount of line 20 Related to Security	\$0
24	Amount of line 20 Related to Energy Conservation Measures	\$0

**Annual Statement**

**Capital Fund Program (CFP) Part II: Supporting Table**

Development Number/Name HA-Wide Activities	General Description of Major Work Categories	Development Account Number	Total Estimated Cost
HA-Wide	Computer and software	1408	\$16,922
HA-Wide	Roof Replacement	1460	\$120,301
HA-Wide	Dwelling equipment – non-expendable	1465.1	\$32,000

**Annual Statement**

**Capital Fund Program (CFP) Part III: Implementation Schedule**

Development Number/Name HA-Wide Activities	All Funds Obligated (Quarter Ending Date)	All Funds Expended (Quarter Ending Date)
HA-Wide	October 1, 2002	October 1, 2003
HA-Wide	October 1, 2002	October 1, 2003
HA-Wide	October 1, 2002	October 1, 2003

**(2) Optional 5-Year Action Plan**

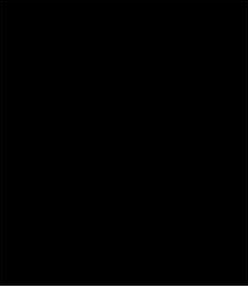
a.  Yes  No: Is the PHA providing an optional 5-Year Action Plan for the Capital Fund? (if no, skip to sub-component 7B)

b. If yes to question a, select one:

The Capital Fund Program 5-Year Action Plan is provided as an attachment to the PHA Plan at Attachment (state name )

-or-

The Capital Fund Program 5-Year Action Plan is provided below:

<b>Optional 5-Year Action Plan Tables</b>					
<b>Development Number</b>	<b>Development Name (or indicate PHA wide)</b>	<b>Number Vacant Units</b>	<b>% Vacancies in Development</b>		
	<b>Bernalillo Family Housing – PHA Wide</b>				
<b>Description of Needed Physical Improvements or Management Improvements</b>			<b>Estimated Cost</b>	<b>Planned Start Date (HA Fiscal Year)</b>	
<b>Management Improvements (1408)</b>			<b>\$15,000</b>	<b>2001</b>	
Unit entry door replacement (1460)			\$15,517		
Storm/screen door replacement (1460)			\$6,355		
Roof replacement including soffits (1460)			\$25,477		
Install programmable controls for furnaces (1460)			\$96		
<b>Extensive site improvements – landscaping, earthwork, fencing, dumpster enclosures, site lighting (1450)</b>			<b>\$53,100</b>		
Replace furnace – includes temperature controls, installing evaporative cooler, and unit DHW			\$52,178		
In-unit 504			\$1,500		
<b>Total estimated cost over next 5 years</b>			<b>\$169,223</b>		

<b>Optional 5-Year Action Plan Tables</b>				
<b>Development Number</b>	<b>Development Name (or indicate PHA wide)</b>	<b>Number Vacant Units</b>	<b>% Vacancies in Development</b>	
	<b>Bernalillo Family Housing – PHA Wide</b>			
<b>Description of Needed Physical Improvements or Management Improvements</b>			<b>Estimated Cost</b>	<b>Planned Start Date (HA Fiscal Year)</b>
<b>Management Improvements (1408)</b>			<b>\$16,500</b>	<b>2002</b>
Unit entry door replacement (1460)			\$15,517	
Storm/screen door replacement (1460)			\$6,355	
Roof replacement including soffits (1460)			\$25,477	
<b>Extensive site improvements – landscaping, earthwork (1450)</b>			<b>\$75,615</b>	
Localized replacement of walkways (1450)			\$6,564	
Install evaporative cooler			\$23,195	
<b>Total estimated cost over next 5 years</b>			<b>\$169,223</b>	

Optional 5-Year Action Plan Tables				
Development Number	Development Name (or indicate PHA wide)	Number Vacant Units	% Vacancies in Development	
	Bernalillo Family Housing – PHA Wide			
Description of Needed Physical Improvements or Management Improvements			Estimated Cost	Planned Start Date (HA Fiscal Year)
Management Improvements (1408)			\$16,500	2003
Unit entry door replacement (1460)			\$15,517	
Storm/screen door replacement (1460)			\$6,355	
Roof replacement including soffits (1460)			\$25,477	
Extensive site improvements – landscaping, earthwork (1450)			\$64,640	
Localized replacement of walkways (1450)			\$3,564	
Install evaporative cooler (1460)			\$23,195	
Minor repairs to building wall block, painting or wood and trim (1460)			\$13,975	
Total estimated cost over next 5 years			\$169,223	

Optional 5-Year Action Plan Tables				
Development Number	Development Name (or indicate PHA wide)	Number Vacant Units	% Vacancies in Development	
	Bernalillo Family Housing – PHA Wide			
Description of Needed Physical Improvements or Management Improvements			Estimated Cost	Planned Start Date (HA Fiscal Year)
Management Improvements (1408)			\$16,000	2004
Unit entry door replacement (1460)			\$15,517	
Storm/screen door replacement (1460)			\$6,355	
Painting of wood (1460)			\$2,481	
Roof replacement including soffits (1460)			\$25,477	
Extensive site improvements – landscaping, earthwork (1450)			\$53,349	
Localized replacement of walkways (1450)			\$3,564	
Install evaporative cooler			\$46,390	
Total estimated cost over next 5 years			\$169,223	

**B. HOPE VI and Public Housing Development and Replacement Activities (Non-Capital Fund)**

- Yes  No: a) Has the PHA received a HOPE VI revitalization grant? (if no, skip to question c; if yes, provide responses to question b for each grant, copying and completing as many times as necessary)
- b) Status of HOPE VI revitalization grant (complete one set of questions for each grant)

1. Development name:
2. Development (project) number:
3. Status of grant:
  - Revitalization Plan under development
  - Revitalization Plan submitted, pending approval
  - Revitalization Plan approved
  - Activities pursuant to an approved Revitalization Plan underway

Yes  No: c) Does the PHA plan to apply for a HOPE VI Revitalization grant in the Plan year?

If yes, list development name/s below:

Yes  No: d) Will the PHA be engaging in any mixed-finance development activities for public housing in the Plan year?

If yes, list developments or activities below:

Yes  No: e) Will the PHA be conducting any other public housing development or replacement activities not discussed in the Capital Fund Program Annual Statement?

If yes, list developments or activities below:

## **8. Demolition and Disposition**

[24 CFR Part 903.7 9 (h)]

1.  Yes  No: Does the PHA plan to conduct any demolition or disposition activities (pursuant to section 18 of the U.S. Housing Act of 1937 (42 U.S.C. 1437p)) in the plan Fiscal Year? (If “No”, skip to component 9; if “yes”, complete one activity description for each development.)

### 2. Activity Description

Yes  No: Has the PHA provided the activities description information in the **optional** Public Housing Asset Management Table? (If “yes”, skip to component 9. If “No”, complete the Activity Description table below.)

<b>Demolition/Disposition Activity Description</b>
1a. Development name:
1b. Development (project) number:
2. Activity type: Demolition <input type="checkbox"/> Disposition <input type="checkbox"/>
3. Application status (select one) Approved <input type="checkbox"/> Submitted, pending approval <input type="checkbox"/>

<b>Demolition/Disposition Activity Description</b>	
Planned application	<input type="checkbox"/>
4. Date application approved, submitted, or planned for submission: (DD/MM/YY)	
5. Number of units affected:	
6. Coverage of action (select one)	
<input type="checkbox"/> Part of the development	
<input type="checkbox"/> Total development	
7. Timeline for activity:	
a. Actual or projected start date of activity:	
b. Projected end date of activity:	

**9. Designation of Public Housing for Occupancy by Elderly Families or Families with Disabilities or Elderly Families and Families with Disabilities**

[24 CFR Part 903.7 9 (i)]

1.  Yes  No: Has the PHA designated or applied for approval to designate or does the PHA plan to apply to designate any public housing for occupancy only by the elderly families or only by families with disabilities, or by elderly families and families with disabilities or will apply for designation for occupancy by only elderly families or only families with disabilities, or by elderly families and families with disabilities as provided by section 7 of the U.S. Housing Act of 1937 (42 U.S.C. 1437e) in the upcoming fiscal year? (If “No”, skip to component 10. If “yes”, complete one activity description for each development, unless the PHA is eligible to complete a streamlined submission; PHAs completing streamlined submissions may skip to component 10.)

2. Activity Description

Yes  No: Has the PHA provided all required activity description information for this component in the **optional** Public Housing Asset Management Table? If “yes”, skip to component 10. If “No”, complete the Activity Description table below.

<b>Designation of Public Housing Activity Description</b>	
1a. Development name:	
1b. Development (project) number:	
2. Designation type:	
Occupancy by only the elderly <input type="checkbox"/>	
Occupancy by families with disabilities <input type="checkbox"/>	
Occupancy by only elderly families and families with disabilities <input type="checkbox"/>	

<b>Designation of Public Housing Activity Description</b>
3. Application status (select one) Approved; included in the PHA's Designation Plan <input type="checkbox"/> Submitted, pending approval <input type="checkbox"/> Planned application <input type="checkbox"/>
4. Date this designation approved, submitted, or planned for submission: <u>(DD/MM/YY)</u>
5. If approved, will this designation constitute a (select one) <input type="checkbox"/> New Designation Plan <input type="checkbox"/> Revision of a previously approved Designation Plan?
6. Number of units affected:
7. Coverage of Action <input type="checkbox"/> Part of the development <input type="checkbox"/> Total development

## **10. Conversion of Public Housing to Tenant-Based Assistance**

[24 CFR Part 903.7 9 (j)]

### **A. Assessments of Reasonable Revitalization Pursuant to section 202 of the HUD FY 1996 HUD Appropriations Act**

1.  Yes  No: Have any of the PHA's developments or portions of developments been identified by HUD or the PHA as covered under section 202 of the HUD FY 1996 HUD Appropriations Act? (If "No", skip to component 11; if "yes", complete one activity description for each identified development, unless eligible to complete a streamlined submission. PHAs completing streamlined submissions may skip to component 11.)

2. Activity Description

- Yes  No: Has the PHA provided all required activity description information for this component in the **optional** Public Housing Asset Management Table? If "yes", skip to component 11. If "No", complete the Activity Description table below.

<b>Conversion of Public Housing Activity Description</b>
1a. Development name:
1b. Development (project) number:
2. What is the status of the required assessment? <input type="checkbox"/> Assessment underway <input type="checkbox"/> Assessment results submitted to HUD <input type="checkbox"/> Assessment results approved by HUD (if marked, proceed to next question) <input type="checkbox"/> Other (explain below)

<b>Conversion of Public Housing Activity Description</b>	
3. <input type="checkbox"/> Yes <input type="checkbox"/> No:	Is a Conversion Plan required? (If yes, go to block 4; if no, go to block 5.)
4. Status of Conversion Plan (select the statement that best describes the current status)	<input type="checkbox"/> Conversion Plan in development <input type="checkbox"/> Conversion Plan submitted to HUD on: (DD/MM/YYYY) <input type="checkbox"/> Conversion Plan approved by HUD on: (DD/MM/YYYY) <input type="checkbox"/> Activities pursuant to HUD-approved Conversion Plan underway
5. Description of how requirements of Section 202 are being satisfied by means other than conversion (select one)	<input type="checkbox"/> Units addressed in a pending or approved demolition application (date submitted or approved: _____) <input type="checkbox"/> Units addressed in a pending or approved HOPE VI demolition application (date submitted or approved: _____) <input type="checkbox"/> Units addressed in a pending or approved HOPE VI Revitalization Plan (date submitted or approved: _____) <input type="checkbox"/> Requirements no longer applicable: vacancy rates are less than 10 percent <input type="checkbox"/> Requirements no longer applicable: site now has less than 300 units <input type="checkbox"/> Other: (describe below)

**B. Reserved for Conversions pursuant to Section 22 of the U.S. Housing Act of 1937**

**C. Reserved for Conversions pursuant to Section 33 of the U.S. Housing Act of 1937**

**11. Homeownership Programs Administered by the PHA**

[24 CFR Part 903.7 9 (k)]

**A. Public Housing**

1.  Yes  No: Does the PHA administer any homeownership programs administered by the PHA under an approved section 5(h) homeownership program (42 U.S.C. 1437c(h)), or an approved HOPE I program (42 U.S.C. 1437aaa) or has the PHA applied or plan to apply to administer any homeownership programs under section 5(h), the HOPE I program, or section 32 of the U.S. Housing Act of 1937 (42 U.S.C. 1437z-4). (If “No”, skip to component 11B; if “yes”, complete one activity

description for each applicable program/plan, unless eligible to complete a streamlined submission due to **small PHA** or **high performing PHA** status. PHAs completing streamlined submissions may skip to component 11B.)

2. Activity Description

Yes  No: Has the PHA provided all required activity description information for this component in the **optional** Public Housing Asset Management Table? (If “yes”, skip to component 12. If “No”, complete the Activity Description table below.)

<b>Public Housing Homeownership Activity Description (Complete one for each development affected)</b>
1a. Development name: 1b. Development (project) number:
2. Federal Program authority: <input type="checkbox"/> HOPE I <input type="checkbox"/> 5(h) <input type="checkbox"/> Turnkey III <input type="checkbox"/> Section 32 of the USHA of 1937 (effective 10/1/99)
3. Application status: (select one) <input type="checkbox"/> Approved; included in the PHA’s Homeownership Plan/Program <input type="checkbox"/> Submitted, pending approval <input type="checkbox"/> Planned application
4. Date Homeownership Plan/Program approved, submitted, or planned for submission: (DD/MM/YYYY)
5. Number of units affected:
6. Coverage of Action: <input type="checkbox"/> Part of the development <input type="checkbox"/> Total development

**B. Section 8 Tenant Based Assistance**

1.  Yes  No: Does the PHA plan to administer a Section 8 Homeownership program pursuant to Section 8(y) of the U.S.H.A. of 1937, as implemented by 24 CFR part 982 ? (If “No”, skip to component 12; if “yes”, describe each program using the table below (copy and complete questions for each program identified), unless the PHA is eligible to complete a streamlined submission due to high performer status. **High performing PHAs** may skip to component 12.)

2. Program Description:

a. Size of Program

Yes  No: Will the PHA limit the number of families participating in the section 8 homeownership option?

If the answer to the question above was yes, which statement best describes the number of participants? (select one)

- 25 or fewer participants  
 26 - 50 participants  
 51 to 100 participants  
 more than 100 participants

b. PHA-established eligibility criteria

Yes  No: Will the PHA's program have eligibility criteria for participation in its Section 8 Homeownership Option program in addition to HUD criteria?  
If yes, list criteria below:

## **12. PHA Community Service and Self-sufficiency Programs**

[24 CFR Part 903.7 9 (l)]

### **A. PHA Coordination with the Welfare (TANF) Agency**

1. Cooperative agreements:

Yes  No: Has the PHA entered into a cooperative agreement with the TANF Agency, to share information and/or target supportive services (as contemplated by section 12(d)(7) of the Housing Act of 1937)?

If yes, what was the date that agreement was signed?

- ***Date not available at the time of this draft***

2. Other coordination efforts between the PHA and TANF agency

- Client referrals  
 Information sharing regarding mutual clients (for rent determinations and otherwise)  
 Coordinate the provision of specific social and self-sufficiency services and programs to eligible families  
 Jointly administer programs  
 Partner to administer a HUD Welfare-to-Work voucher program  
 Joint administration of other demonstration program  
 Other:

### **B. Services and programs offered to residents and participants**

#### **(1) General**

a. Self-Sufficiency Policies

Which, if any of the following discretionary policies will the PHA employ to enhance the economic and social self-sufficiency of assisted families in the following areas?

- Public housing rent determination policies
- Public housing admissions policies
- Section 8 admissions policies
- Preference in admission to section 8 for certain public housing families
- Preferences for families working or engaging in training or education programs for non-housing programs operated or coordinated by the PHA
- Preference/eligibility for public housing homeownership option participation
- Preference/eligibility for section 8 homeownership option participation
- Other policies:

b. Economic and Social self-sufficiency programs

- Yes  No: Does the PHA coordinate, promote or provide any programs to enhance the economic and social self-sufficiency of residents? (If “yes”, complete the following table; if “no” skip to sub-component 2, Family Self Sufficiency Programs. The position of the table may be altered to facilitate its use. )

Services and Programs				
Program Name & Description (including location, if appropriate)	Estimated Size	Allocation Method (waiting list/random selection/specific criteria/other)	Access (development office / PHA main office / other provider name)	Eligibility (public housing or section 8 participants or both)
NA	NA	NA	NA	NA

**(2) Family Self Sufficiency program/s**

a. Participation Description

Family Self Sufficiency (FSS) Participation		
Program	Required Number of Participants (start of FY 2000 Estimate)	Actual Number of Participants (As of: DD/MM/YY)
Public Housing	NA	6 (as of April 2000)
Section 8	NA	NA

- b.  Yes  No: If the PHA is not maintaining the minimum program size required by HUD, does the most recent FSS Action Plan address the steps the PHA plans to take to achieve at least the minimum program size?  
If no, list steps the PHA will take below:

### C. Welfare Benefit Reductions

1. The PHA is complying with the statutory requirements of section 12(d) of the U.S. Housing Act of 1937 (relating to the treatment of income changes resulting from welfare program requirements) by:

- Adopting appropriate changes to the PHA's public housing rent determination policies and train staff to carry out those policies
- Informing residents of new policy on admission and reexamination
- Actively notifying residents of new policy at times in addition to admission and reexamination.
- Establishing or pursuing a cooperative agreement with all appropriate TANF agencies regarding the exchange of information and coordination of services
- Establishing a protocol for exchange of information with all appropriate TANF agencies
- Other:

<b>D. Reserved for Community Service Requirement pursuant to section 12(c) of the U.S. Housing Act of 1937</b>
--

## **13. PHA Safety and Crime Prevention Measures**

[24 CFR Part 903.79 (m)]

### A. Need for measures to ensure the safety of public housing residents

1. Describe the need for measures to ensure the safety of public housing residents

- High incidence of violent and/or drug-related crime in some or all of the PHA's developments
- High incidence of violent and/or drug-related crime in the areas surrounding or adjacent to the PHA's developments
- Residents fearful for their safety and/or the safety of their children
- Observed lower-level crime, vandalism and/or graffiti
- People on waiting list unwilling to move into one or more developments due to perceived and/or actual levels of violent and/or drug-related crime
- Other:
  - ***Domestic Violence***
  - ***Beginning of increase in low level drug activity***

2. What information or data did the PHA use to determine the need for PHA actions to improve safety of residents?

- Safety and security survey of residents
- Analysis of crime statistics over time for crimes committed "in and around" public housing authority
- Analysis of cost trends over time for repair of vandalism and removal of graffiti

- Resident reports
- PHA employee reports
- Police reports
- Demonstrable, quantifiable success with previous or ongoing anticrime/anti drug programs
- Other: Anecdotal Evidence

3. Which developments are most affected?

- *Community-Wide*

**B. Crime and Drug Prevention activities the PHA has undertaken or plans to undertake in the next PHA fiscal year**

1. List the crime prevention activities the PHA has undertaken or plans to undertake:

- Contracting with outside and/or resident organizations for the provision of crime- and/or drug-prevention activities
- Crime Prevention Through Environmental Design
- Activities targeted to at-risk youth, adults, or seniors
- Volunteer Resident Patrol/Block Watchers Program
- Other:

2. Which developments are most affected?

- *Community-Wide*

**C. Coordination between PHA and the police**

1. Describe the coordination between the PHA and the appropriate police precincts for carrying out crime prevention measures and activities:

- Police involvement in development, implementation, and/or ongoing evaluation of drug-elimination plan
- Police provide crime data to housing authority staff for analysis and action
- Police have established a physical presence on housing authority property (e.g., community policing office, officer in residence)
- Police regularly testify in and otherwise support eviction cases
- Police regularly meet with the PHA management and residents
- Agreement between PHA and local law enforcement agency for provision of above-baseline law enforcement services
- Other activities:

2. Which developments are most affected?

- *Community-Wide*

**D. Additional information as required by PHDEP/PHDEP Plan**

- Yes  No: Is the PHA eligible to participate in the PHDEP in the fiscal year covered by this PHA Plan?
- Yes  No: Has the PHA included the PHDEP Plan for FY 2000 in this PHA Plan?
- Yes  No: This PHDEP Plan is an Attachment. (NM035a01)

## **14. RESERVED FOR PET POLICY**

[24 CFR Part 903.7 9 (n)]

- *See Attachment nm035f01*

## **15. Civil Rights Certifications**

[24 CFR Part 903.7 9 (o)]

Civil rights certifications are included in the PHA Plan Certifications of Compliance with the PHA Plans and Related Regulations.

## **16. Fiscal Audit**

[24 CFR Part 903.7 9 (p)]

- Yes  No: Is the PHA required to have an audit conducted under section 5(h)(2) of the U.S. Housing Act of 1937 (42 U.S.C. 1437c(h))?  
(If no, skip to component 17.)
- Yes  No: Was the most recent fiscal audit submitted to HUD?
- Yes  No: Were there any findings as the result of that audit?
- Yes  No: If there were any findings, do any remain unresolved?  
If yes, how many unresolved findings remain? \_\_\_\_\_
- Yes  No: Have responses to any unresolved findings been submitted to HUD?  
If not, when are they due (state below)?

## **17. PHA Asset Management**

[24 CFR Part 903.7 9 (q)]

- Yes  No: Is the PHA engaging in any activities that will contribute to the long-term asset management of its public housing stock, including how the Agency will plan for long-term operating, capital investment, rehabilitation,

modernization, disposition, and other needs that have **not** been addressed elsewhere in this PHA Plan?

2. What types of asset management activities will the PHA undertake?

- Not applicable
- Private management
- Development-based accounting
- Comprehensive stock assessment
- Other:

3.  Yes  No: Has the PHA included descriptions of asset management activities in the **optional** Public Housing Asset Management Table?

## **18. Other Information**

[24 CFR Part 903.7 9 (r)]

### **A. Resident Advisory Board Recommendations**

1.  Yes  No: Did the PHA receive any comments on the PHA Plan from the Resident Advisory Board/s?

2. If yes, the comments are: (if comments were received, the PHA **MUST** select one)

- Attached at Attachment (File name)
- Provided below:

3. In what manner did the PHA address those comments?

- Considered comments, but determined that no changes to the PHA Plan were necessary.
- The PHA changed portions of the PHA Plan in response to comments  
List changes below:
- Other:

### **B. Description of Election process for Residents on the PHA Board**

1.  Yes  No: Does the PHA meet the exemption criteria provided section 2(b)(2) of the U.S. Housing Act of 1937? (If no, continue to question 2; if yes, skip to sub-component C.)

2.  Yes  No: Was the resident who serves on the PHA Board elected by the residents? (If yes, continue to question 3; if no, skip to sub-component C.)

### 3. Description of Resident Election Process

#### a. Nomination of candidates for place on the ballot:

- Candidates were nominated by resident and assisted family organizations
- Candidates could be nominated by any adult recipient of PHA assistance
- Self-nomination: Candidates registered with the PHA and requested a place on ballot
- Other:

#### b. Eligible candidates:

- Any recipient of PHA assistance
- Any head of household receiving PHA assistance
- Any adult recipient of PHA assistance
- Any adult member of a resident or assisted family organization
- Other:

#### c. Eligible voters:

- All adult recipients of PHA assistance (public housing and section 8 tenant-based assistance)
- Representatives of all PHA resident and assisted family organizations
- Other:

### C. Statement of Consistency with the Consolidated Plan

1. Consolidated Plan jurisdiction: State of New Mexico

2. The PHA has taken the following steps to ensure consistency of this PHA Plan with the Consolidated Plan for the jurisdiction:

- The PHA has based its statement of needs of families in the jurisdiction on the needs expressed in the Consolidated Plan/s.
- The PHA has participated in any consultation process organized and offered by the Consolidated Plan agency in the development of the Consolidated Plan.
- The PHA has consulted with the Consolidated Plan agency during the development of this PHA Plan.
- Activities to be undertaken by the PHA in the coming year are consistent with the initiatives contained in the Consolidated Plan.
- Other:

4. The Consolidated Plan of the jurisdiction supports the PHA Plan with the following actions and commitments:

### C. Other Information Required by HUD

- *None*

## **19. Definition of “Substantial Deviation” and Significant Amendment or Modification**

[1903.7(r)]:

This Housing Agency defines “substantial deviation” and “significant amendment or modification” as discretionary changes in its plans or policies which fundamentally alter the mission, goals or objectives of the Agency and which require formal approval by the Board of Commissioners.

## Public Housing Drug Elimination Program Plan

**Annual PHDEP Plan Table of Contents:**

- |                                |        |
|--------------------------------|--------|
| 1. General Information/History | Page 1 |
| 2. PHDEP Plan Goals/Budget     | Page 2 |
| 3. Milestones                  | Page 6 |
| 4. Certifications              | Page 6 |

**Section 1: General Information/History**

- A. Amount of PHDEP Grant: **\$25,000**
- B. Eligibility type (Indicate with an "x") N1 \_\_\_\_\_ N2 \_\_\_\_\_ R **X**
- C. FFY in which funding is requested: **2000/2001**
- D. Executive Summary of Annual PHDEP Plan

The Town of Bernalillo, Department of Housing Services will utilize PHDEP funds to establish a police presence throughout the public housing community, provide activities for at-risk youth, adults and seniors relative to substance abuse and domestic violence and ensure the overall safety of residents.

**E. Target Areas**

PHDEP Target Areas (Name of development(s) or site)	Total # of Units within the PHDEP Target Area(s)	Total Population to be Served within the PHDEP Target Area(s)
Community-wide	75	225

**F. Duration of Program**

6 Months \_\_\_\_\_ 12 Months \_\_\_\_\_ 18 Months \_\_\_\_\_ 24 Months **x** Other \_\_\_\_\_

## G. PHDEP Program History

Fiscal Year of Funding	PHDEP Funding Received	Grant #	Fund Balance as of Date of this Submission	Grant Extensions or Waivers	Anticipated Completion Date
FY 1995					
FY 1996					
FY 1997					
FY1998					
FY 1999	X	Not Available	Not Available	Not Available	Not Available

## Section 2: PHDEP Plan Goals and Budget

### A. PHDEP Plan Summary

The PHDEP plan for the Town of Bernalillo, Department of Housing Services will implement the following goals and objectives:

Reduce domestic violence through education and training; Ensure safety of residents by providing a regular police presence; and targeting at-risk youth, adults, and elderly for drug prevention and intervention programs. DHS will work with the local police as well as local community and government agencies to provide services and referrals to residents. An evaluation and monitoring system that includes setting benchmarks, gathering data for analysis of quantifiable goals for residents as well as quarterly reports will be implemented.

### B. PHDEP Budget Summary

<b>FY 2000/2001 PHDEP Budget Summary</b>	
<b>Budget Line Item</b>	<b>Total Funding</b>
9110 – Reimbursement of Law Enforcement	\$12,500
9120 – Security Personnel	
9130 – Employment of Investigators	
9140 – Voluntary Tenant Patrol	
9150 – Physical Improvements	
9160 – Drug Prevention	\$5,000
9170 – Drug Intervention	\$5,000
9180 – Drug Treatment	
9190 – Other Program Costs	\$2,500
<b>TOTAL PHDEP FUNDING</b>	

**C. PHDEP Plan Goals and Activities**

<b>9110 – Reimbursement of Law Enforcement</b>					<b>Total PHDEP Funding: \$12,500</b>		
Goal(s)	1. Ensure safety of residents						
Objectives	1. Establish a regular police presence throughout the public housing community to deter criminal activity						
Proposed Activities	# of Persons Served	Target Population	Start Date	Expected Complete Date	PHDEP Funding	Other Funding (Amount/Source)	Performance Indicators
1. Community Policing			7/1/99	6/30/01	\$10,000	NA	Establishment and implementation of community policing program.
2. Officer in Residence			7/1/99	6/30/01	\$2,500	NA	1 officer in residence

<b>9120 - Security Personnel</b>					<b>Total PHDEP Funding: \$ 0</b>		
Goal(s)							
Objectives							
Proposed Activities	# of Persons Served	Target Population	Start Date	Expected Complete Date	PHDEP Funding	Other Funding (Amount/Source)	Performance Indicators
1.							
2.							
3.							

<b>9130 - Employment of Investigators</b>					<b>Total PHDEP Funding: \$ 0</b>		
Goal(s)							
Objectives							
Proposed Activities	# of Persons Served	Target Population	Start Date	Expected Complete Date	PHDEP Funding	Other Funding (Amount/Source)	Performance Indicators
1.							
2.							
3.							

<b>9140 - Voluntary Tenant Patrol</b>					<b>Total PHDEP Funding: \$ 0</b>		
Goal(s)							
Objectives							
Proposed Activities	# of Persons Served	Target Population	Start Date	Expected Complete Date	PHEDEP Funding	Other Funding (Amount /Source)	Performance Indicators
1.							
2.							
3.							

<b>9150 - Physical Improvements</b>					<b>Total PHDEP Funding: \$ 0</b>		
Goal(s)							
Objectives							
Proposed Activities	# of Persons Served	Target Population	Start Date	Expected Complete Date	PHEDEP Funding	Other Funding (Amount /Source)	Performance Indicators
1.							
2.							
3.							

<b>9160 - Drug Prevention</b>					<b>Total PHDEP Funding: \$ 5,000</b>		
Goal(s)							
(1) Enhance awareness of dangers of drugs among youth, adults and elderly							
Objectives							
(1) Provide drug prevention services to reduce incidents of drug use within the community							
Proposed Activities	# of Persons Served	Target Population	Start Date	Expected Complete Date	PHEDEP Funding	Other Funding (Amount /Source)	Performance Indicators
1. Workshops and Educational programs	225	225	7/1/99	6/30/00	\$5,000	NA	Reach 50% of residents with drug prevention/ intervention activities
2.							
3.							

<b>9170 – Drug Intervention</b>					<b>Total PHDEP Funding: \$ 5,000</b>		
Goal(s)	(1) Reduce incidents of domestic violence resulting from exposure to substance abuse in the household						
Objectives	(1) Develop activities to deter negative behavior						
Proposed Activities	# of Persons Served	Target Population	Start Date	Expected Complete Date	PHEDEP Funding	Other Funding (Amount /Source)	Performance Indicators
1. Educational programs, Counseling and workshop	225	225	7/1/99	6/30/00	\$5,000	NA	Reduce incidents of domestic violence by 50%
2.							
3.							

<b>9180 - Drug Treatment</b>					<b>Total PHDEP Funding: \$ 0</b>		
Goal(s)							
Objectives							
Proposed Activities	# of Persons Served	Target Population	Start Date	Expected Complete Date	PHEDEP Funding	Other Funding (Amount /Source)	Performance Indicators
1.							
2.							
3.							

<b>9190 - Other Program Costs</b>					<b>Total PHDEP Funds: \$ 2,500</b>		
Goal(s)	(1) Ensure PHDEP grant is properly managed and implemented						
Objectives	(1) Properly administer program activities						
Proposed Activities	# of Persons Served	Target Population	Start Date	Expected Complete Date	PHEDEP Funding	Other Funding (Amount /Source)	Performance Indicators
1. Grant management			7/1/99	6/30/01	\$2,500	NA	Compliance with HUD reporting requirements and regulations. Successful completion of grant within time period.
2.							
3.							

**Section 3: Expenditure/Obligation Milestones**

<b>Budget Line Item #</b>	<b>25% Expenditure of Total Grant Funds By Activity #</b>	<b>Total PHDEP Funding Expended (sum of the activities)</b>	<b>50% Obligation of Total Grant Funds by Activity #</b>	<b>Total PHDEP Funding Obligated (sum of the activities)</b>
<i>e.g Budget Line Item # 9120</i>	<i>Activities 1, 3</i>		<i>Activity 2</i>	
9110	1,2	\$12,500	1,2	\$12,500
9160	1	\$5,000	1	\$5,000
9170	1	\$5,000	1	\$5,000
9190	1	\$2,500	1	\$2,500
<b>TOTAL</b>		\$25,000		\$25,000

**Section 4: Certifications**

A comprehensive certification of compliance with respect to the PHDEP Plan submission is included in the “PHA Certifications of Compliance with the PHA Plan and Related Regulations.”

BERNALILLO (NM) DEPARTMENT OF HOUSING SERVICES  
857 CALLE LOS MAYORES  
P.O. Box 70  
BERNALILLO, NM 87004

ADMISSIONS AND CONTINUED  
OCCUPANCY POLICY



Adopted: September 25, 2000

# TABLE OF CONTENTS

	Page
<b>I. GENERAL STATEMENT OF MISSION, NONDISCRIMINATION AND PRIVACY.....</b>	<b>1</b>
<b>II. ELIGIBILITY FOR ADMISSION .....</b>	<b>2</b>
A. Eligibility Criteria .....	2
B. Ineligibility Because of Prior Drug-Related Activity.....	3
C. Screening Out Illegal Drug Users and Alcohol Abusers.....	3
D. Eligibility Restrictions Regarding Noncitizens.....	4
E. Verification and Documentation.....	6
F. Special Eligibility Provisions Relating to Applicants Requiring a Live-In Aide .....	9
G. Tenant Selection Criteria.....	10
<b>III. APPLICATION FOR ADMISSION .....</b>	<b>16</b>
A. Application Intake.....	16
B. Criteria for Placement on Waiting List.....	16
C. Maintaining an Active List.....	16
D. Responsibility to Report Changes.....	17
E. Removal from the Waiting List.....	17
F. Record Keeping.....	17
G. Eligibility Determinations.....	17
<b>IV. SELECTION FROM THE WAITING LIST.....</b>	<b>21</b>
A. Income Targeting .....	21
B. Overview of Local Preferences for Federally-Assisted Public Housing.....	21
C. Local Preferences .....	21
D. Offer of a Unit.....	23
<b>V. UNIT SIZE AND OCCUPANCY STANDARDS.....</b>	<b>24</b>
A. Appropriate Unit Size.....	24
B. Factors in Dwelling Size Determination.....	24
C. Bedroom Size Determination for Single Pregnant Individuals.....	24
D. Reasonable Exceptions in Emergency Situations .....	24
E. Requirements for Live-In Aide .....	25
F. Handicap Accessible Units.....	25

**TABLE OF CONTENTS (Cont'd)**

	<b>Page</b>
<b>VI. LEASE</b> .....	26
A. Lease Execution.....	26
B. Security Deposits.....	26
C. Eight Hour Service Requirement .....	27
D. Tenant Orientation.....	28
E. Dwelling Unit Inspection Policy.....	28
F. Rent, Other Charges, and Rent Adjustments.....	29
<b>VII. REEXAMINATION OF INCOME AND FAMILY COMPOSITION, ADJUSTMENTS AND OTHER ANNUAL REQUIREMENTS</b> .....	31
A. Reexamination Procedures.....	31
B. Eligibility for Continuing Occupancy.....	37
C. Interim Reexaminations .....	37
D. Changes in Household Composition.....	39
E. Visitors.....	39
<b>VIII. UNIT TRANSFERS</b> .....	40
A. Introduction.....	40
B. Type of Transfers.....	40
C. Unit Offers.....	41
D. Extended Family.....	42
E. Revision of Suspension of Transfer Policy.....	42
<b>IX. TERMINATIONS</b> .....	43
A. Termination Notices.....	43
B. Reasons for Termination.....	43
C. Written Records.....	45
D. Abandonment of the Unit.....	45
<b>X. POSTING REQUIREMENTS/REVISIONS</b> .....	47
A. Posting Requirements.....	47
B. Revisions .....	47

**TABLE OF CONTENTS (Cont'd)**

	<b>Page</b>
<b>XI. REVISION OF OCCUPANCY POLICY RESULTING FROM CHANGES IN LOCAL, STATE, OR FEDERAL LAW OR REGULATION .....</b>	<b>48</b>
<b>XII. MISREPRESENTATION .....</b>	<b>49</b>
<b>XIII. GRIEVANCE PROCEDURE.....</b>	<b>50</b>
<b>XIV. PET POLICY.....</b>	<b>51</b>
<b>XV. RELOCATION .....</b>	<b>52</b>
 <b>APPENDICES</b>	
<b>APPENDIX A: UTILITY ALLOWANCES.....</b>	<b>54</b>
<b>APPENDIX B: INFORMAL REVIEW PROCEDURES .....</b>	<b>55</b>
<b>APPENDIX C: GLOSSARY OF TERMS .....</b>	<b>57</b>
<b>APPENDIX D: DECONCENTRATION POLICY.....</b>	<b>70</b>
<b>APPENDIX E: FLAT RENT SCHEDULE.....</b>	<b>71</b>

## POLICY ON ADMISSIONS AND CONTINUED OCCUPANCY

### I. GENERAL STATEMENT OF MISSION, NONDISCRIMINATION AND PRIVACY

It is the intent of the Bernalillo (NM) Department of Housing Services (hereinafter referred to as DHS or the Housing Authority) to provide safe, decent housing for eligible lower income tenants and families and to promote self-sufficiency and economic independence. DHS will not discriminate because of race, color, gender, sexual preference, religion, age, disability, ancestry, national origin, marital, familial status or lawful source of income in the leasing, rental, or other disposition of housing or related facilities (including property) included in any housing development(s) under its jurisdiction covered by a contract for annual contribution under the United States Housing Act of 1937, as amended or with the State of New Mexico or in the use or occupancy thereof.

It is the policy of DHS to comply fully with Title VI of the Civil Rights Act of 1964, Title VIII and Section 3 of the Civil Rights Act of 1968, amended by the Community Development Act of 1974, Executive Order 11063, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Americans with Disability Act, and any other legislation protecting the individual rights of tenants, applicants, or staff, which may subsequently be enacted.

The Housing Authority shall not automatically deny admission to any particular group or category of otherwise eligible families nor will any criteria be applied, or information be considered, pertaining to attributes or behavior that may be imputed by some to a particular group or category. All criteria applied and information considered in administering this policy shall relate solely to the attributes and behavior of the individual members of the household.

It is also the policy of DHS to guard the privacy of individuals in accordance with the Privacy Act of 1974, and to ensure the protection of individuals' records maintained by DHS. Therefore, the Housing Authority shall not disclose any personal information (including, but not limited to information on any disability) contained in its records to any person or agency unless the individual about whom the information is requested gives written consent to such disclosure, or as required by law. This privacy policy in no way limits DHS's ability to collect such information as it may need to determine eligibility, compute rent, or determine the applicant's suitability for tenancy.

DHS is committed to identifying and eliminating situations which create barriers to equal housing for all. In accordance with the Americans with Disability Act and Section 504 of the Rehabilitation Act of 1973, as amended, DHS will make such procedural, administrative, locational, or physical changes as will reasonably accommodate persons with disabilities and which do not impose an unreasonable burden either administratively or financially on the Housing Authority.

## II. ELIGIBILITY FOR ADMISSION

### A. Eligibility Criteria

It is the policy of DHS to admit only eligible applicant families according to the following criteria:

1. Those who qualify as a family, single person, elderly person, near-elderly person, displaced person or remaining adult member of a tenant family (see Appendix C-Glossary of Terms).
2. *Annual Income.* Those whose annual income at the time of admission does not exceed the income limits or guidelines as prescribed by HUD for federally-assisted housing. A copy of the most current income limits or guidelines shall be conspicuously posted at DHS locations.
3. Members age 6 or older have been issued a Social Security Number (SSN) and have disclosed it to the satisfaction of DHS. Where a SSN has not been assigned, certification to that effect must be executed.
4. Members are U.S. Citizens or noncitizens who have eligible immigration status.
5. Household composition is appropriate for the housing types and unit sizes available in DHS developments in accordance with the occupancy standards outlined herein (for definition of housing type, see Appendix C - Glossary of Terms).
6. Those who do not maintain another residence in addition to a DHS unit.
7. Members have not committed fraud in connection with any Federal Housing Assistance program.
8. Members have not been evicted from public housing, Indian Housing, Section 23, or any Section 8 program because of drug-related criminal activity for a three-year period beginning the date of the eviction.
9. Members who have not been convicted of manufacturing or producing methamphetamine (commonly referred to as “speed”) on the premises of a public housing project.
10. Those who do not include any individual who is subject to a lifetime registration requirement under a state sex offender registration program are denied admission for life.
11. Those who meet or exceed the tenant selection criteria outlined in this Policy.

B. Ineligibility Because of Prior Drug-Related Activity

1. Drug-related criminal activity is the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use a controlled substance. Pursuant to federal law, persons evicted from public housing, Indian housing, Section 23, or any Section 8 program because of drug-related criminal activity are ineligible for admission to public housing at DHS for a three-year period beginning on the date of such an eviction.
2. Applicants are denied admission for life who have been convicted of manufacturing or producing methamphetamine (commonly referred to as “speed”) on the premises of a public housing project. Premises is defined as the building or complex in which the dwelling is located, including common areas and grounds.
3. DHS may waive at its sole discretion this restriction if the applicant can demonstrate to the satisfaction of DHS that:
  - a. the person successfully completed a rehabilitation program approved by DHS, or
  - b. the circumstance(s) leading to the eviction no longer exists. For example, the person involved in drugs and responsible for the eviction is no longer part of the household; and
  - c. the person is committed to being drug-free and not participating in drug-related criminal activity as evidenced by executing an addendum imposing reasonable additional lease restrictions such as enrollment in a local drug rehabilitation approved by DHS as may be deemed necessary by DHS to guarantee the health, safety and welfare of other residents.

C. Screening Out Illegal Drug Users and Alcohol Abusers

1. DHS will prohibit the admission to public housing of any person who it determines is illegally using a controlled substance.
2. DHS will also prohibit admitting any person to public housing in cases where DHS determines that there is reasonable cause to believe that 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.
3. DHS may at its sole discretion waive the policies prohibiting admission in these circumstances if the person demonstrates to the satisfaction of DHS that:
  - a. the person is no longer engaging in illegal use of a controlled substance or abuse of alcohol, and

- b. has successfully completed a supervised drug or alcohol rehabilitation program;
- c. has otherwise been rehabilitated successfully; or
- d. is participating in a supervised drug or alcohol rehabilitation program, as verified by an authority from such program.

D. Eligibility Restrictions Regarding Noncitizens

1. As required by HUD (24 CFR 5 subpart E), eligibility for assistance or continued assistance under a Section 214 program, such as public housing, is contingent upon a family's submission of documentation either declaring U.S. citizenship or eligible immigration status. DHS will require both current tenants and applicants to submit the required citizenship or eligible immigration documentation for every household member in order to receive or continue to receive housing assistance. Documentation will be required of all new admissions at the time an application is processed by the Housing Authority. Any current tenant who has not already provided documentation will be required to document citizenship or immigration status at the next reexamination. It is necessary to provide this information only one time for each family member during continued occupancy at DHS. Whenever a new family member is added, documentation must be provided before the new member can be added to the lease.
2. *Proof of citizenship will take the following form:*
  - a. For families claiming U.S. citizenship, each applicant or tenant family member will sign the citizenship declaration form and present appropriate documentation (such as U.S. passport, resident alien card, social security card, or other appropriate documentation), which will become a permanent part of the tenant file. Adults will be required to sign on behalf of all children under the age of eighteen years.
  - b. Noncitizens age 62 years or older who are current tenants or applicants will be required to sign a declaration of eligible immigration status and proof of age.
  - c. Tenants and applicants who are noncitizens declaring eligible immigration status must:
    - (i) sign a declaration of eligible immigration status;
    - (ii) documents, such as Alien Registration Receipt Card, Arrival/Departure Record, Temporary Resident Card, Immigration and Naturalization Service (INS) receipt in the event of any lost or missing cards listed above; and

- (iii) sign a verification consent form.
- 3. DHS has the right to deny, terminate or adjust housing assistance if members of any household are found to be noncitizens with ineligible immigration status; however, this determination will not take place until all appeals requested have been exercised by the household. DHS may grant time extensions to provide appropriate information, provided that the household shows a diligent effort in obtaining immigration status documents.
- 4. DHS may not make assistance available to a family submitting an application until at least the eligibility of one family member has been established, and assistance must be prorated based on the number of individuals in the family for whom eligibility has been affirmatively established.
- 5. DHS may not delay, deny, reduce or terminate eligibility of an individual for assistance on the basis of the immigration status of the individual. The family will not be penalized for delays on the part of those entities which must verify eligible immigration status.
- 6. Continued assistance provided to an eligible mixed family after November 29, 1996 will be prorated based on the percentage of family members that are eligible for assistance.
- 7. DHS is required to suspend assistance to a family for a period of at least 24 months if it is determined that the family has knowingly permitted an ineligible individual to reside on a permanent basis in the family's unit. This provision does not apply if the ineligible individual has already been considered in calculating any proration of assistance for the family.
- 8. If DHS discovers that citizenship information provided is expired, fraudulent, or otherwise invalid, it will notify the family or individual of the results of these findings. The family or individual will then have 30 days from the date of the notification to file an appeal with the INS to correct the problem. The family or individual must provide the Housing Authority a copy of the appeal request to the INS, which will become a permanent item in the tenant file. DHS can extend this 30 day appeal period at its sole discretion if good cause is found.
- 9. Any applicant or resident family affected by these provisions has the right to a formal appeal provided the family notifies DHS within 30 days of the action or decision the family wishes to appeal. All appeals will be conducted in accordance with the provisions of DHS's Grievance Procedure.

10. In accordance with Federal rules, mixed families who were living in DHS's units as of June 19, 1995, are permitted to receive continued assistance provided that either the head of household or spouse have eligible immigration status and any ineligible family members are either the head, spouse, parents, or children of the head or spouse.
11. Families who were living in units operated by DHS as of June 19, 1995 but became ineligible for housing assistance because there are no family members with eligible immigration status may be given a temporary deferral of assistance to transfer to other housing at the discretion of the Housing Authority. If the temporary assistance is provided, it will be offered in six month increments and never for longer than a total of 18 months. The maximum period for deferrals granted prior to November 29, 1996 will be three years.
12. Families that no longer qualify for housing assistance due to their citizenship status may apply for prorated assistance to decrease the level of housing assistance provided to the household based on the ratio of eligible and ineligible persons in the household.
13. Rental housing assistance is prohibited to noncitizen students and their families. None of the provisions of the rules related to prorated assistance, continued assistance, or temporary deferral of termination of assistance applies to noncitizen students. This prohibition does not include a citizen's spouse and their children.

E. Verification and Documentation of Eligibility

1. Applicants may not become residents until the documentation is provided and verified. The applicant will retain their position on the waiting list during this period. The applicant will be given a reasonable time, subject to the circumstances, to furnish the documentation before losing their place on the waiting list and the time may be extended, if such circumstances require an extension. The decision will be made by a DHS representative and documented, in writing, and placed in the applicant file.
2. Additional documentation that may be required in determining eligibility includes:
  - Temporary Assistance to Needy Families (TANF)
  - Birth Certificate, or Drivers License that displays the date of Birth and/or form(s) that are issued by a Federal, State, City or County Agency that displays the date of Birth
  - Child Care Verification
  - Credit References (History)
  - Credit Bureau Reports
  - Employer's Verification
  - Landlord Verification

- Social Security Benefits
  - Assets Verification
  - Bank Accounts: Checking Accounts-\$500 + Balance Savings Accounts - \$100 + Balance
3. *Marital Status*: If a marriage certificate is not available the following information is acceptable:
- Drivers License that displays the same address and last names.
  - Federal Tax Forms that indicate that the family filed taxes as a married couple during the last tax reporting period.
  - Other acceptable forms of documentation of marriage would include any document that has been issued by a Federal, State, City or County Government and indicates that the individuals are living as a married couple. Couples that are considered married under common law can provide the same information, as listed above, to document that they are living together as a married couple.
4. *Personal References*: Personal references (not family) may be used when an applicant cannot produce prior rental history records.
5. Separation means the ending of co-habitation by mutual agreement. If an applicant is divorced or separated and has children by that spouse, the applicant must provide at least one of the verifications listed below:
- a. A FINAL divorce decree. (Applies to individuals who are divorced and are not separated and is the only documentation accepted for individuals that are divorced).
  - b. Receiving court-ordered child support from former spouse.
  - c. Verification that applicant is pursuing child support through Department of Human Resources, Child Support Unit or Circuit Clerks Office.
  - d. If applicant is receiving personal child support, the applicant can make arrangements to have the child support paid through the court system, either through the circuit clerks office, Department of Human Resources, or through a court referee.
  - e. Receiving TANF (Temporary Assistance to Needy Families) through the Department of Human Resources for former spouse's children.
  - f. A notarized statement from a current landlord (not family) verifying that he/she knows that the applicant and spouse have not lived together for the last six (6) months or more.

- g. Income tax statements from both the husband and wife indicating both filed income taxes separately the last year and that they filed from different addresses.
  - h. A written statement from a lawyer that states the applicant has filed suit for divorce because of physical abuse; or
  - i. A written statement from an abuse shelter, law enforcement agency, or other social service agency that states the applicant needs housing due to physical abuse; or
  - j. Food stamp verification - If no other documentation is available.
6. If the applicant is divorced or separated from a person and has no children by that person, the applicant must provide at least one of the verifications listed below:
- a. A FINAL divorce decree. (Applies to individuals who are divorced and are not separated and is the only documentation accepted for individuals that are divorced)
  - b. A notarized statement from a current landlord (not family) verifying that he/she knows that the applicant and spouse have not lived together for the last six (6) months or more.
  - c. Income tax statements from both the husband and wife indicating both filed income taxes separately the last year and that they filed from different addresses.
  - d. A written statement from a lawyer that states the applicant has filed suit for divorce because of physical abuse; or
  - e. A written statement from an abuse shelter, law enforcement agency, or other social service agency that states the applicant needs housing due to physical abuse.
  - f. Food Stamp Verification - If no other documentation is available.
7. Families are required to provide Social Security Numbers (SSN) for all family members age 6 and older prior to admission, if they have been issued SSN by the Social Security Administration. All members of the family defined above must either:
- a. Submit SSN documentation; or
  - b. Sign a certification if they have not been assigned a SSN. If the individual is under 18, the certification must be executed by his or her parent or guardian. If the participant who has signed a certification form obtains a

SSN, it must be disclosed at the next regularly scheduled reexamination, or the next rent change.

Verification will be done through the provision of a valid Social Security card issued by the Social Security Administration.

- c. DHS will accept copies of the Social Security card only when it is necessary to verify by mail the continuing eligibility of participant families.
- d. If an applicant or tenant cannot provide his or her Social Security card, other documents listed below showing his or her Social Security Number may be used for verification. He or she may be required by the Authority to provide one or more of the following alternative documents to verify his or her SSN, until a valid Social Security card can be provided.

These documents include:

- Drivers license, that displays the SSN
  - Identification card issued by a Federal, State or local agency
  - 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 Form 1099 or W-2 Form
  - Benefit award letters from government agencies
  - Medicaid Cards
  - Unemployment benefit letter
  - Life insurance policies
  - Court records such as real estate, tax notices, marriage and divorce, judgment or bankruptcy records
  - Verification of Social Security benefits with the Social Security Administration
- e. If the Authority verified Social Security benefits with the Social Security Administration, the acceptance of the SSN by the Social Security Administration may be considered documentation of its validity.
  - f. Employer Identification Number (EIN).

F. Special Eligibility Provisions Relating to Applicants Requiring a Live-In Aide

Some applicants and tenants who would not otherwise be able to fully discharge the responsibilities of tenancy may be able to do so with the assistance of a live-in aide residing in the unit. When an applicant or tenant can provide documentation to the satisfaction of the Housing Authority that a live-in aide is required and available, the following provisions shall apply:

1. The live-in aide must submit information as requested and be reviewed by DHS

staff for eligibility under the Tenant Selection Criteria of this policy. If DHS determines an individual proposed as a live-in aide to be ineligible, the tenant or applicant may propose an alternate live-in aide for screening or may appeal DHS's determination as provided in the Informal Review Procedure (Appendix B).

2. *Unit Size Consideration.* The applicant or tenant and the live-in aide may each be allocated a separate bedroom.
3. The head of household is responsible for all acts of all household members with respect to the requirements of the dwelling lease. Any violation of lease provisions by the live-in aide may be cause for eviction of the household.
4. The live-in aide does not have rights to continue his/her occupancy as a remaining member of a household.

G. Tenant Selection Criteria

1. The applicant household must meet the Tenant Selection Criteria established by DHS to protect the rights and needs of the public housing communities for a decent, safe and livable environment. It is necessary to deny admission to public housing to those applicants whose habits and practices may be expected to have a detrimental effect on the tenants, the environment of the development or financial stability of the property.
2. *General Requirements.* The burden is on the applicant to demonstrate to the satisfaction of DHS that the applicant family is:
  - a. Willing to reliably discharge the financial obligations of renting a unit;
  - b. Willing to maintain the unit in a healthy, safe and secure condition;
  - c. Willing to live peacefully with neighbors in a residential community;
  - d. Willing to accept and abide by the terms of the lease agreement, attachments, addenda and all house rules; and
  - e. Willing to provide the Housing Authority with accurate and complete information on the application form or any other form or document required to determine initial eligibility, preference status, and continued occupancy for public housing. Failure or refusal to comply with this requirement or provision of falsified information is grounds for a determination of ineligibility and for termination of tenancy and eviction.
3. *Documentation.* The following information related to an applicant's potential future habits or practices will be used to determine if the applicant meets DHS's selection criteria:

- a. The applicant's acceptable past performance in meeting financial obligations, especially rent and utilities. Positive or neutral references from the current landlord and prior landlords from the past five years (or longer if needed to get a minimum of two prior landlords) and neutral or better credit reports, together may constitute adequate evidence that the applicant household meets this criteria.

In determining an applicant's ineligibility based on a previous history of non-payment of rent, the Housing Authority will consider whether:

- The applicant was residing in a substandard unit and was withholding rent payments pending repairs in a manner consistent with local ordinances; or
  - The record of nonpayment or frequent late payment was due to the applicant being required to pay excessive rent relative to his/her income and the applicant demonstrated responsible efforts to resolve the nonpayment problem.
- b. The applicant, members of the applicant household, guests or visitors do not have a record of disturbance of neighbors or destruction of property. Acceptable landlord references, personal references and police and court record reports showing that no household member, guest or visitor engages in these types of activities, together may constitute adequate evidence that the household meets this criteria.
  - c. The applicant or members of the applicant household do not have a record of housekeeping practices which may adversely affect the health, safety or welfare of others, or cause damage to DHS property. Acceptable landlord references or satisfactory or better home visit rating may constitute adequate evidence that the household meets this criteria.
  - d. The applicant or any member of the applicant household does not have a record of criminal activity or drug-related criminal activity on the part of any household member which would adversely affect the health, safety or right to peaceful enjoyment by others. This includes, but is not limited to, crimes of physical violence and violence to property. Court and police record reports showing that no household member has a record of such activity may constitute adequate evidence that the household meets this criteria. If the Housing Authority uses the information to deny or terminate assistance, DHS must provide a copy of the information used.
  - e. The applicant or any member of the applicant household is not a former tenant of a public housing authority, or a former participant in a Section 8 program who had a record of lease violations or whose tenancy was terminated by the Housing Authority or private landlord. No previous tenant may be readmitted unless all previous amounts owed have been paid to a public housing authority; but payment of such debt does not necessarily

entitle an applicant to eligibility under this section unless DHS has agreed in writing to grant eligibility upon payment of amounts due.

- f. The applicant is willing to accept and comply with the terms of the lease agreement and other related documents. Acceptable landlord references and a satisfactory or better home visit rating may constitute adequate evidence that the household meets this test.
- g. The applicant who is a first time head of household must demonstrate, to the satisfaction of DHS, the ability to live responsibly on his/her own and has the maturity necessary to do so. Indicators of maturity may include, but are not limited to: the applicant's school attendance record, handling of finances (such as bill payment) and holding a job or other community responsibility (such as volunteer work).
- h. The applicant has not misrepresented or falsified any information related to eligibility, preference status, selection criteria or income and has provided all information requested and required by DHS. If at any time during the tenant selection process it is determined that the household has provided information which is false or misleading, or has failed to supply DHS with any information or documentation required, the applicant household will be considered to have failed this criteria.
- i. There is no reasonable cause to believe that any member of the applicant household has exhibited a pattern of illegal use of a controlled substance or a pattern of abuse of alcohol which interfered with the health, safety, or right to peaceful enjoyment of the premises by other residents. Acceptable landlord references, personal references and court and police record reports showing that no household member has exhibited these patterns may constitute adequate evidence that the household meets this criteria.

In evaluating applicant families under this criteria, DHS may consider information which demonstrates to the satisfaction of the Housing Authority that the person is no longer engaging in illegal use of a controlled substance or abuse of alcohol and:

- has successfully completed a supervised drug or alcohol rehabilitation program;
  - has otherwise been rehabilitated successfully; or
  - is participating in a supervised drug or alcohol rehabilitation program.
- j. There is no evidence relating to previous habits or practices which indicate that the applicant or any member of the applicant household would likely have a detrimental effect on the public housing community if admitted.

4. *Verification Procedures.* DHS may use the following procedures to verify if the applicant meets the tenant selection criteria:

- a. *References from Landlords and Prior Landlords.* DHS will obtain references from current and prior landlords for the past five years (or longer if needed to get a minimum of two prior landlords), if any, and places great importance on the information obtained from these references as prior landlords have relationships with prospective tenants that are similar to the relationship to be established with DHS.

DHS will attempt to check court records for evidence of evictions or judgments against members of the household. References from landlords who are related by blood or marriage are generally considered to be insufficient. In addition, DHS may schedule and perform a home visit and/or attempt to interview the current housing provider and others who are familiar with the behavior and abilities of household members.

- b. *Home Visits.* DHS staff will perform a home visit for applicants for whom landlord references of acceptable credibility and quality are not available. The purpose of the Home Visit is to obtain information to be used in determining whether the applicant household meets certain of DHS's tenant selection criteria and will consider the following:

- (i) Condition of entrance ways, halls and yards.
- (ii) Cleanliness in each room used by the household, including rooms shared with other households, if applicable.
- (iii) General care of furniture, appliances, fixtures, windows, doors and cabinets.
- (iv) Evidence of destruction of property.
- (v) Evidence of unauthorized occupants.
- (vi) Evidence of criminal activity.
- (vii) Conditions inconsistent with the information supplied in any application or other document submitted by the household.

Applicants will be given at least two days' advance verbal notice of the home visit. If the results of the home visit indicate tenant-caused health or safety hazards, tenant-caused damages, or housekeeping practices leading to infestation by pests or other tenant-caused conditions or practices which would diminish the applicant's ability to meet DHS's lease obligations, the applicant household will be considered to have failed DHS's tenant selection criteria.

- c. *Police and Court Records Check.* DHS will obtain or have the applicant obtain police and court records for all adult members of the applicant family for evidence of behavior which is relevant to the tenant selection criteria outlined herein.
  - d. *Credit Reports.* DHS may obtain credit reports on all adult family members to determine the household's history of meeting financial obligations, especially rent and utilities. Lack of credit history will not, in itself, cause an applicant to fail this criteria.
5. *Sources of Information.* Sources of information that DHS may use include but are not limited to:
- a. Members of the applicant household.
  - b. Present and prior landlords or housing providers.
  - c. Home visits.
  - d. Present and former neighbors.
  - e. Present and former employers.
  - f. Personal references.
  - g. Credit bureaus.
  - h. Landlord Record services, where applicable;
  - i. Social workers, school officials, drug and alcohol treatment centers, clinics, health care providers and clergy, and guidance counselors;
  - j. Police departments, parole officers, court records; and
  - k. Department of Economic Security, Internal Revenue Service.
6. DHS staff will be the final judge of what constitutes adequate and credible information. If there are sufficient doubts with respect to the veracity, credibility, or reliability of any information received, DHS retains the right to pursue alternative sources of information until satisfied that the information received is the best available.
7. In the event that DHS receives adverse and unfavorable information regarding an applicant household, consideration will be given to the time, nature and extent of the applicant's conduct and to factors which might indicate a reasonable probability of favorable future conduct and that certain undesirable

behavior will not be repeated. In making this consideration, DHS shall consider all relevant circumstances including:

- a. the severity of the potentially disqualifying behavior or conduct;
  - b. the amount of time which has elapsed since the occurrence of such behavior or conduct;
  - c. the degree of danger, if any, to the health, safety, and security of others, to the security of the property of others or to the physical conditions of the housing development and its common areas if the behavior or conduct recurred;
  - d. the likelihood that the behavior or conduct in the future will be substantially improved.
8. Applicants who fail any of the tenant selection criteria will be sent a Notice of Rejection. These applicants will be considered ineligible for housing at DHS for a period of one (1) year from the Notice of Rejection and will be removed from the waiting list. After the one year period, these applicants may reapply for housing, subject to all conditions outlined herein. See Appendix B for Informal Review Procedures.
  9. The Housing Authority shall maintain a record of all applicants determined ineligible as a result of the failure to meet its Tenant Selection Criteria with an indication of the specific reason(s) for the determination of ineligibility.

### III. APPLICATION FOR ADMISSION

#### A. Application Intake

DHS will accept applications for admission to DHS housing only during publicly announced time periods during which all interested persons may apply for admission to DHS housing. Applications will be accepted at the Office located at 857 Calle los Mayores, Bernalillo, NM during specified dates and business hours posted at the office. Individuals who have a physical disability that may prevent them from completing an application in person may call DHS to make special arrangements for completing the housing application. Reasonable accommodation will be made upon request to DHS for persons with visual and hearing disabilities.

When the number of applicants who can be served within a reasonable period of time is reached, the waiting list(s) may be closed by unit size and/or housing type. Notice of opening and closing of the waiting list(s) shall be made in a newspaper of general circulation and announced by other suitable means. When the waiting lists for one or more unit sizes or housing type are to be reopened, the Housing Authority will clearly state in the public announcement the procedure to be employed to determine the position of each applicant on the waiting list.

#### B. Criteria for Placement on Waiting List

An applicant will be assigned to the appropriate waiting list(s) according to the policies for public federal housing outlined below:

Applicants will be placed on the waiting list by:

1. Unit size/type needed
2. Date and time of applications; and
3. Local preferences

Federal regulations no longer give preference to elderly, disabled, or displaced families over other single persons in federal housing programs.

#### C. Maintaining an Active List

The pool of active applicants will be kept current by requiring each applicant to inform the Housing Authority at least once annually of continued interest. DHS will send an update letter to the applicant, requiring the applicant to submit a form indicating continued interest and any updated information, such as change of address or household information within ten (10) days. If the applicant fails to respond within that time frame, the applicant's name will be removed from the waiting list.

D. Responsibility to Report Changes

Applicants on the waiting list must also report to the Housing Authority any changes in income, preference status, family composition, address or any other information provided on the preliminary application as they occur. Any such changes could affect the applicant's status or eligibility for housing. Any applicant knowingly providing false information or fraudulent statements affecting the applicant's status or eligibility for housing will be removed from the waiting list.

E. Removal from the Waiting List

An applicant may withdraw an application at any time. A withdrawn application cannot be reactivated and the applicant who has withdrawn an application shall be required to reapply. Any applicant removed from the waiting list by DHS will be notified in writing of the reason(s) for which the application is being removed. Such notification shall inform the applicant of his/her right to an informal review of the determination and will be made part of the application record. The Housing Authority will provide the applicant, upon written request, within ten (10) days from the date of the notification, an opportunity for an informal review of the determination of removal from the waiting list.

F. Record Keeping

The Housing Authority will keep a copy of each application received. For each applicant, the Housing Authority will document its determination that the applicant is eligible and meets admission standards, or is ineligible and does not meet admission standards, or is removed from the waiting list for any other reason. The Housing Authority will also maintain a record of the dwelling unit(s) offered to an eligible applicant, including the location, date, and circumstances of the offer and its acceptance or rejection. A copy of each application will become a part of a tenant's file during participation in the program. Inactive files will be maintained for a minimum of three years from the date of final action. Waiting list information will contain race or ethnic designation of head of household.

G. Eligibility Determinations

Applicants will be placed on the waiting list based on information provided on the preliminary application form.

1. *Preliminary Application Form*: DHS shall utilize a preliminary application form (pre-application). The purpose of the pre-application is to permit the DHS to assess family eligibility or ineligibility and to determine placement on the waiting list. Duplicate pre-applications, including applications from a segment of an applicant household, will not be accepted. Ineligible applicants or incomplete applications from applicants will not be placed on the waiting list.

With the exception of the preference for emergency status (see below), preferences will not be verified until the applicant has been invited in for final eligibility determination.

2. If an applicant is determined to be ineligible for placement on the waiting list based on the information provided in the pre-application, the DHS will notify the applicant in writing, state the reasons, and inform the applicant of his/her right to an informal review in accordance with Appendix B.
3. *Final Eligibility Determination:* When staff estimate that a unit will become available for applicants within the next several months, applicants in waiting list order, will be invited to attend an interview and submit an application for final eligibility for housing, after which the formal verification process and resident selection process will commence.
4. *Verification of Final Eligibility Determination:* Each applicant household shall be required to provide all information and authorizations necessary to enable DHS to verify the applicant's qualification for preference status, income eligibility, household composition and conformance to the Housing Authority's Tenant Selection Criteria.
  - a. The qualification for preference(s) must exist at the time the preference(s) is verified regardless of the length of time an applicant has been on the waiting list because the preference is based upon current status. If the applicant fails to qualify for the preference claimed, his/her placement on the waiting list will be modified to reflect the current preference(s) and the application will be treated accordingly.
  - b. Information may be required for any or all household members. Verification shall be from third party sources whenever possible. However, the applicant shall not be penalized either by denial of admission or by unreasonable delay of placement solely because third party sources have failed to respond to requests for information. When the applicant and DHS have made all reasonable efforts to obtain information and the third party source has failed to respond, DHS shall proceed with the processing of the application using the best available information.
  - c. Each applicant household shall have an interview with a member of the management staff. Every member of the applicant household should be present at the office visit except if there are extenuating circumstances.
5. DHS shall require the applicant to:
  - a. Sign all forms necessary to determine eligibility and suitability;
  - b. Provide verification of income, assets, exclusions and deductions from income;

- c. Provide verification of family size, age and relationship;
  - d. Disclose the Social Security Numbers of all family members six (6) years of age and older;
  - e. Provide citizenship information;
  - f. Provide the names and addresses of the applicant's current and previous landlords for the past five years (or longer if needed to get a minimum of two prior landlords);
  - g. Provide the most recent six (6) month rent receipts where appropriate;
  - h. Provide any other information DHS determines is necessary to determine eligibility for housing at DHS (See Chapter II, D).
6. All verifications and documentation received by DHS for use in the determination of eligibility for housing at DHS will be analyzed by staff and a determination made with respect to:
- a. Eligibility of the applicant family based on the requirements outlined in Section II of this Policy;
  - b. Housing type and unit size requirements;
  - c. Qualification of the applicant with respect to preferences claimed, if appropriate;.
  - d. Qualification of the applicant family with respect to the Tenant Selection Criteria outlined in Section IIE.
7. Applicants determined to be ineligible for housing at DHS will be promptly notified and will receive a Notice of Ineligibility from the Housing Authority stating the basis for this determination. DHS will provide such applicants with the opportunity for informal review of the decision in accordance with the HUD regulations and the procedure for informal hearing contained in Appendix B of this Policy.
8. Applicants who have disabilities who have been determined to be eligible but who fail the Tenant Selection Criteria will have their cases examined by DHS to determine whether mitigating circumstances or reasonable accommodations will make it possible for them to be housed in accordance with the selection criteria outlined herein.
9. *Changes in Preferences and/or Unit Size Determination.* If, during the final eligibility determination, or at any other time prior to placement, it is determined that the family's qualification for certain preferences has changed and/or family composition has changed making the family eligible for a

different size unit, the family's application shall be placed on the waiting list for the new unit size based on the original date of the family's pre-application.

#### IV. SELECTION FROM THE WAITING LIST

##### A. Overview

For its federally-assisted public housing, all otherwise eligible applicants will be assigned to the waiting list according to date and time of application, unit size and type required, and preference status determined as described in Sections B and C below.

##### B. Income Targeting

In each fiscal year, DHS shall reserve a percentage of its new admissions for families who are extremely low income. An extremely low-income family is one whose annual income does not exceed thirty percent of area median income. The goal shall be forty percent of new admissions.

The intent of these Income Targeting requirements is to maintain a tenant body in each of DHS's federal developments composed of families with a broad range of income and rent paying ability which is generally representative of the range of incomes of low income families within Bernalillo.

DHS will monitor admissions to its federally assisted public housing units at the end of each quarter throughout the fiscal year. If, at the end of any quarter, extremely low-income families make up less than forty percent of admissions for the fiscal year to date, DHS will give priority to extremely low-income families in each of the established preference categories until extremely low-income admissions again make up 40%. Giving priority to extremely low-income families may require skipping families on the waiting list to accomplish DHS's stated goals.

Appendix D contains DHS's Deconcentration Policy.

##### C. Local Preferences

1. *Criteria:* DHS has established the following local preferences:
  - a. Resident. Applicants will qualify as a resident and be assigned preference points if they live and/or work in the County of Sandoval at the time of application and placement. Applicants who are working or who have been notified that they have been hired to work in Sandoval County will also qualify as residents provided they provide third party proof of pending employment. An applicant will lose resident preference if he/she moves out of Sandoval County or stops working in Sandoval County prior to placement.
  - b. Graduate/Participant in Training and Education. Applicants whose head of household or other adult family members is a recent graduate (within two years) or an active participant in an educational and/or training program

designed to prepare the person for the job market will qualify for local preference points.

- c. Working family, applicants, whose head of household, spouse or co-head is employed and has earned income for six (6) consecutive months prior to submitting the application, or is elderly or disabled will qualify for local preference points. An applicant household will be eligible for one allotment of points for this preference category regardless of the number of employed, elderly or disabled or combinations thereof in an applicant household. An applicant will lose the employed preference if he/she becomes unemployed prior to placement.
- d. Other Applicants. Applicants who do not qualify for any other type of local preference category will be considered an “other applicant”.

2. *Points.* DHS will assign local preference point values as follows:

Local Preferences	Point Value
Resident	1
Graduate or Participant in Training/Education	2
Working Family	3
Other Applicant	0

Preference points shall be cumulative, and the applicant with the highest total preference points and the earliest application date on a particular waiting list will be housed first.

- 3. *Verification.* DHS shall require all applicants to verify qualification of local preferences as follows:
  - a. Resident. DHS will accept employment verification, a landlord reference or a preponderance of evidence by other means, such as utility bills, school registration records and home visits as proof of local residency.
  - b. Graduate or Participant in a Training and Education Program. DHS will accept a certificate or letter from an accredited or locally recognized training or education program designed to prepare the person for the job market as proof of qualification for this preference.
  - c. Working Family. DHS will accept verifications from employers which indicate that the applicant is currently employed. For elderly, DHS will accept birth certificates or other generally accepted proof of age as proof. For disabled, DHS will accept a certification from the applicant’s regular medical provider, or by evidence that the head of household or spouse is receiving Social Security Disability, or Supplemental Security Income Disability for him/herself.

D. Offer of a Unit

1. Units will be offered to the applicant with the highest preference points and earliest application date for that housing type and bedroom size. If the applicant rejects the offer, the applicant's name will be taken off the waiting list. If applicant is on the waiting list for the Section 8 program or any other program administered by DHS, refusal of a family public housing unit will not affect placement on other lists.
2. For purposes of this policy, the applicant will not be considered to have been offered a unit if he/she provides clear evidence to the satisfaction of DHS that one of the following circumstances apply:
  - a. The unit is not of the proper size and type, and the applicant would be able to reside there only temporarily.
  - b. The applicant is unable to move at the time of the offer because of serious and unusual circumstances which are beyond the applicant's control, and the applicant presents clear evidence which substantiates this to DHS's satisfaction. Examples:
    - A doctor verifies that the applicant has just undergone major surgery and needs a period to recuperate;
    - A court verifies that the applicant is serving on a jury which has been sequestered.
  - c. Accepting the offer would result in undue hardship to the applicant not related to considerations of race, creed, color, national origin or language, such as making employment or day care facilities inaccessible, and the applicant presents clear evidence which substantiates this undue hardship to DHS's satisfaction.
3. An applicant must respond to, and accept or reject the offer within five (5) business days from the date the offer is made. If an applicant fails to keep a scheduled appointment to view a unit offered for occupancy or fails to respond to written correspondence from the Housing Authority within five (5) days, for other than a justifiable reason, such failure shall result in removal from the waiting list. The person may reapply at a time that applications are being accepted. However, an applicant will not be eligible for any preference points for a twelve month period commencing with the date the offer is rejected or the applicant failed to respond.

## V. UNIT SIZE AND OCCUPANCY STANDARDS

### A. Appropriate Unit Size

It is the policy of DHS to ensure that the dwelling units are occupied by families of the appropriate size. The following chart outlines the allowable number of occupants per bedroom based on HUD guidelines:

No. of Bedrooms	No. of Persons Min.	No. of Persons Max.
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8
5	5	10

### B. Factors in Dwelling Size Determination

Dwelling units will be assigned so that it will not be necessary for persons of different generations or opposite sex (other than married or cohabitating couples) to share a bedroom. Two children of the same sex may be required to share a bedroom regardless of age and children of the opposite sex may be required to share a bedroom if one is under the age of three. Children shall generally not be required to share a bedroom with a parent; however, one very young child may share a bedroom with one parent if there are no larger units available for the family. Assignment will take into consideration households who share joint custody of any individual under the age of 18 at least 50% of the time. Foster children shall be considered in determining dwelling unit size. No unit assignments will be made which require use of the living room for sleeping.

### C. Bedroom Size Determination for Single Pregnant Individuals

When making bedroom size determinations, a single individual with no other children who is pregnant at the time of application (proof may be required by a licensed physician) or who is in the process of securing legal custody of any individual under the age of 18, will be housed in a two bedroom unit. If the pregnancy is terminated or legal custody is not granted, the applicant would no longer qualify for a two-bedroom unit but would be considered for a one-bedroom unit.

### D. Reasonable Exceptions in Emergency Situations

The criteria and standards prescribed above apply to all families applying for housing at DHS; however, reasonable exceptions to the standards listed above may be made in emergency situations, and in some cases, relationship, age, gender, health, or disability of family members may warrant assignment of a larger or smaller unit by DHS staff or at the request of the applicant family. Written approval of such cases will be made by the Executive Director or his/her designee.

E. Requirements for Live-In Aide

Any applicant or tenant who requires a live-in aide, who will be responsible for the essential care and well-being of a family member on a daily basis will be assigned a bedroom to accommodate this aide, provided that the applicant or tenant can show documentation to support the fact that the live-in aide would not be living in the unit except to provide necessary supportive services. A live-in aide will not be listed on the lease and does not have rights to the unit for continued occupancy as a remaining family member.

F. Handicap Accessible Units

When an accessible unit becomes available, DHS shall offer the unit in the following order:

1. To current DHS tenants who have a disability or handicap who would benefit from the unit's accessible feature(s), but whose current unit does not have such features. If there is more than one current tenant requiring the accessibility features of the available unit, the family with the earliest written request for a transfer shall be selected for the unit.
2. To eligible and qualified households on the waiting list who have a disability or handicap and would benefit from the unit's accessibility features based upon local preference points and the date and time of the application. This is despite the presence on the waiting list of households with preferences and/or earlier application dates who do not require the specific accessibility features of the available unit.
3. To other eligible and qualified households on the waiting list without disabilities. In this case, the household must agree, in writing, to transfer to a non-accessible unit at the request of the Housing Authority.

## VI. LEASE

### A. Lease Execution

At admission, a Lease Addendum for Drug-Free Housing, and a Pet Agreement, if applicable, is to be entered into between the Housing Authority and each tenant family. The lease shall be for a twelve (12) month period and is automatically renewable except for failure to comply with the eight-hour service requirement discussed in Section C below. The dwelling lease is to be kept current at all times and is to reflect rent being charged and the conditions governing occupancy.

1. If, for any reason, any signer of the lease ceases to be a member of the tenant family, the lease will be cancelled, and a new lease and Pet Agreement, if applicable, must be executed and signed by a remaining member of the family who qualifies and is determined to be eligible for continued occupancy by DHS.
2. If a tenant family transfers to a different unit operated by the Housing Authority at the sole discretion of DHS, the existing lease may be cancelled and a new lease and Addendum for Drug Free Housing and Pet Agreement, if applicable, executed by the head of household and co-head, if one, for the dwelling unit into which the family is to move.
3. If at any time during the life of the lease, a change in the tenant's status or DHS needs results in the need for changing or amending any provision of the lease, or if the Housing Authority desires to waive any provisions with respect to the tenant, the DHS at its sole discretion will have either:
  - a. The existing lease cancelled and a new lease agreement executed; or
  - b. An appropriate amendment prepared and made a part of the existing lease. The new lease amendment is to be made a part of the permanent tenant file. A lease amendment is to be attached to the existing lease, and must be signed by both the tenant and a Housing Authority representative.

### B. Security Deposits

The Housing Authority will comply with New Mexico state law, including requirements for: amount of security deposit, exemption from attachment and execution, payment of security deposit and interest at termination of tenancy, action to reclaim security deposit, escrow deposit, payment of interest, investigation of complaints, and penalties. A security deposit of \$100 for families and \$75 for the elderly and disabled.

1. The security deposit is to be paid in full immediately upon execution of the lease. Security deposits will be held on account by the Housing Authority in accordance with applicable state law.

2. Concerning the payment of the security deposit at the end of tenancy, DHS shall pay to the tenant or former tenant:
  - The amount of any security deposit that was deposited by the tenant with the Housing Authority less the value of any damages suffered as a result of such tenant's failure to comply with such tenant's obligations; and
  - Any accrued interest due on such security deposit at a rate not less than the average rate paid on savings deposits by insured commercial banks as published in the Federal Reserve Board Bulletin.
3. Upon termination of a tenancy, the tenant must notify DHS in writing of his/her forwarding address. Within thirty days after termination of a tenancy, the Housing Authority shall deliver to the tenant or former tenant at a forwarding address either:
  - The full amount of the security deposit paid by such tenant plus accrued interest (as mentioned above); or
  - The balance of the security deposit paid by the tenant plus accrued interest, after deduction for any damages suffered because of the tenant's failure to comply with the tenant's obligations, together with a written statement itemizing the nature and amount of such damages.
4. If a tenant fails to notify DHS of the his/her forwarding address at the time of move-out, the tenant forfeits his/her claim to any remaining amounts of the security deposit not used to cover unpaid rent and charges or damage.

C. Eight Hour Community Service Requirement

The Quality Housing and Work Responsibility Act of 1999 (QHWRA) effective October 1, 1999, with important exceptions, requires public housing residents to participate for at least eight (8) hours a month, in a community service or economic self-sufficiency program. This requirement invokes a provision requiring one (1) year public housing leases to be automatically renewable except for failure to comply with community service requirements.

The list of exemptions provided in the QHWRA includes adults who are 62 years of age or older, persons with disabilities, persons engaged in work activities (as defined by section 407(d) of the Social Security Act), and persons participating in a welfare-to-work program, or receiving assistance from and in compliance with a state program funded under part A, Title IV of the Social Security Act (for purposes of the community service requirement, an adult is a person 18 years or older).

At the time of initial admission to federal public housing, the Authority will determine and document which adults are exempted from this requirement. Documentation of exempted status will be placed in the resident file. The same

standards for verification of exempted status will be used as with other information pertaining to eligibility and tenant selection.

Residents not exempted will be informed of the requirements and provided with a list of approved community service and self-sufficiency activities. Staff will work with each non-exempt resident to determine how each month's requirements will be met and a plan developed that will be placed in the resident file.

Residents may request a change in their status during the year by contacting the property manager. For example, a formerly unemployed adult who finds work may request a change in status from the property manager.

D. Tenant Orientation

Eligible applicants selected for admission will be required to participate in a mandatory orientation program conducted by DHS to acquaint new tenant families with the following policies and procedures: the Dwelling Lease; Maintenance Procedures, services provided by DHS, resident initiative activities, Grievance Procedures, tenant rights, responsibilities and obligations, the rent collection policy, and the operation of heating, cooling, and plumbing equipment in the units.

Failure to attend a scheduled orientation session without notice to DHS will result in the family's application being placed on the inactive file and the household may be required to reapply for DHS housing.

E. Dwelling Unit Inspection Policy

1. *Pre-occupancy.* Prior to occupancy, a DHS representative and the tenant, or his/her representative, will inspect the premises. DHS will furnish the tenant a written statement of the condition of the premises and the appliances provided in the dwelling unit where appropriate. The statement will be signed by DHS representative and the tenant, or representative, and a copy will be kept in the tenant's file.
2. *Two Month.* An inspection of the dwelling unit may be conducted two months after a tenant's move-in date to check needed maintenance, tenant housekeeping, and other lease compliance matters. DHS will furnish the resident with a written statement of any charges, if any, for repairs or removal of non-approved alterations to the apartment.
3. *Annual.* An inspection of each dwelling unit will be conducted on at least an annual basis to check needed maintenance, tenant housekeeping, and other lease compliance matters. DHS will furnish the resident with a written statement of unit conditions and/or charges, if any, for repairs or removal of non-approved alterations to the apartment.

4. Special Inspections. Representatives from HUD and/or other US Government Officials may visit the Authority to monitor operations and as part of the monitoring may inspect a sampling of the federal public housing inventory.
  5. *Move-Out*. Immediately after a tenant moves out, a DHS representative will inspect the dwelling unit. The tenant is encouraged to participate in this move-out inspection and must contact the management office prior to move-out to schedule the joint inspection. A written statement of the unit conditions, and any DHS provided appliances will be signed by both parties.
    - A statement of repair/replacement charges for tenant caused damages and charges for cleaning of the unit and appliances, if necessary will be furnished to the tenant and deducted from his/her security deposit if remittance is not made to DHS.
  6. DHS, in its sole discretion, may randomly and periodically inspect units when it believes there are reasonable grounds for an inspection.
  7. A copy of the move-in and/or move-out, two month and housekeeping inspection reports will be kept in the tenant files.
  8. Annual Unit Inspections and Preventive Maintenance (PM) inspection forms will be kept in the unit maintenance file.
- F. Rent, Other Charges, and Rent Adjustments
1. *Rental Payments*. Family choice of rental payments. HUD regulations provide that public housing families can elect annually whether the monthly rent is a flat rent or income-based rent. Flat rents are set by DHS based on the rental value of the unit. Income-based rents are calculated based on the level of the resident's income and shall be the higher of 10% of income, 30% of adjusted income, the housing portion of the welfare rent or the minimum rent. Families experiencing hardships may switch from paying flat rents to income-based rents. Incomes of families paying flat rents must be reviewed not less than once every three years; incomes of families paying income-based rents must have income and family composition reviewed annually.
  2. *Minimum Rent*. For its federal low-rent housing program, DHS has established \$50 as its minimum Total Tenant Payment (TTP).
  3. *Flat Rents*. DHS, in compliance with HUD regulations, has implemented flat rents for its public housing units, using the Fair Market Rents (FMRs) for the area or other permissible means in the best interest of DHS. Families may elect to pay a monthly flat or income-based rent.

4. *Utility Allowance.* Any family living in a federally-assisted development whose allowance for tenant paid utilities exceeds the Total Tenant Payment will receive a payment from the Housing Authority equal to the amount by which the allowance exceeds the Total Tenant Payment.
5. *Maintenance Charges.* Schedules of charges for maintenance repairs and other services shall be publicly posted in a conspicuous place in the management office and shall be furnished to applicants and tenants upon request. The Housing Authority will notify tenants in writing when such charges are assessed. These charges shall become due and payable fourteen (14) days after such notice has been given to the tenant. A copy of all work orders for tenant abuse are filed in the tenant file.
6. *Excess Utility Charges.* A schedule of charges for excess utilities shall be publicly posted in a conspicuous place in the complex office and shall be furnished to applicants and tenants upon request. The Housing Authority will notify tenants of these charges and they shall become due and payable fourteen (14) days after such notice has been given to the tenant.
7. *Late Charges.* A late charge of \$20 shall be assessed when rent or other charges are not paid on or before the 5<sup>th</sup> calendar day of the month. This charge is due immediately.

## **VII. REEXAMINATION OF INCOME AND FAMILY COMPOSITION, ADJUSTMENTS AND OTHER ANNUAL REQUIREMENTS**

### **A. Reexamination Procedures**

1. The income, allowances and family composition of tenant households electing an income-based rent shall be reexamined at least once a year in accordance with an established reexamination schedule. Residents electing to pay a flat rent shall have family composition reexamined annually and income reexamined every three years. Reexaminations determine the tenant's monthly rent, eligibility for continued occupancy and the required unit size. The Housing Authority follows all pertinent HUD regulations in its completion of reexaminations. On an annual basis, each resident family will be provided the opportunity to choose between an income-based or flat rent.
2. Each year prior to a resident's anniversary date, PHA will send a formal letter offering a choice between a flat rent and an income-leased rent and scheduling the date/time of the reexamination interview. At the appointment, the Housing Authority will assist the family in identifying the rent method that would be most advantageous for the family. If the family chooses to select the flat rent without meeting with the Authority, they may make this selection on the notice described below and return the form to PHA. In such cases, PHA will cancel the reexamination appointment.

The annual notice sent to all current residents regarding the reexamination process will state the following:

- Each year at the time of the annual reexamination, the family has the option to pay a flat rent amount or having their rent based on income.
- The amount of the applicable flat rent.
- The amount of the current income-based rent based on the most current information available.
- A fact sheet about income-based rent which lists and explains the types of income included, the most common types of income excluded, and the categories of allowances that are deducted from income.
- Families who choose to continue to pay a flat rent are required to go through the income reexamination process every three years, rather than annually for residents paying an income-based rent.
- Families who choose a flat rent may request to have a special reexamination and return to an income-based rent at any time for the following reasons:
  - The family's income has decreased.

- The family's circumstances have changed and expenses have increased for child care, medical care, etc.
  - Other circumstances which have created a hardship for the family such that an income-based rent would be more financially feasible at this time.
- The date and time of the annual reexamination appointment.
  - The name and phone of an individual to call to get additional information and guidance on flat and income-based rents.
  - A certification for the family to sign accepting the flat rent.
3. At the time of the reexamination (annually or every 3 years), families must provide the Housing Authority with all necessary information to verify income and family composition and sign all required certification forms and the Authorization for Release of Information form.
  4. In the event that a tenant household fails to keep a scheduled reexamination appointment or promptly submit all necessary information, he/she shall be given ten (10) days from the date of written notification to provide PHA with the required information.

In the event the tenant fails to participate in the interview and/or to provide information required by PHA, the Housing Authority may establish the tenant's rent based upon local market rents or actual operating cost whichever is higher until the matter is resolved and/or terminate the tenant from the program.

Employment and income data, assets, full-time student status, medical expenses (elderly and disabled state moderate families only), child care expense, and handicapped assistance expenses will be verified, documented and placed in the tenant's folder.

Third party written verifications will be obtained whenever possible. When the PHA and tenant household have made all reasonable effort to obtain third party written verifications, documents obtained from the tenant and photocopied is an acceptable form of verification, when not prohibited by law. If photocopying is prohibited by law, Housing Authority staff will sign a statement confirming that the verification documents were viewed by recording the document source, date, time, amount, etc. Oral third party verifications are also acceptable, if properly documented. When such documents cannot be photocopied or orally verified, PHA will proceed with processing using the best possible documentation and information available. All verifications will be maintained in the tenant's folder.

Verified information will be analyzed and a determination of rent and of the appropriate unit size made.

5. *Determination of Compliance with Community Service Requirements.* The Authority will determine on an annual basis whether adult residents subject to the eight (8) hours a month service requirement are in compliance. Staff will also determine if adult residents originally exempt from the requirements have become non-exempt (see Section VI). Adult residents who, because of the annual review, are determined to be non-exempt will be provided with a list of DHS approved community service and self-sufficiency activities and a Plan developed and placed in the resident file. For residents paying a flat rent, the review will be performed and appropriate action taken by the property manager 12 months after the initial status determination and every 12 months thereafter.

If a resident is determined to be non-compliant with the monthly community service requirement, the Housing Authority will notify the family of the following:

- The family member(s) determined to be non-compliant.
- That the determination is subject to the grievance procedure.
- That, unless the family member(s) enter into an agreement to comply, the lease will not be renewed or will be terminated.

The Housing Authority will offer the non-compliant family member(s) the opportunity to cure the non-compliance by making up the deficient hours over the next 12-month period. The Housing Authority will assist the family member(s) in identifying community service opportunities and will track compliance on a monthly basis. The non-compliant adult and the head of the household will be required to sign an agreement that continued non-compliance will result in the eviction of the entire family, unless it is proven to the satisfaction of PHA that the non-compliant adult is not longer a member of the household.

6. *Temporary Rent Determinations and Special Reexaminations.* When it is not possible to determine the anticipated annual income with any reasonable degree of accuracy at the time of admission or reexamination, a temporary determination of income and rent will be established, giving due consideration to the tenant's past income and other available information. An interim reexamination will be scheduled to take place within 30 days for most households, and within 90 days for households where annual income is zero or difficult to predict. The tenant is to be notified in writing of the date of the special reexamination.

Special reexaminations will continue to be scheduled until a reasonable estimate of the Adjusted Income can be made. Rents determined at special reexaminations shall be made effective the first of the second month following

the final rent determinations. Until the final rent determination can be made, the family will pay rent based upon the existing Adjusted Income.

If the Total Family Income can be reasonably estimated at the time scheduled, the reexamination is to be completed and actions taken as appropriate to adjust the Tenant Rent amount.

7. *Changes in Rent*

a. Limit on rent increases.

(i) Federal housing regulations preclude DHS from increasing a qualified family's rent as a result of an increase in income due to employment during the cumulative twelve (12) month period beginning on the date a member of the family is employed or experiences an increase in annual income due to employment. A qualified family is a family currently living in public housing whose:

- annual income increases as a result of employment of a family member who was unemployed for one or more years previous to employment; or
- annual income increases as a result of increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or
- annual income increases as a result of new employment or increased earnings of a family member, during or within six (6) months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by DHS in consultation with the local TANF and Welfare to Work agencies.

(ii) During the second cumulative twelve (12) month period after the date a member of a qualified family is first employed or the family first experiences an increase in annual income due to employment, DHS will exclude from annual income 50% of any increase in annual income attributable to employment over the income of that family member prior to the beginning of employment.

(iii) Maximum four-year disallowance. DHS will limit the disallowance of increased income of an individual family member outlined in (i) and (ii) above to a lifetime 48-month period. The disallowance of increased income is limited to a maximum of 12 months under (i) and a maximum of 12 months under (ii) above, during the 48-month period beginning from the initial exclusion.

(iv) This disallowance of increases in income as a result of employment does not apply for purposes of admission to the public housing program (including the determination of income eligibility and income targeting).

b. *Loss of Welfare Benefits.* If a family's welfare benefits are reduced, in whole or in part, for a family member because of fraud or because of a welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program, DHS will not reduce the rent to reflect the lost benefit. DHS will include in the family's annual income for purposes of determining rent, an imputed welfare income. Imputed welfare income is the amount of annual income not actually received by a family as a result of a welfare benefit reduction, that is included in the family's income for purposes of calculating rent.

DHS will request from the welfare agency the amount and term of any specified welfare benefit reduction for a family member and will use this information to determine the amount of the imputed welfare income for a family.

- DHS may deny a request for a rent calculation only after obtaining written verification from the welfare agency that the family's benefits have been reduced for one of the reasons stated above.
- Residents subject to the imputed welfare income requirement and who disagree with the determination may request a grievance hearing in accordance with DHS's Grievance Procedure. The tenant is not required to pay an escrow account deposit for the portion of the tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing.
- This restriction does not apply if the reduction in benefits is a result of:
  - The expiration of a lifetime time limit on receiving benefits; or
  - A situation where the family has complied with welfare program requirements but cannot obtain employment (e.g., the family has complied, but loses welfare because of a duration time limit such as a cap on welfare benefits for a period of no more than two years in a five year period).
  - DHS will not include imputed income in the annual income of a family who was on the waiting list at the time the sanction was imposed by the welfare agency.

- c. Increases in rent shall be effective on the scheduled reexamination effective date, with 30 days advance notice, provided the tenant has complied with all reporting requirements. When the tenant has failed to attend interviews or to provide required information, the Housing Authority may increase the rent retroactive to the reexamination effective date, and the balance of such retroactive rent adjustment must be paid within ten (10) days of notification. Retroactive charges shall not be made when delays are solely the fault of DHS.
- d. Decreases in rent shall take effect on the first of the month after the month in which the change was reported and verified.

8. *Minimum Rent Hardship Exemption*

- a. DHS shall immediately grant an exemption from application of the minimum monthly rent to any family making a proper request in writing who is unable to pay because of financial hardship for the following reasons:
  - (i) The family has lost eligibility for, or is awaiting an eligibility determination from a federal, state, or local assistance program, including a family that includes a member who is an alien lawfully admitted for permanent residence under the Immigration and Naturalization Act who would be entitled to public benefits under Title VI of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.
  - (ii) The family would be evicted as a result of the implementation of the minimum rent (this exemption is only applicable for the initial implementation of a minimum rent or increase to the existing minimum rent).
  - (iii) The income of the family has decreased because of changed circumstance, including loss of employment.
  - (iv) A death in the family has occurred which affects the family circumstances.
  - (v) Other circumstances which may be decided by DHS on a case-by-case basis.

All of the above must be proven by the resident by providing verifiable information in writing to DHS prior to the rent becoming delinquent and before the lease is terminated by DHS.

- b. If a resident requests a hardship exemption (prior to the rent being delinquent) under this section, and the Housing Authority reasonably

determines the hardship to be of a temporary nature (three months or less), exemption shall not be granted during a ninety-day period beginning on the date of the request for the exemption. A resident may not be evicted during the ninety day period for non-payment of rent. In such a case, if the resident thereafter demonstrates that the financial hardship is of a long term basis (over three months), DHS shall retroactively exempt the resident from the applicability of the minimum rent requirement for a ninety-day period. This paragraph does not prohibit DHS from taking eviction action for other violations of the lease.

B. Eligibility for Continuing Occupancy

Only those tenants meeting all of the following requirements will be considered eligible for continued occupancy:

1. Qualify as a family or the remaining member of a tenant family.
2. Have exhibited appropriate conduct since residing in public housing including:
  - Have not interfered with other tenants in such a manner as to diminish their enjoyment of the premises by adversely affecting their health, safety or welfare;
  - Have not adversely affected the physical environment of the community;
  - Have not adversely affected the financial stability of the development;
  - Have not illegally used a controlled substance or engaged in drug-related criminal activities on or off the premises; and
  - Have not interfered with the health, safety, or right to peaceful enjoyment of the premises by other tenants because of the abuse of alcohol.
3. Have abided by the terms and conditions of the lease and the Drug-Free Housing Addendum and any other addenda to the lease.
4. Have signed any required new or existing lease addendum such as the Drug-Free Housing Addendum.
5. Have complied with the Eight Hour Per Month Service requirement, if applicable. DHS will determine on an annual basis whether non-exempt residents are in compliance.

C. Interim Reexaminations

1. *Reasons for Interims.* Any of the changes listed below must be reported to DHS Management within ten (10) days of their occurrence. Failure to report changes as required may result in a retroactive rent charge and/or eviction action against

the tenant. Tenants must report the following:

- a. Residents must report any change in household composition; and
  - b. Residents must report all increases in income
2. Tenants may report the following changes which would result in a decrease in the family's rent:
    - a. Decrease in income expected to last at least 30 days; and
    - b. Increase in allowances or deductions.
  3. An interim recertification may also occur should it be found that the tenant has misrepresented the facts upon which the family's rent is based, so that the rent being paid is less than what should have been charged, or if your over-income and live in state moderate housing.
  4. *Effective Dates.* For interim reexaminations, increases in rent shall become effective on the first day of the second month following the month the change was reported, provided the change was reported within ten days of its occurrence and the family complies with the verification requirements and completes a reexam. Decreases in rent shall take place on the first day of the month following the month in which the change is reported and verified. The effective dates of changes that are not reported in a timely manner are covered in #4 below.
  5. *Errors/Omissions, Misrepresentations/Failure or Delay in Reporting Changes* (in the interest of brevity, the word "error" is used in this section to represent errors, *omissions*, misrepresentations, and failure to report changes). If an error in rent is revealed at any time, an appropriate adjustment will be made to correct the error as follows:
    - a. Errors which are the fault of the tenant:
      - Increased rent shall be retroactive to the first day of the month following the date the change occurred.
      - Decreased rent shall be effective on the first day of the month following the month the change was reported.
    - b. Errors not the fault of the tenant:
      - Increased rent shall be made effective the first day of the second month following the date the error was discovered.
      - Decreased rent shall be made retroactive to the date of the rent adjustment in which the error occurred.

D. Changes in Household Composition

1. The tenant is required to report in writing any change in household composition within ten (10) days of the change.
2. A new born child, an adopted child under 10 years old, or a child under 10 years old for whom custody has been awarded by a court to the Head of the Household or the spouse, may be added to a tenant's lease. No other new household member may be added to the tenant's lease unless and until that person has provided the required information to the Housing Authority and been determined eligible for admission according to the guidelines specified in Section II of this policy and a unit of the appropriate size is available. The Housing Authority has the right to deny admission to any person found to be ineligible.
3. A tenant must provide documentation as required by DHS when reporting that a family member has vacated the household. In the case of an income producing household member or any member which the DHS has reasonable cause to believe has been involved in criminal activity or drug-related criminal activity, DHS will require at least two documents verifying the new address of the departing family member or other evidence deemed acceptable by DHS. Utility bills, a driver's license, an automobile registration, employment verification, a lease or a rent receipt bearing the family member's name, new address and a date are examples of acceptable evidence. Court papers indicating that a family member has left the household such as a Petition for Dissolution of Marriage, a Petition for an Order of Protection from Abuse, or a Petition for Legal Separation may also be acceptable.
4. A tenant eligible for a transfer to a larger or smaller unit as the result of approved changes in household composition may request a transfer and be placed on the master transfer list effective the date the transfer request is approved (see Section VIII). A tenant reporting a decrease in household size which changes the unit size for which the family is eligible will not be required to be placed on the transfer list until the effective date of the family's next annual reexamination.

E. Visitors

Tenants will be allowed to have visitors for a period of up fourteen (14) cumulative days in any one calendar year (twelve month period), except in the case of a family member requiring care during illness or recuperation from illness or injury as certified by a physician. Written permission must be obtained from the Housing Authority for any deviation from the occupancy standards listed in this policy.

## VIII. UNIT TRANSFERS

### A. Introduction

1. Transfers of tenants from one unit to another will be approved solely in accordance with this policy.
2. Transfers shall be made without regard to race, creed, color, gender, familial status, disability or national origin.
3. Tenants shall not be transferred to a dwelling unit of equal size except for transferring a non-handicapped family residing in a handicap-accessible unit or for alleviating hardships or other undesirable conditions as determined by the Executive Director or designee.
4. Transfers will only be made when tenants are not delinquent in rent, have good housekeeping habits, have not caused damage to the current unit being occupied, and do not have long standing charges remaining outstanding on their accounts.
5. Transfer requests shall be placed on a Transfer List in the order of the date the request is approved. All transfer requests shall be reviewed by the Manager and Executive Director or his/her designee. Separate transfer lists shall be maintained for each development; however, a master listing of transfer requests shall be maintained at the main office of the Housing Authority.
6. With the exception of transfers related to modernization activity or in the case of an emergency, a tenant family transferring from one apartment to another is responsible for any costs associated with moving to the new apartment.

### B. Type of Transfers

The DHS has three types of transfers: Emergency - Category 1 and Administrative - Category 1 and Category 2.

1. *Emergency Transfers, Category 1*, are permitted when the unit or building conditions pose an immediate threat to resident life, health or safety, as determined by DHS. Emergency transfers may be made to repair unit defects hazardous to life, health, or safety, to alleviate verified medical problems of a life threatening nature, or, based on documentation provided by a law enforcement agency, to protect members of the household from attack by the criminal element in a particular property or neighborhood. These transfers shall take priority over new admissions.
2. *Administrative Transfers, Category 1*, include transfers to alleviate verified medical problems of a serious nature, permit modernization of units, permit a family that requires a unit with accessible features to occupy such a unit,

remove residents who are witnesses to crimes and may face reprisals (as documented by a law enforcement agency), or provide housing options to residents who are victims of hate crimes or extreme harassment. These transfers shall take priority over new admissions.

- a. Requests for transfers under Category 1 will be made to the Programs Coordinator. The resident will provide the Programs Coordinator with the necessary verification and/or documentation to substantiate the need for a transfer. Whenever feasible, transfers will be made within a resident's development. Transfers may also be initiated by DHS.
3. *Administrative Transfers, Category 2*, may be made to correct occupancy standards (i.e. over/under housed conditions), or to address situations such as neighbor disputes that are not criminal but interfere with the peaceful enjoyment of the unit or common areas. These transfers will not automatically take priority over new admissions.
- a. Category 2 administrative transfers will be processed with new admissions using a ratio of one transfer for every five new admissions. This ratio is discretionary and will be reviewed at least annually to determine its effects on the vacancy rate. Based on recommendations from staff, the Executive Director may authorize a change in this ratio or suspend the processing of this type of transfer.
  - b. Transfers to correct occupancy standards may be recommended at time of re-examination or interim redetermination. This is the only method used to determine over/under housed status.
  - c. Residents in an over/under housed status will be advised within 30 days of the annual or interim reexamination that a transfer is recommended and that the family has been placed on the transfer list.
  - d. When a head of household, originally housed in a bedroom alone, has a child, that child shall remain in the parent's bedroom until he/she is two (2) years of age. After age 2, a Category 2 Administrative Transfer may be recommended.

### C. Unit Offers

1. A tenant that has received a formal transfer offer is given seven (7) days to accept the offer and sign a Dwelling Lease for the new unit. Thereafter, the tenant is given an additional seven (7) days to move personal belongings. If the transfer has not been completed and keys to the former unit returned after seven (7) days, per diem rent for the former unit will be charged in addition to rent for the new unit until the keys are returned to the appropriate DHS office. However, for Authority-initiated moves for over and underhousing, the Authority shall provide at least sixty (60) days advance notice of its intention to transfer such a tenant prior to a tenant receiving a formal transfer offer.

2. If the tenant refuses a unit offer, the tenant's lease may be terminated in accordance with the lease, or at DHS's discretion, the tenant can be placed at the bottom of the transfer list as of the date of refusal and the tenant will be notified in writing. During the entire proceedings, the tenant will be advised of his/her rights under the Grievance Procedure.

D. Extended Family

Members of an extended family living in a DHS unit may not be separated into two dwelling units through a transfer application. Specific family members may apply for a separate unit using the application procedures described in this Policy. Members of such a family will receive no preference on the standard waiting list as a result of occupancy in a DHS unit.

E. Revision or Suspension of Transfer Policy

The Housing Authority reserves the right to revise or suspend its Transfer Policy because of efforts to decrease vacancies or any other management initiative. Transfers during such times will be treated on a case-by-case basis solely at the discretion of the Executive Director.

## **IX. TERMINATIONS**

### **A. Termination Notices**

1. The tenant must give a written notice to the Housing Authority of at least 30 days of intent to terminate the lease.
2. If the Housing Authority terminates the lease of a tenant household in federally-assisted housing, written notice must be given to an adult member of the household as follows:
  - a. When the health or safety of other tenants or employees of the Authority is threatened, notice of DHS's intention to terminate the lease in reasonable amount of time (but not to 30 days) considering the seriousness of the situation. The Tenant and Authority agree that seven (7) days is reasonable time for any drug-related criminal activity on or off the premises.
  - b. In the case of failure to pay rent which includes all payments due under the lease, notice of DHS's intention to terminate the lease in fourteen (14) days unless all amounts due under the lease have been paid before that date.
  - c. In all other cases, notice of DHS's intention to terminate the lease at least thirty (30) days.
3. Notice of termination to the tenant shall state reasons for the termination and shall inform the tenant of the right to make such reply as tenant may wish. The notice shall also inform the tenant of the right to examine, prior to hearing or trial, and copy at tenant's expense, Housing Authority documents directly relevant to the termination. The notice shall inform the tenant of the right to request a hearing in accordance with Housing Authority's Grievance Procedure (if the Grievance Procedure is applicable to the dispute involved).

### **B. Reasons for Termination**

The Housing Authority may not terminate or refuse to renew the lease except for serious or repeated violations of the terms of the lease including, but not limited to:

1. The failure to pay rent or other payments when due;
2. Repeated late payment, which shall be defined as failure to pay the amount of rent or other charges due by or on the 5<sup>th</sup> of the month. Three such late payments within a twelve month period shall constitute repeated late payment;
3. Failure to pay electric, gas or heating bills when Tenant is responsible for paying such bills directly to the supplier of utilities;
4. Misrepresentation of family income, assets, or composition at the time of admission or anytime thereafter;

5. Failure to supply, in a timely fashion, any certification, release, information or documentation on family income, assets or composition needed to process re-examinations or interim re-determinations;
6. Serious or repeated damage to the apartment, creation of physical hazards in the apartment, common areas, grounds or parking area of the Housing Authority's property;
7. Behavior and/or activity by Tenant, household member, guest or visitors which disturb other residents' peaceful enjoyment of their apartments; and/or is not conducive to maintaining all DHS projects in decent, safe and sanitary conditions;
8. Drug-related criminal activity by the Tenant, household member, guest or visitor on or off the premises. With respect to a public housing resident convicted of manufacturing or producing methamphetamine on the premises, eviction shall be permanent. Premises shall be defined as the building or complex in which the dwelling is located, including common areas and grounds;
9. Criminal activity by Tenant, household member, guest or visitor including criminal activity that threatens the health, safety, or right to peaceful enjoyment of the Authority's public housing premises by other residents or employees, or any drug-related criminal activity on or off the premises;
10. Alcohol and/or controlled substance abuse that the Housing Authority determines interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents;
11. The presence of weapons or illegal drugs in the resident's apartment;
12. Any fire on Housing Authority premises caused by the tenant, household members guests or visitors by their own actions or neglect;
13. Uninhabitable apartment conditions caused by the tenant, a household member, guests or visitors by their own actions or neglect;
14. Refusal of an offer of a new lease;
15. Failure to accept a transfer when currently residing in a unit that is too large or too small for the family based on the Housing Authority's Occupancy Standards or to accommodate an administrative need of DHS including but not limited to the disposition, demolition or modernization of the unit;
16. Abandonment of the unit;

17. Failure to comply with the Eight Hour Community Service Requirement as determined appropriate by DHS; and
18. Other serious or repeated violations of any material term of this lease.

C. Written Records

Written records documenting eviction actions shall be maintained by the Housing Authority in strict confidence and shall contain all of the following information:

1. Name of tenant and identification of unit occupied.
2. Copies of the Termination Notice and any subsequent correspondence or notices.
3. Specific reason(s) for eviction. For example, if a tenant is being evicted for drug-related criminal activity, the record shall detail the actions for which the eviction has been instituted.
4. Responses or answers, if any, received from the tenant.
5. Date and method of notifying tenant of reasons and showing a summary of any conference(s) with the tenant, including the names of conference participants.
6. Dated and signed records of the minutes of any hearing held.
7. Date and description of the final action taken.

D. Abandonment of the Unit

DHS will comply with New Mexico state law regarding abandonment and disposition of property left on the premises.

1. If the resident vacates or abandons the apartment for seven (7) consecutive days, fails to pay current rents, and has not notified DHS of his/her absence, DHS will take steps to:
  - Reenter and take possession of the dwelling unit;
  - Remove any possessions and personal effects remaining in the premises and reenter the premises; if the occupant does not contact DHS;
  - Dispose of all abandoned property in accordance with the state policy, if the occupant does not reclaim such possessions and personal effects within thirty days after the notice.
2. DHS shall take inventory of any possessions and personal effects of the occupant on the premises and shall remove and keep them for not less than thirty days. The occupant may reclaim such possessions and personal effects

from DHS within the said thirty-day period. If the occupant does not reclaim such possessions and personal effects by the end of the said thirty-day period, the Housing Authority may dispose of them in accordance with New Mexico state law.

**X. POSTING REQUIREMENTS/REVISIONS**

A. Posting Requirements

This document must be publicly posted in a conspicuous location in the site offices and must be furnished to applicants and tenants upon request.

B. Revisions

This document may be modified by the Housing Authority provided that the Housing Authority shall give at least a thirty-day written notice to each affected tenant setting forth the proposed modification, the reasons therefore, and providing the tenant an opportunity to present written comments which shall be taken into consideration by the Housing Authority prior to the proposed modification becoming effective. A copy of such notice shall be:

- a. Delivered directly or mailed to each tenant; or
- b. Posted in a conspicuous place at the site offices or in a similar central business location within the site.

**XI. REVISION OF OCCUPANCY POLICY RESULTING FROM CHANGES IN LOCAL, STATE, OR FEDERAL LAW OR REGULATION**

The provisions of this plan are based upon local, state and federal law and regulation. Should any applicable law or regulation change, this plan will be deemed automatically revised. To the extent that the change is mandatory (allowing no Housing Authority discretion), the text of the plan will be revised without requirement for administrative processing. By approving this provision, the Board of Commissioners understands that they are approving future automatic revisions responding to mandatory regulatory changes.

**XII. MISREPRESENTATION**

The tenant shall be notified in writing if the Housing Authority finds evidence that the tenant or any adult member of the tenant family has misrepresented facts affecting the family's eligibility or rent. Willful misrepresentation of facts may result in retroactive rent charges, eviction action, and/or criminal prosecution.

Section 1001 of Title 18 of the United States Code makes it a criminal offense to knowingly make a false statement to any department or agency of the United States as to any matter within its jurisdiction and establishes penalties or fines up to \$10,000 and/or imprisonment not to exceed five years.

### **XIII. GRIEVANCE PROCEDURE**

The Grievance Procedure sets forth the requirements, standards, and criteria established to assure the tenants of DHS an opportunity for a Hearing if he or she disputes any Housing Authority action or failure to act involving the tenant's lease or Housing Authority regulations which adversely affect the individual tenant's rights, duties, welfare or status.

Each tenant and tenant organization shall be given a copy of the Grievance Procedure and it is incorporated into this Policy on Admissions and Continued Occupancy and the lease by reference.

**XIV. PET POLICY**

DHS's Pet Policy establishes the rules and guidelines by which residents may keep domestic pets in their dwelling units and is incorporated by reference into this Policy.

Each tenant requesting permission to own and keep a pet shall be provided a copy of the Policy and be required to sign a Pet Agreement at initial occupancy or at the time of initial request for a pet and every year at time of reexamination or as otherwise required by DHS.

**XV. RELOCATION**

When DHS intends to rehabilitate a development or developments and rehabilitation activities will require tenants to move temporarily or permanently, a Relocation Plan will be developed in cooperation with the affected tenants. The plan will dictate preferences to which relocatees will be entitled and their rights to housing choices, moving expenses, etc. Such preferences may affect the order of selection for applicants and transferees, and the Relocation Plan, therefore, will serve as an amendment to this policy.

# APPENDICES

APPENDIX A  
PUBLIC HOUSING ADMISSIONS AND CONTINUED OCCUPANCY POLICY  
UTILITY ALLOWANCES

APPENDIX B  
PUBLIC HOUSING ADMISSIONS AND CONTINUED OCCUPANCY POLICY  
INFORMAL REVIEW PROCEDURES

APPLICANTS FOR PUBLIC HOUSING ONLY

I. Applicability:

- A. The Housing Authority will provide an opportunity for an informal review regarding a decision denying assistance to an applicant, including a decision:
  - 1. Denying placement on the waiting list.
  - 2. Denying participation in the Public Housing Program
  - 3. Denying a preference in determining eligibility for the Public Housing Program.
- B. The Housing Authority is not required to provide an opportunity for informal review:
  - 1. To review discretionary administrative determinations by the Housing Authority, or to consider general policy issues or class grievances.
  - 2. To review the Housing Authority's determination of the number of bedrooms determined under the standards established by the Housing Authority in accordance with HUD regulations.

II. Procedures:

- A. The Housing Authority shall give an applicant prompt written notice of a decision denying assistance to the applicant, including a decision of ineligibility for housing, ineligibility for any of the selection preferences adopted by DHS, or removal from or denying placement on the waiting list. The notice shall also state that the applicant may request in writing an informal review of the decision, and shall describe how to obtain the informal review.
- B. The applicant must submit a written request for an informal review within ten (10) days of notification of the decision denying assistance.
- C. If the applicant's request is not submitted within ten (10) days or in another way fails to comply with requirements, the request will be denied and the applicant will be promptly notified in writing.
- D. If the request meets the criteria, an informal review will be scheduled within thirty (30) days of the request.
- E. The informal review shall be conducted by any person or persons designated by the Executive Director, other than a person who made or approved the decision under review or a subordinate of such person.

- F. The applicant shall be given an opportunity to present written or oral objections to the Housing Authority's decision.
- G. The Housing Authority shall promptly notify the applicant in writing of the final decision after the informal review, including a brief statement of the reasons for the final decision. If an applicant is successful in his/her appeal, DHS shall restore or upgrade his/her application on the waiting list, as applicable.

APPENDIX C  
PUBLIC HOUSING ADMISSIONS AND CONTINUED OCCUPANCY POLICY  
GLOSSARY OF TERMS

ADJUSTED INCOME. Annual Income minus applicable allowances.

For federally-assisted housing, as defined in 24CFR Part 5.

ALLOWANCE FOR DEPENDENTS

\$480 deduction for each family member who is a dependent. (See definition of Dependent below.)

ADULT

A person, 18 years of age or older, or an emancipated minor whom the members of the family have routinely looked to as the head of the family, and who is legally competent to sign a binding agreement.

ALLOWANCE FOR DISABILITY ASSISTANCE EXPENSES

The amount of Disability Assistance Expense in excess of three (3) percent of annual income which enables a family member (including the handicapped or disabled person) to work. The allowance may not exceed the annual income earned by the family member who is enabled to work. Disability assistance expenses include costs for care attendants and auxiliary apparatus (e.g., wheelchairs, adaptations, to vehicles, special equipment) if directly related to permitting the handicapped person or other family members to work.

ALLOWANCE FOR MEDICAL EXPENSES

For elderly families (see definition of Elderly Family below) or families living in state moderate housing only qualify for the amount of unreimbursed medical expenses (see definition of Medical Expenses below) in excess of three (3) percent of annual income.

ANNUAL INCOME

1. Annual income is the anticipated total income from all sources received by the family head and spouse (even if temporarily absent) and by each additional member of the family, including all net income derived from assets for the 12-month period following the effective date of initial determination or re-examination of income, exclusive of income that is temporarily non-recurring or sporadic. Annual income includes, but is not limited to:
  - a. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
  - b. The net income from operation of a business or profession. Expenditures for business

expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the Family.

- c. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. All allowance for depreciation is permitted only as authorized in paragraph 1b of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the Family. Where the Family has Net Family Assets exceeds \$5,000, Annual Income shall include the greater of the actual income derived from all Net Family Assets or a percentage of the value of such Assets based on the current passbook savings rate, as determined by HUD or state regulations as applicable.
- d. The full amount of periodic payments received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amount for the delayed start of a periodic payment (except as provided in 2n below).
- e. Payments in lieu of earnings such as unemployment and disability compensation, worker's compensation and severance pay.
- f. Periodic and determinable income or allowances, such as alimony and child support payments and regular contributions, lottery winnings, or gifts received from persons not residing in the dwelling.
- g. All regular pay, special pay allowances of a member of the Armed Forces (whether or not living in the dwelling) who is head of the family or spouse (but see 2g below).

## 2. Income Exclusions

Annual income does not include the following:

- a. Income from employment of children (including foster children) under the age of 18 years;
- b. Payments received for the care of foster children or foster adults (usually individuals with disabilities, unrelated to the tenant family, who are unable to live alone);
- c. Lump-sum additions to family assets, such as inheritances, lottery winnings, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in 1e above);
- d. Amounts received by the Family that are specifically for, or in reimbursement of, the

- cost of Medical Expenses for any family member;
- e. Income of a live-in aide as defined in 24 CFR 5.403;
  - f. The full amount of student financial assistance paid directly to the student or to the educational institution;
  - g. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
  - h.
    - (i) Amounts received under training programs funded by HUD;
    - (ii) Amounts received by a disabled person that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
    - (iii) Amounts received by a tenant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program; or
    - (iv) A resident service stipend: this is a modest amount (not to exceed \$200 per month) received by a public housing resident for performing a service for DHS, on a part-time basis, that enhances the quality of life in public housing. This may include, but is not limited to fire patrol, hall monitoring, lawn maintenance and resident initiatives coordination. No resident may receive more than one such stipend during the same period of time; or
    - (v) Incremental earnings and benefits to any family member resulting from participation in qualifying State or local employment training programs (including training programs not affiliated with the local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program.
  - i. Temporary, non-recurring or sporadic income (including gifts);
  - j. Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;
  - k. For federally-assisted housing, earnings in excess of \$480 for each full-time student 18 years or older (excluding the head of household and spouse);
  - l. Adoption assistance payments in excess of \$480.00 per adopted child;
  - m. The earnings and benefits to any family member resulting from the participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988, section 22 of the 1937 Act (42 U.S.C. 1437t), or any comparable Federal, state or local law during the exclusion period;

For the purposes of this paragraph, the following definitions apply:

- (i) Comparable Federal State or local law means a program providing employment training and supportive services that (1) is authorized by a Federal, State or local law; (2) is funded by the Federal, State or local government, (3) is operated or administered by a public agency; (4) has as its objective to assist participants in acquiring employment skills.
  - (ii) Exclusion period refers to the period during which the family member participates in a program described in this section, plus 18 months from the date the family member begins the first job acquired by the family member after completion of such program that is not funded by public housing assistance under the 1937 Act. If the family member is terminated from employment with good cause, the exclusion period shall end.
  - (iii) Earnings and benefits refers to the incremental earnings and benefits resulting from a qualifying employment training program or subsequent job.
- n. Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump-sum amount or in prospective monthly amounts;
- o. Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit;
- p. Amounts paid by a State Agency to a family with a developmentally disabled family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home;
- q. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the 1937 Act. The following is a list of incomes that qualify for that exclusion:
- (i) The value of the allotment provided to an eligible household under Food Stamp Act of 1977;
  - (ii) Payments to volunteers under the Domestic Volunteer Service Act of 1973 (employment through VISTA, Retired Senior Volunteer Program, Foster Grandparents Program, Youthful Offender Incarceration Alternatives, Senior Companions);
  - (iii) Payments received under Alaska Native Claims Settlement Act;
  - (iv) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes;
  - (v) Payments or allowances made under department of Health and Human Services' Low-Income Energy Assistance Program;
  - (vi) Payments received under programs funded in whole or in part under the Job Training Partnership Act;
  - (vii) Income derived from the disposition of funds of Grant River Band of Ottawa Indians;
  - (viii) The first \$2,000 of per capita shares received from judgment funds awarded by

- the Indian Claims Commission or the Grant of Claims or from funds held in trust for an Indian tribe by the Secretary of Interior;
- (ix) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under the Federal work-study program or under the BIA student assistance programs. These are made available to cover the cost of tuition, fees, books, equipment, materials, supplies, transportation and miscellaneous personal expenses of a student or an educational institution;
  - (x) Payments received from programs funded under Title V of the Older Americans Act of 1965;
  - (xi) Payments received after January 1, 1989 from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, MDL No. 381 (E.D.N.Y.)
  - (xii) Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96-426, 94 Stat. 1785).
  - (xiii) The value of any childcare provided or reimbursed for under the Child Care and Development Block Grant Act of 1990.
  - (xiv) Earned income tax credit.

If it is not feasible to anticipate a level of income over a 12-month period, the income anticipated for shorter periods may be annualized, subject to redetermination at the end of the shorter period.

Any family receiving the reparation payments referred to in paragraph 2j of this section that has been requested to repay assistance under this chapter as a result of receipt of such payments shall not be required to make further repayments on or after April 23, 1993.

### APPLICANT

An applicant is a Family who is seeking assistance through the Public Housing Program and who does not yet have a fully executed lease agreement with the Housing Authority.

### APPLICATION FOR ADMISSION

The written form that is signed and dated by all adult members of the family and which includes information the Housing Authority needs to determine whether the family can be admitted. The format for this basic information will be developed by the Housing Authority.

### ASSETS

The values of (or equity) in the real property, stocks, bonds, checking and savings accounts or certificates, stocks or merchandise or valuables and other forms of capital investments (Not including personal and household belongings and automobiles). Assets shall include any asset disposed of at less than fair market value within the last two years.

### CHILD CARE EXPENSES

Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period of which annual income is computed, but only where such care is necessary to enable a family member to be gainfully employed or to further his/her education. A child care deduction will not be allowed if an adult family member is capable and available to provide the child care. The amount deducted shall reflect reasonable charges for child care, and, in the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of income received from such employment and only to the extent such amounts are not reimbursed.

### CITIZEN

A citizen or national of the United States.

### DEPENDENT

A member of the family household (excluding foster children, head of household, or spouse) who is under 18 years of age or is a disabled person or is a full-time student.

### DISABLED PERSON

A person who is under a disability as defined in Section 223 of the Social Security Act (42 U.S.C. 423), or 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) which defines a developmental disability.

Section 223 of the Social Security Act defines disability as:

“(a) the inability to engage in any substantial, gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or (b) in the case of an individual who has attained the age of 55 and is blind, the inability by reason of such blindness to engage in substantial gainful activity requiring the skills or abilities comparable to those of any gainful activity in which he/she has previously engaged with some regularity and over a substantial period of time.”

Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7) defines a developmental disability as:

"severe chronic disability that (a) is attributable to a mental or physical impairment or combination of mental and physical impairments; (b) is manifested before the person attains age twenty-two; (c) is likely to continue indefinitely; (d) results in substantial functional limitations in three or more of the following areas of major life activity: (1) self-care, (2) receptive and responsive language, (3) learning, (4) mobility, (5) self-direction, (6) capacity for independent living, and (7) economic self-sufficiency; and (e) reflects the person's need for a combination and sequence of special,

interdisciplinary, or generic care, treatment or other services which are of lifelong extended duration and are individually planned and coordinated."

#### DRUG-RELATED CRIMINAL ACTIVITY

The illegal manufacture, sale, or distribution, or the possession with the intent to manufacture, sell, or distribute, of a controlled substance (as defined in Section 102 of the Controlled Substance Act, 21 U.S.C. 802); or the illegal use, or possession for personal use, of a controlled substance.

#### ELDERLY FAMILY

A family whose head, co-head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

#### ELDERLY PERSON

A person who is at least 62 years of age.

#### EVICTION

The dispossession of the tenant from an apartment as a result of the termination of the lease, for serious or repeated violation of material terms of the lease such as failure to make payments due under the lease or to fulfill the tenant obligations set forth in HUD regulations, Federal, and state law, or for other good cause.

#### EVIDENCE OF CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS

The documents required of family member claiming U.S. citizenship or eligible immigration status.

#### EXTREMELY LOW INCOME FAMILY

A family receiving income at or below 30% of the median annual income for their area.

#### FAMILY

Family includes but is not limited to:

- a. A family with or without children (the temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size);
- b. An elderly family;
- c. A near-elderly family;

- d. A disabled family;
- e. A displaced family;
- f. The remaining adult member of a tenant family; and
- g. For federally-assisted housing only, a single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

#### FOSTER-CARE PAYMENT

Payment to eligible households by state, local or private agencies for the care of a child placed in the home by an agency.

#### FULL-TIME STUDENT

A person who is carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended. An educational institution includes a vocational school with a diploma or certificate program, as well as an institution offering a college degree.

#### HANDICAPPED/DISABILITY ASSISTANCE EXPENSE

Reasonable expenses in excess of three (3) percent of annual income that are anticipated during the period for which annual income is computed for attendant care and auxiliary apparatus for a disabled family member and expenses that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

#### HEAD OF HOUSEHOLD

An adult, 18 years of age or older, or an emancipated minor under the age of 18 years, whom the members of the family have routinely looked to as the head of the family, and who is legally competent to sign a binding contract.

#### HUD

The U.S. Department of Housing and Urban Development or its designee.

#### INS

U.S. Immigration and Naturalization Service.

LEASE

A written agreement between DHS and an eligible family for the leasing of a public housing unit.

LIVE-IN-AIDE

A person who resides with one or more elderly persons or near-elderly persons, or persons with disabilities, and who:

- a. Is determined by the Authority to be essential to the care and well-being of the person(s);
- b. Is not obligated for support of the person(s); and
- c. Would not be living in the unit except to provide necessary supportive services.

A live-in aide does not qualify as the remaining member of a tenant family.

LOCAL PREFERENCE

A preference established by DHS for use in selecting among applicants.

LOWER INCOME FAMILY

A family whose annual income does not exceed 80 percent of the median income for the area as determined by HUD.

LUMP SUM BENEFIT

A payment of periodic benefits for a previous period which may be included as income, not including Social Security and Social Security lump sum benefits. Only that portion of the payment attributable to the time the tenant resided continuously under the Public Housing Program may be counted as income.

MEDICAL EXPENSES

For purposes of income determination for elderly or disabled families, medical expense in excess of 3% of total family income which are anticipated to be incurred during the period for which the annual income is computed, where these expenses are not compensated for, or covered by insurance. Medical expenses include such items as medical insurance premiums, dental expenses, prescription and nonprescription medicines, etc.

MINIMUM RENT

Established by DHS at \$50.

MINOR

A person less than eighteen years of age.

MIXED FAMILY

A family whose members include both citizens/eligible immigrants and noncitizens with ineligible immigration status.

NATIONAL

A person who owes permanent allegiance to the U.S. as the result of birth in a U.S. territory or possession.

NEAR-ELDERLY FAMILY

A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age (or 55 years of age for state elderly housing) but below the age of 62, living together or one or more persons who are at least 50 years of age (or 55 years of age for state elderly housing) but below the age of 62 living with one or more live-in aides.

NEAR-ELDERLY PERSON

A person who is at least 50 years of age but below the age of 62, who may be a person with a disability.

NET FAMILY ASSETS

Value of equity in real property, savings, stock, bonds, life insurance policies, and other forms of capital investment, excluding interests in Indian trust land (Excluding the value of necessary items of personal property such as furniture and automobiles).

In cases where a trust fund had been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining Annual Income.

In determining the Net Family Assets, the Housing Authority shall include the value of any assets greater than one thousand dollars (\$1000) which were disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or

bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of any consideration received for the asset.

NON-CITIZEN

A person who is neither a citizen nor national.

PROGRAMS ESTABLISHED UNDER THE UNITED STATES HOUSING ACT OF 1937

1. The Public Housing program or Indian Housing program; 2. Any program operated as part of the Section 8 program; 3. The Section 23 Leased Housing program.

RECOVERING ADDICT

A person that: 1) has completed a supervised drug rehabilitation program and is not currently engaged in the illegal use of a controlled substance; or has otherwise successfully been rehabilitated and not currently illegally using drugs; or, 2) is involved in a supervised rehabilitation program and not currently illegally using drugs; and is involved in a self help group, such as Narcotics Anonymous, and not currently illegally using drugs.

OVERHOUSED

A tenant family with a greater number of bedrooms than required for family members, according to the standards set forth in Section V of this policy.

RESIDENCY PREFERENCE

A PHA established preference for admission of families that reside or work or have been hired to work in the jurisdiction of the PHA. The length of time the family has lived or worked the jurisdiction may not be considered.

REMAINING FAMILY MEMBER

A person left in an assisted unit after other family members have vacated who may or may not normally qualify for assistance on his or her own circumstances (e.g., widow age 47, not disabled or handicapped). The person must be of legal age to sign a lease (adult) and all amounts incurred under the previous lease must have been paid before the person is provided a lease in his/her name.

RESIDENT

A family living in the Housing Authority's operational jurisdiction, working in the Housing Authority's jurisdiction or notified that they are hired to work in the Housing Authority's jurisdiction would be considered a resident of the jurisdiction. The length of time the family has lived or worked in the jurisdiction may not be considered.

### SECURITY DEPOSIT

A dollar amount set by the Housing Authority for the Public Housing Program for unpaid rent, damages or other amounts owed under the lease upon termination of the lease.

### SINGLE PERSON

A person who lives alone or intends to live alone who does not qualify as elderly, disabled, or handicapped or as a remaining adult member of a tenant family.

### TENANT RENT

The amount payable monthly by the family as rent to the Housing Authority. Where all utilities (except telephone and cable) and other essential housing services are supplied by the Housing Authority, Tenant Rent equals Total Tenant Payment. Where some or all utilities (except telephone and cable) and other essential housing services are not supplied by the Housing Authority and the cost thereof is not included in the amount paid as rent, Tenant Rent equals Total Tenant Payment less the Utility Allowance.

### TOTAL TENANT PAYMENT (TTP)

An amount equal to 30 percent of the family's monthly adjusted income or 10 percent of the gross monthly income of the family occupying the dwelling unit, whichever amount is greater. TTP does not include charges for excess utility consumption or other miscellaneous charges.

### TRANSFER

A move by a tenant family from one DHS apartment to another, generally as the result of changes in family composition which changes the number of bedrooms required by the family. A transfer may not be used to split an extended family into two households by moving only some members of the family to a second apartment.

### UNDERHOUSED

A tenant family with an insufficient number of bedrooms for the number of persons in the family, according to the standard set forth in Section V of this policy.

### UTILITIES

Water, electricity, gas, other heating, refrigeration and cooking fuels, trash collection and sewerage services. Telephone service and cable TV are not included as a utility.

### UTILITY ALLOWANCE

The cost of utilities (except telephone and cable TV) and other housing services for an assisted unit when not included in the tenant rent but is the responsibility of the family occupying the

unit. An amount equal to an estimate made or approved by the Housing Authority or HUD of the monthly cost of a reasonable consumption of utilities for the unit by an energy conservative household of modest circumstances, consistent with the requirements of a safe, sanitary, and healthful living environment.

VERY LOW INCOME FAMILY

Family whose annual income does not exceed 50 percent of the median income for the area as determined by HUD.

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.

WAITING LIST ADMISSION

An applicant selected for occupancy from DHS'S waiting list.

APPENDIX D  
DECONCENTRATION ANALYSIS AND POLICY

In accordance with the requirements of the Public Housing Reform Act and 24 CFR 903, the Bernalillo Department of Housing Services (DHS) performed an analysis of the economic level of its only development to determine if there were income disparities. DHS manages 75 public housing units at one site. All building types are identical are adjacent to one another.

Because there is only one development and there is no distinction between areas of the development or building type, DHS concludes that there is no concentration of poverty.

Should DHS obtain higher income residents at a later point, every effort will be made to ensure that these higher income residents are dispersed across the site. Should the number of higher income persons interested in DHS housing increase, DHS would consider revising its Admissions and Continued Occupancy Policy to provide for voluntary transfers to other units within the site to encourage income mixing.

Various activities may be used at different times to encourage deconcentration however these actions will be offered in a consistent and non-discriminatory manner. DHS will continue to perform and monitor an income analysis, and will make adjustments to its policies as required.

APPENDIX E  
SCHEDULE OF FLAT RENTS  
BERNALILLO DEPARTMENT OF HOUSING SERVICES

24CFR 960.253 requires PHAs to establish flat rents, in order to provide residents a choice between paying a flat rent, or an income-based rent. The flat rent is to be based on the market rent that is defined as the rent charged for a comparable unit in the private, unassisted market at which the Bernalillo Department of Housing Services (DHS) could lease the public housing unit after preparation for occupancy. In determining the flat rent, DHS considered:

- location,
- quality, age and type of housing,
- amenities, and
- housing services, maintenance and utilities provided by WMHA.

DHS is located in the town of Bernalillo that has a population of about 7,500 persons. Bernalillo is approximately 15 miles north of Albuquerque and is adjacent to the newer community of Rio Rancho, which is further north from Albuquerque. DHS manages 75 public housing units contained within one development. The housing stock in Bernalillo is comprised generally of single family homes, and the housing stock is older than that of neighboring Rio Rancho. There are two other federally assisted multifamily developments in Bernalillo funded through the Department of Agriculture. Due to its proximity to Albuquerque and its relative affordability, there is demand for public housing in Bernalillo as evidenced by the Waiting List.

DHS’s housing stock may be considered to be in fair condition. DHS has struggled with recruiting and maintaining qualified maintenance staff. The lack of adequate maintenance is evident in the physical condition of DHS’s units. Other than a GED program, there are no housing services provided by WMHA, or amenities. Although most rental housing in the greater Albuquerque area has air cooling systems, few DHS units have any air cooling system, and those that do are badly in need of repair.

There is little housing for rent in Bernalillo to use for comparables and no market rate multifamily units. The Section 8 Fair Market Rents (FMR) established for the county are higher than the rents that DHS could expect to achieve given the condition of the housing stock. Therefore, the FMRs cannot be used as the basis for the establishment of flat rents. Based on knowledge of local market factors, and the market rents in Rio Rancho, WMHA is establishing the following flat rents:

<b>Unit Size</b>	<b>Flat Rent</b>
1 Bedroom	\$350
2 Bedroom	\$400
3 Bedroom	\$450
4 Bedroom	\$475

SECTION 8 ADMINISTRATIVE PLAN

BERNALILLO (NM) DEPARTMENT OF HOUSING SERVICES  
857 CALLE LOS MAYORES  
P.O. BOX 70  
BERNALILLO, NM 87004



Adopted: September 25, 2000

# SECTION 8 ADMINISTRATIVE PLAN

---

## TABLE OF CONTENTS

TAB/PAGE NO.

<b>CHAPTER 1: STATEMENT OF POLICIES AND OBJECTIVES .....</b>	<b>TAB 1</b>
A. Introduction.....	1-1
B. Program Objectives.....	1-1
C. Purpose of the Administrative Plan.....	1-2
D. Fair Housing and Equal Opportunity Policy.....	1-2
E. Accommodations Policy .....	1-3
F. Translation of Documents .....	1-4
G. Family Outreach.....	1-5
H. Owner Outreach.....	1-5
I. Owner Responsibilities .....	1-6
J. Family Responsibilities.....	1-6
K. Privacy Rights.....	1-6
L. Jurisdiction.....	1-7
M. Monitoring Program Performance .....	1-7
N. Merger of Certificates and Vouchers.....	1-8
<b>CHAPTER 2: ELIGIBILITY FOR ADMISSIONS .....</b>	<b>TAB 2</b>
A. Introduction.....	2-1
B. Eligibility Factors.....	2-2
C. Eligibility Factor 1: Family Composition.....	2-2
D. Eligibility Factor 2: Income Limitations .....	2-5
E. Eligibility Factor 3: Social Security Numbers .....	2-6
F. Eligibility Factor 4: Citizenship/Eligible Immigration Status.....	2-6
G. Eligibility Factor 5: Evicted for Drug-Related Criminal Activity .....	2-7
H. Suitability of Family.....	2-7
I. Changes in Eligibility Prior to Issuance.....	2-8
J. Notification to Ineligible Families .....	2-8
<b>CHAPTER 3: APPLYING FOR ADMISSION .....</b>	<b>TAB 3</b>
A. Introduction.....	3-1
B. Opening and Closing the Waiting List.....	3-1
C. Application.....	3-2
D. Applicant Status While on the Waiting List.....	3-3
E. Maintaining and Purging the Waiting List.....	3-3
F. Waiting List Selection.....	3-3
G. Eligibility Determination.....	3-4
H. Removal from the Waiting List.....	3-5
<b>CHAPTER 4: WAITING LIST PREFERENCES .....</b>	<b>TAB 4</b>
A. Introduction.....	4-1
B. Income Targeting .....	4-1
C. Local Preferences .....	4-1

# SECTION 8 ADMINISTRATIVE PLAN

---

## TABLE OF CONTENTS

### TAB/PAGE NO.

D. Final Verification of Preferences .....	4-2
E. Targeted Funding .....	4-2
<b>CHAPTER 5: DENIAL OF ASSISTANCE.....</b>	<b>TAB 5</b>
A. Introduction.....	5-1
B. Grounds for Denying Assistance.....	5-1
C. Procedures for Non-Citizens .....	5-5
D. Missed Appointments and Deadlines.....	5-5
<b>CHAPTER 6: SUBSIDY STANDARDS.....</b>	<b>TAB 6</b>
A. Introduction.....	6-1
B. Determining Certificate or Voucher Size .....	6-1
C. Exceptions to Subsidy Standards .....	6-2
D. Unit Size Selected .....	6-3
<b>CHAPTER 7: FACTORS RELATED TO TOTAL TENANT PAYMENT DETERMINATION ...</b>	<b>TAB 7</b>
A. Introduction.....	7-1
B. Income.....	7-1
C. Income of Temporarily and Permanently Absent Family Members.....	7-2
D. Income of Person Permanently Confined to Nursing Home.....	7-5
E. Regular Contributions and Gifts .....	7-5
F. Alimony and Child Support .....	7-6
G. Assets and Income from Assets .....	7-6
H. Adjusted Income .....	7-7
I. “Minimum Rent” and Minimum Family Contribution.....	7-9
J. Reduction in Benefits.....	7-10
K. Pro-Ration of Assistance for “Mixed” Families .....	7-10
L. Utility Allowance and Utility Reimbursement Payments.....	7-11
<b>CHAPTER 8: VERIFICATION PROCEDURES .....</b>	<b>TAB 8</b>
A. Introduction.....	8-1
B. Methods of Verification and Time Limits.....	8-1
C. Release of Information.....	8-3
D. Computer Matching.....	8-3
E. Items Requiring Verification.....	8-3
F. Verification of Income .....	8-4
G. Verification of Income From Assets .....	8-7
H. Acceptable Methods of Verification of Assets .....	8-8
I. Allowable Methods of Verification of Allowable Deductions From Income .....	8-9
J. Acceptable Methods of Verification of Non-Financial Factors.....	8-11
K. Verification of Preference Status .....	8-15

# SECTION 8 ADMINISTRATIVE PLAN

---

## TABLE OF CONTENTS

### TAB/PAGE NO.

<b>CHAPTER 9: BRIEFING AND VOUCHER ISSUANCE.....</b>	<b>TAB 9</b>
A. Introduction.....	9-1
B. Issuance of Vouchers .....	9-1
C. Briefing Types and Required Attendance .....	9-1
D. Term of Voucher .....	9-4
E. Assistance to Voucher Holders During Search.....	9-5
F. Voucher Issuance Determination for Split Households .....	9-5
G. Retention of Certificate/Voucher for Remaining Member of Tenant Family.....	9-6
 <b>CHAPTER 10: REQUEST FOR LEASE APPROVAL AND CONTRACT EXECUTION.....</b>	 <b>TAB 10</b>
A. Introduction.....	10-1
B. Request for Lease Approval.....	10-1
C. Eligible Types of Housing.....	10-2
D. Lease Review .....	10-3
E. Separate Agreements.....	10-3
F. Initial Inspections .....	10-4
G. Rent Limitations .....	10-4
H. Security Deposit Requirements.....	10-4
I. Information to Owners.....	10-5
J. Owners Disapproval.....	10-5
K. Change in Total Tenant Payment (TTP) Prior to HAP Effective Date..	10-7
L. Contract Executive Process.....	10-7
M. Change in Ownership.....	10-7
 <b>CHAPTER 11: HOUSING QUALITY STANDARDS AND INSPECTIONS.....</b>	 <b>TAB 11</b>
A. Introduction.....	11-1
B. Guidelines/Types of Inspections .....	11-1
C. Emergency Repair Items .....	11-4
D. Determination of Responsibility .....	11-5
E. Consequences if Owner is Responsible-Non-Emergency Items.....	11-5
F. Consequences if Family is Responsible.....	11-6
 <b>CHAPTER 12: OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS</b>	 <b>TAB 12</b>
A. Introduction.....	12-1
B. Owner Payment in the Certificate Program.....	12-1
C. Owner Payment in the Voucher Program.....	12-1
D. Making Payments to Owners .....	12-1
E. Rent Reasonableness Determinations .....	12-2
F. Voucher Program Payment Standards.....	12-3
G. Exception Payment Standards.....	12-4
H. Payment Standards for a Family.....	12-5
I. Rent Adjustments.....	12-5

# SECTION 8 ADMINISTRATIVE PLAN

---

## TABLE OF CONTENTS

TAB/PAGE NO.

<b>CHAPTER 13: RECERTIFICATIONS .....</b>	<b>TAB 13</b>
A. Introduction.....	13-1
B. Annual Activities.....	13-1
C. Annual Recertifications .....	13-1
D. Reporting Interim Changes .....	13-3
<b>CHAPTER 14: MOVES WITH CONTINUED ASSISTANCE/PORTABILITY.....</b>	<b>TAB 14</b>
A. Introduction.....	14-1
B. Allowable Moves .....	14-1
C. Restrictions on Moves.....	14-1
D. Procedure for Moves .....	14-2
E. Portability.....	14-2
F. Outgoing Portability.....	14-3
G. Incoming Portability.....	14-4
<b>CHAPTER 15: CONTRACT TERMINATIONS .....</b>	<b>TAB 15</b>
A. Introduction.....	15-1
B. Contract Termination.....	15-1
C. Termination by the Family: Moves.....	15-1
D. Termination by the Owner: Evictions .....	15-1
E. Terminations of the Contract by DHS .....	15-3
F. Terminations Due to Ineligible Immigration Status.....	15-3
G. Termination Due to Owner Disapproval.....	15-4
<b>CHAPTER 16: TERMINATION OF ASSISTANCE.....</b>	<b>TAB 16</b>
A. Introduction.....	16-1
B. Grounds for Terminating Assistance.....	16-1
C. Family Obligations .....	16-3
D. Procedures for Non-Citizens .....	16-7
E. Zero Assistance Tenants.....	16-7
F. Option not to Terminate for Misrepresentation.....	16-8
G. Misrepresentation in Collusion with Owner .....	16-8
H. Missed Appointments and Deadlines.....	16-8
<b>CHAPTER 17: CLAIMS, MOVE-OUT AND CLOSE-OUT INSPECTIONS .....</b>	<b>TAB 17</b>
A. Introduction.....	17-1
B. Owner Claims.....	17-1
C. Unpaid Rent.....	17-1
D. Vacancy Loss in the Certificate Program.....	17-1
E. Move-Out and Close-Out Inspections.....	17-3
F. Processing Claims .....	17-3

# SECTION 8 ADMINISTRATIVE PLAN

---

## TABLE OF CONTENTS

TAB/PAGE NO.

<b>CHAPTER 18: OWNER OR FAMILY DEBTS TO DHS.....</b>	<b>TAB 18</b>
A. Introduction.....	18-1
B. Repayment Agreement for Families.....	18-1
C. Guidelines for Repayment Agreements.....	18-2
D. Debts Due to Fraud/Non-Reporting of Information.....	18-2
E. Owner Debts to the DHS .....	18-3
F. Writing Off Debts .....	18-3
<b>CHAPTER 19: COMPLAINTS AND APPEALS .....</b>	<b>TAB 19</b>
A. Introduction.....	19-1
B. Complaints to the DHS .....	19-1
C. Informal Review Procedures for Applicants.....	19-1
D. Informal Hearing Procedures.....	19-3
E. Hearing and Appeal Provisions for “Restrictions on Assistance To Non-Citizens” .....	19-6
F. Mitigating Circumstances for Applicants/Participants with Disabilities.....	19-8

# **CHAPTER 1: STATEMENT OF POLICIES AND OBJECTIVES**

## **A. INTRODUCTION**

The Section 8 Rental Assistance 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 and to remaining participants in the Certificate Program, are described in and implemented through this Administrative Plan.

As a result of the Quality Housing and Work Responsibility Act of 1998 (QHWRA), the Certificate Program is to be phased out before the middle of year 2001. This plan includes the policies of the Bernalillo (NM) Department of Housing Services (DHS) for the Certificate Program while it is merging with the Housing Choice Voucher Program.

Administration of DHS's Section 8 Rental Assistance Program and the functions and responsibilities of DHS staff shall be in compliance with DHS's Personnel Policy, the Department of Housing and Urban Development's (HUD) Section 8 regulations, and all applicable Federal, State and local fair housing laws.

## **B. PROGRAM OBJECTIVES**

### **DHS Strategic Goals 2000**

DHS's Strategic Goals, specifically for the Section 8 Rental Assistance Program (Certificates and Vouchers) is to maximize the benefits of the Rental Assistance Program, for participants and Bernalillo neighborhoods by providing eligible and responsible families and senior citizens with Section 8 rental assistance to secure decent, safe and standard privately owned housing to the full extent of available resources. In addition, DHS aims to ensure that rental assistance not only improves the housing choices available to program participants, but also positively contributes to, or at least does not detract from, the stability of the neighborhoods into which Section 8 recipients move and in which owners participate.

The following program objectives support this strategic goal:

- *Achieve Program Mandates.* Substantially improve the housing opportunities and circumstances (both physical and economic) for eligible and responsible lower income families and senior citizens through effectively providing rental housing assistance within the programmatic and financial parameters of DHS's Rental Assistance Programs and DHS's Administrative Plan.

- *Self-Sufficiency Initiative Preferences.* Within the parameters of the 1998 QHWRA, ensure that housing assistance preferences and related support is given to families who are working toward self-sufficiency through employment, training and/or education initiatives.
- *Good Neighbor Initiative.* Ensure that the housing assistance provided not only improves the housing conditions of lower income families and senior citizens but also positively contributes to, or at least does not detract from, the stability of the neighborhoods into which Section 8 recipients move and in which owners participate.
- *Mainstream Program for Persons with Disabilities.* Provide housing assistance opportunities and counseling for persons with disabilities to increase successful leasing of privately owned housing by persons with disabilities. Expand housing options and opportunities for persons requiring wheelchair accessible apartments.
- *Program Integrity.* Minimize, detect and remedy violations of Section 8 Program requirements, lease and Housing Assistance Payments (HAP) contracts to ensure that only eligible and responsible applicants, participants and owners receive Section 8 Program benefits.

### **C. PURPOSE OF THE ADMINISTRATIVE PLAN**

The purpose of the Administrative Plan is to establish policies and guidelines for administering the Section 8 Rental Assistance Program in a manner consistent with Federal regulations and program objectives. The Plan covers admission to the Housing Choice Voucher Program and continued participation in the Certificate and Voucher Programs. This Administrative Plan is set forth to define DHS's local policies for operating the housing programs in the context of Federal laws and regulations and DHS's five (5) year Strategic and Annual Plans. All issues related to the Section 8 Rental Assistance Program not addressed in this document are governed by such Federal regulations, HUD memoranda, Notices and guidelines, or other applicable law.

DHS is responsible for complying with all changes in HUD regulations pertaining to these programs. If such changes conflict with this Plan, HUD regulations will have precedence. The original Plan and any changes must be approved by DHS's Board of Commissioners and a copy is to be provided to HUD.

### **D. FAIR HOUSING AND EQUAL OPPORTUNITY POLICY**

DHS complies fully with all Federal, State, and local anti-discrimination laws and administers its programs in accordance with the rules and regulations governing Fair Housing and Equal Opportunity in providing housing assistance and employment opportunities. (See DHS's Personnel Policy for more detail related to employment opportunities).

DHS shall not deny any family or individual the opportunity to apply for or receive assistance under the Section 8 Rental Assistance Program on the basis of race, color, sex, religion, creed, national or ethnic origin, age, family or marital status, disability or sexual orientation.

To further its commitment to fully comply with applicable Civil Rights laws, DHS will provide Federal, State and local information to Certificate and Voucher holders regarding “discrimination” and any recourse available to them if they are victims of discrimination. Such information shall be made available during the family briefing session. As part of its briefing, DHS provides families with the HUD Fair Housing Information and Discrimination Complaint Form and directs the family to report suspected discrimination to HUD.

Except as otherwise provided in 24 CFR 8.21 (c)(1), 8.24(a), 8.25, and 8.31, no individual with a disability shall be denied program benefits or excluded from program participation or otherwise subjected to discrimination because DHS’s facilities are inaccessible to or unusable by persons with disabilities.

Posters and housing information will be displayed in locations throughout DHS’s Section 8 office in such a manner as to be easily readable from a wheelchair. DHS’s Section 8 office is accessible to persons with disabilities or handicaps.

## **E. ACCOMMODATIONS POLICY**

This policy is applicable to all situations described in this Administrative Plan when a family initiates contact with DHS; when DHS initiates contact with a family, including when a family applies for housing assistance, and when DHS schedules or reschedules appointments of any kind.

### **Persons with Disabilities**

DHS’s policies and practices are designed, to the extent feasible, to provide all persons with disabilities with reasonable accommodations in order that they may have full access to and utilize the Section 8 Program and related services. The availability of specific accommodations will be made known through notices on DHS forms and letters to all families, and all requests will be verified so that the DHS can properly accommodate the need presented by the disability.

### **Federal Americans with Disabilities Act of 1990**

With respect to an individual, the term "disability" means:

- 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.

Those regarded as having such an impairment may include those with conditions such as obesity or cosmetic disfigurement, and individuals perceived to be at high risk of incurring a work-related injury.

Individuals with contagious diseases who do not pose a direct threat to others are covered by the Act. Persons with AIDS and those who test positive for the HIV virus are considered to have a disability.

### **Undue Hardship**

Requests for reasonable accommodation will be granted, provided that the accommodation will not create an "undue financial and administrative burden" for DHS. In determining whether an accommodation would create an undue hardship, the following factors will be taken into consideration:

- Nature and cost of the accommodation needed;
- Overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; and
- Number of families likely to need such accommodation, the effect on expenses and resources, or the likely impact on the operation of the program as a result of the accommodation.

Requests for accommodation must be supported with verification from a reliable and knowledgeable professional that the accommodation is required. DHS will refer families who have members with disabilities to agencies in the community that offer services to persons with disabilities.

### **F. TRANSLATION OF DOCUMENTS**

In determining whether it is feasible to provide translation of documents written in English into another language, DHS will consider the following factors:

- Number of applicants and participants in the jurisdiction who do not speak English;
- Estimated cost to DHS per client of translation of English written documents into another language; and
- Availability of bilingual staff to provide translation for non-English speaking families.

Currently, DHS has bilingual staff to assist Spanish speaking families and to translate documents into Spanish, as Spanish is the prominent non-English language spoken by DHS participants and applicants.

If translation services are required for other languages, the applicant or participant may request a friend or family member to accompany him or her to the meeting or the DHS will refer applicants and participants to agencies who assist ethnic groups.

## **G. FAMILY OUTREACH**

DHS reserves the right to open or close the waiting list based on the supply of applicants and availability of subsidy. The waiting list will be closed when there are not enough Section 8 subsidies to assist all the applicants in a reasonable period of time, such as two years. When DHS determines that additional applicants are needed, it will issue a public notice and open the waiting list.

To reach people from diverse backgrounds, DHS will advertise through a wide variety of sources including local newspapers, minority media, minority civic clubs, service agencies. DHS will communicate the status of housing availability to other service providers in the community, such as agencies serving individuals with special needs, and advise them of housing eligibility factors and guidelines in order that they can make proper referrals for housing assistance. DHS will continuously monitor and evaluate outreach activities to ensure that it reaches the widest possible audience.

## **H. OWNER OUTREACH**

The DHS's Owner Outreach Program includes the following efforts to encourage owners to participate in the program and to ensure greater mobility and housing choice to very low-income households.

- The DHS maintains a list of interested landlords and a list of available units, both of which are updated frequently. These lists are made available to applicants and participants.
- To the extent feasible, DHS will conduct a pre-inspection of a unit prior to listing it to ensure compliance with Housing Quality Standards (HQS).
- The DHS holds owner briefings to review the Section 8 Program and distributes an Owner's Manual and periodic newsletters.
- The DHS contacts real estate agents and property managers to market the program and encourage their participation.
- DHS makes a concerted effort to contact and encourage property owners with units specially designed or adapted for persons with disabilities to participate in the program. Information is also provided to owners regarding the availability of these improvements.
- DHS encourages program participation by owners of units located outside areas of poverty or minority concentration. DHS periodically evaluates the geographic distribution of assisted families to identify areas within the jurisdiction where owner outreach should be targeted. The purpose of these activities is to provide more choice and better housing opportunities to families. Voucher holders are informed of the full range of areas where they may lease units inside DHS's jurisdiction and are given a map that identifies areas of low-poverty and low-minority concentration.

**I. OWNER RESPONSIBILITIES**

An Owner is responsible for:

- Screening tenants.
- Complying with the HAP contract.
- Maintaining the unit in compliance with HQS.
- Enforcing lease requirements.

For a further description of owner responsibilities refer to 24 CFR parts 882, 982, and 983.

**J. FAMILY RESPONSIBILITIES****Applicant responsibilities**

While on the waiting list an applicant must notify DHS of any changes in address and preference status.

Upon selection, an applicant must provide DHS with complete and accurate information necessary to determine program eligibility.

Upon determination of eligibility, an applicant must conduct and complete a housing search within time allowed by DHS.

For a further description of applicant responsibilities refer to 24 CFR parts 882, 982, and 983.

**Participant Responsibilities**

For a further description of family responsibilities refer to 24 CFR parts 882, 982, and 983. Families participating in a Family self-sufficiency program should refer to 24 CFR part 984.

**Family Obligations**

For the complete text of family obligations see the Housing Choice Voucher, the tenancy addendum, and the lease signed by the tenant and owner. Violation of Family Obligations may be cause for program termination as discussed in Chapter 16.

**K. PRIVACY RIGHTS**

All applicant or participant household members 18 years of age or older must sign Form 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.

All information relating to a participant or applicant family is confidential. DHS's policy regarding release of information is in accordance with Federal, State, and local laws, which may restrict the release of family information. DHS staff will not discuss family information contained in its 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. DHS has adopted a Confidentiality Policy with regards to information on drug and criminal activity (attached).

In accordance with HUD requirements, the DHS will furnish prospective owners with the family's current address as shown in DHS records and, if known to the DHS, the name and address of the landlord at the family's current and prior address. A statement of the DHS's policy on release of information to prospective landlords will be included in the briefing packet provided to the family

#### **L. JURISDICTION**

The Jurisdiction of the DHS is Bernalillo, New Mexico.

#### **M. MONITORING PROGRAM PERFORMANCE**

DHS's policies, procedures, and tracking systems are designed to respond to the goals, objectives, and performance measures of HUD's Section 8 Management Assessment Program (SEMAP). To comply with HUD and other pertinent regulations, DHS will maintain records, reports and other documentation for a period of time that is in accordance with HUD requirements and in a manner that will allow an auditor, housing professional or other interested party to assess DHS's operational procedures objectively and with accuracy.

Specifically, records and reports will be maintained for the purpose of complying with the following SEMAP performance measures:

- *Indicator 1.* The PHA has written policies in its administrative plan for selecting applicants from the waiting list, and the PHA follows these policies when selecting applicants for admission from the waiting list.
- *Indicator 2.* The PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units.
- *Indicator 3.* At admission and reexamination, the PHA verifies and correctly determines adjusted annual income for each assisted family and, where the family is responsible for utilities under the lease, the PHA uses the appropriate utility allowances in determining gross rent.
- *Indicator 4.* The PHA maintains an up-to-date utility allowance schedule.
- *Indicator 5.* A PHA supervisor or other qualified person reinspects a sample of units during the PHA fiscal year, numbering at least 5% of the number of units under contract during the last completed PHA fiscal year, for quality control of HQS inspections.

- *Indicator 6.* Following each failed HQS unit inspection, any cited life-threatening HQS deficiencies are corrected within 24 hours and all other cited HQS deficiencies are corrected within 30 calendar days from the inspection or any PHA-approved extension.
- *Indicator 7.* The PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration.
- *Indicator 8.* Initial gross rents for certificate units, other than over-FMR tenancies, do not exceed the FMR and voucher payment standards do not exceed the current applicable FMR or HUD approved exception rent limit and are not less than 80% of the current FMR/exception rent limit, unless otherwise approved by HUD.
- *Indicator 9.* The PHA completes a reexamination for each participating family at least every twelve months.
- *Indicator 10.* The PHA correctly calculates tenant rent in the Certificate Program and the family's share of the rent to owner in the voucher program.
- *Indicator 11.* Newly leased units pass HQS inspection on or before the beginning date of the assisted lease and HAP contract.
- *Indicator 12.* The PHA inspects each unit under contract at least annually.
- *Indicator 13.* The PHA executes HAP contracts on behalf of eligible families for the number of units under budget for at least one year.
- *Indicator 14.* The PHA has enrolled families in the FSS program as required and has made progress in supporting FSS as measured by the percentage of current FSS participants with escrow account balances.

In order to ensure quality control, supervisory staff or contract firms annually complete the following:

- Audit of two percent (2%) of recent annual reexamination files.
- Reinspect five percent (5%) of units under contract during the last completed fiscal year to ensure quality control of HQS inspections

## **N. MERGER OF CERTIFICATES AND VOUCHERS**

In compliance with the Final Rule published October 21, 1999 for the Merger of Section 8 Certificate and Voucher Programs, DHS will no longer issue Section 8 Certificates. Any current Certificate holders searching for units will be leased under the Housing Choice Voucher Program upon selecting a unit.

**Current Certificate Program Participants**

All participants currently leased under the Certificate program will be converted to the Housing Choice Voucher program at the earliest of:

- The participant's second annual recertification following the October 1, 1999 conversion;
- Upon any move to a new unit;
- At the next regular reexamination that results in a change in family unit size;
- Upon the execution of any new lease or HAP contract for the participant's current unit.

**Pre-Merger Voucher Program Participants**

Current participants in the pre-merger Voucher program will continue under the current HAP contracts until the next time that a new HAP contract is required under program rules. The method of calculating subsidy under the Housing Choice Voucher Program will eliminate the shopping incentive. This method will not become effective for pre-merger voucher participants until the effective date of the second regular reexamination of family income and composition unless the family moves to a new unit or requires a new HAP contract due to a change in family unit size.

## **CHAPTER 2: ELIGIBILITY FOR ADMISSIONS**

### **A. INTRODUCTION**

This chapter defines both HUD's and DHS's criteria for admission and denial of admission to the program. DHS strives for objectivity and consistency in applying these criteria to evaluate the eligibility of families who apply. 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, furnish additional information, if needed, and to receive an explanation of the basis for any decision made by DHS pertaining to their eligibility.

Generally, only very-low income and extremely low income families are eligible for assistance through the Housing Choice Voucher program. The Quality Housing and Work Responsibility Act of 1998 established new income targeting requirements. At least 75% of all new program admissions in each fiscal year must be families with income levels at or below 30% of the area median income. The remaining 25% of new admissions may be families with income levels at or below 50% of the area median income. DHS has a procedure for tracking new admissions so it can demonstrate that it meets the income targeting requirements.

In some circumstances, a low-income family that has been continuously assisted is eligible for assistance (24 CFR 982.201). A family is considered to be continuously assisted if the family is already receiving assistance under any housing program covered under the 1937 Housing Act when the family is admitted to the Housing Choice Voucher program. Housing programs covered under the 1937 Housing Act include:

- The public or Indian housing program.
- Any program assisted under Section 8 of the 1937 Act, including assistance under a Section 8 tenant-based or project-based program.
- The Section 23 leased housing program.
- The Section 23 housing assistance payments program.

Brief interruptions in assistance caused by transitioning from one form of assistance under one 1937 Act program to another will not be considered to break the continuity of assistance where the reason for the transition was through no fault of the family, such as the expiration of a HAP contract for a project-based development or termination of a HAP contract for owner breach. DHS has elected to allow a 30 day break in assistance; therefore, if an applicant for the Housing Choice Voucher program has income below the low income limit, and is not currently receiving assistance but did receive assistance during the previous 30 days, DHS will consider that family to be continuously assisted.

Low-income families are also eligible if they qualify as:

- A non-purchasing household in the following homeownership programs: HOPE1, HOPE2, or other HUD-assisted multifamily homeownership programs;
- Displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract; (Under this category a family may have income below the moderate income limit (95% of median) and qualify for assistance);
- Displaced as a result of the expiration of a project based Section 8 contract.

Only very-low income families may be admitted to Moderate Rehabilitation projects with HAP contracts effective on or after October 1, 1981 unless an exception is granted by HUD. Low income families may be admitted to Moderate Rehabilitation projects with HAP contracts effective prior to October 1, 1981 (24 CFR 882).

At Moderate Rehabilitation properties and projects with project-based certificates at least 40% of new admissions in each fiscal year must be families with income levels at or below 30% of the area gross median income (QHWRA, 1998).

## **B. ELIGIBILITY FACTORS**

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

1. Applicant must be a "family."
2. Household's annual income must be within the appropriate Income Limits.
3. All household members ages six and older must furnish their Social Security Numbers, or certify that they do not have one.
4. Each member of the applicant household must certify to citizenship/eligible immigrant status.
5. Persons evicted from public housing, Section 23 or any Section 8 program for drug-related or criminal activity are ineligible for a minimum of three years from the date of eviction. See Chapter 16 "Termination of Assistance".

The family's initial eligibility for placement on the waiting list will be made in accordance with the eligibility factors. Evidence of eligible immigration status will not be verified until the family is selected from the waiting list for final eligibility processing.

## **C. ELIGIBILITY FACTOR 1: FAMILY COMPOSITION**

The applicant must qualify as a Family. A Family may be a group of persons or a single person. When application is made, the applicant determines who is "family." Discrimination on the basis of familial status is prohibited, and a group of persons may not be denied solely because members are not related by blood, marriage, or operation of law.

**Definitions**

*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, near-elderly or disabled persons living together, or one or more elderly, near-elderly or disabled persons living with one or more live-in aides.
- A pregnant woman and her unborn child(ren).

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 near-elderly person.
- A displaced person.
- A person with a disability.
- The remaining member of a tenant family.
- 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.

*Spouse of Head*

The Spouse of Head is defined as the marriage partner who, in order to dissolve the relationship, would have to be divorced. The term "Spouse" does not apply to boyfriends, girlfriends, significant others, or co-head of household.

*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 Aide*

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

- Is determined by DHS to be essential to the care and well being of an elderly person, a near-elderly person, or a person with a disability. A near elderly person maybe defined as someone at least 50 years of age;
- 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 aide is not subject to Non-Citizen Rule requirements; and
- Live-in aide will not be considered as a remaining member of the applicant or participant family.

A live-in aide may only reside in the unit with the prior written approval of the DHS and owner. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker or case worker. The verification must specifically state that a live-in aide is essential for the daily care of the family member who is elderly, near-elderly or disabled.

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.

The live-in aide's family members may also reside in the unit with the DHS and owner's prior written approval. The presence of the live-in aide's family members must not overcrowd the unit.

At any time, DHS may refuse to approve a particular person as a live-in aide or may withdraw such approval if the person:

- Commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- Commits drug-related criminal activity or violent criminal activity;
- Currently owes rent or other amounts to the DHS or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act; or
- Does not qualify under the eligibility criteria indicated in Chapter 16 of this Plan.

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

When a family on the waiting list splits into two (or more) otherwise eligible families and the new families both claim the same placement on the waiting list, DHS will make the decision as to which household should receive a subsidy taking into consideration the following factors:

- Which family unit retains the children or disabled or elderly member(s);
- Which family unit meets the highest priority local preferences;
- Any court or legal determination;
- Role of domestic violence in the split; and
- Recommendations of social service agencies or qualified professionals, such as children's protective services.

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

When a family, which consists of two or more families living together (such as a mother and father and a daughter with her own husband or children), applies for assistance, DHS will treat the family as a single-family unit.

### **Transfer of Applicant Status**

In the case where a family applies for a Voucher and the Head of Household, Spouse or Co-Head of Household voluntarily withdraws from the application with prior DHS approval, the remaining applicants and otherwise eligible family will be entitled to placement on the waiting list based on the original date of application.

## **D. ELIGIBILITY FACTOR 2: INCOME LIMITATIONS**

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

- Very low income family, as defined by the very low-income limits published by HUD in the *Federal Register* for the Bernalillo MSA; or
- Low income family in any of the following categories:
  - Continuously assisted under the 1937 Housing Act. An applicant is continuously assisted if the family has received assistance under any 1937 Housing Act Program within 60 days of Voucher issuance. Programs include Public Housing, all Section 8 Programs, and all Section 23 programs.
  - Physically displaced by rental rehabilitation activity under 24 CFR Part 511.

- Non-purchasing family residing in a HOPE 1 or HOPE 2 project.
- Non-purchasing family residing in a project subject to a homeownership program under 24 CFR 248.173.
- Displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248.165.
- Residing in a HUD-owned multifamily rental housing project when the project is sold, foreclosed or demolished by HUD (Certificate Program only).

To determine if the family is income eligible, the DHS 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, notified of the denial and offered an informal review.

For initial lease-up, portability families must be within the very low-income limit for the jurisdiction in which they want to live.

#### **E. ELIGIBILITY FACTOR 3: SOCIAL SECURITY NUMBERS**

Families are required to provide verification of Social Security Numbers for all family members age six or 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. Family members who have not been issued a Social Security Number must certify to this fact. Guardians or another adult family member must certify for children under the age of 18. Failure to furnish verification of social security numbers or certify that no number has been issued is grounds for denial or termination of assistance.

#### **F. ELIGIBILITY FACTOR 4: CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS**

In order to receive assistance, a family member must be an U.S. Citizen or have legal immigrant status. Individuals who are neither may elect not to declare their status. Eligible immigrants are persons who are in one of the immigrant categories as specified by HUD. Individuals claiming eligible immigration status must present appropriate immigration documents, which must be verified through the Immigration and Naturalization Service (INS).

The citizenship and eligible immigration status of each member of the family is considered individually before the family's eligibility is determined. Families including ineligible members may be classified as mixed families or as ineligible families.

*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 families." Mixed families will be given notice that their assistance will be pro-rated and that they may request a hearing if they contest this determination.

*Ineligible Families.* Applicant families that include no eligible members will be ineligible for assistance. Such families will be denied admission and offered an opportunity for an informal hearing.

*Non-citizen students* are not eligible for assistance. A non-citizen student is a person admitted to this country temporarily solely for the purpose of pursuing a course of study who has a residence in another country that the person has no intention of abandoning.

*Appeals.* Individuals whose eligible immigration status cannot be verified through INS may appeal to INS. An applicant who is denied Section 8 eligibility due to ineligible immigration status is entitled to an informal hearing exactly like those provided for participants.

#### **G. ELIGIBILITY FACTOR 5: EVICTED FOR DRUG-RELATED CRIMINAL ACTIVITY**

Drug-related activity is the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use a controlled substance. Drug-related criminal activity means *on or off* the premises, not just *on or near* the premises.

Persons evicted from public housing, Indian housing, Section 23, or any Section 8 program because of drug-related criminal activity are ineligible for a three-year period beginning on the date of such eviction.

The DHS will waive this requirement if:

The person demonstrates successful completion of a rehabilitation program approved by the DHS, or

The circumstances leading to the eviction no longer exist. For example, the individual involved in drugs is no longer in the household because the person is incarcerated.

#### **H. SUITABILITY OF FAMILY**

DHS may take into consideration any of the grounds for denial of assistance identified in Chapter 16 of this Administrative Plan but may not otherwise screen for factors which relate to the suitability of the applicant family as participants. It is the responsibility of the owner to screen the applicant as to their suitability for tenancy.

DHS will advise families how to file a Fair Housing complaint, if they believe that the owner has discriminated against them. DHS may also report the owner to HUD's Office of Fair Housing/Equal Opportunity or the local fair housing organization.

**I. CHANGES IN ELIGIBILITY PRIOR TO ISSUANCE**

Changes that occur during the period between placement on the waiting list and issuance of a Voucher may affect the family's eligibility or Total Tenant Payment. If applicants are found to be ineligible, they will be notified in writing of their ineligible status and their right to an informal review.

**J. NOTIFICATION TO INELIGIBLE FAMILIES**

Applicants who are determined to be ineligible will be notified in writing of the reason for denial of assistance. This notification will include the opportunity to request, within 14 days of notification, an informal review (or an informal hearing if they were denied due to noncitizen status) pursuant to the following. See Chapter 19 for information about reviews and hearings.

<b>Informal Reviews Required</b>	<b>Informal Reviews Not Required</b>
Decisions Concerning: Listing on PHA's Waiting List Certificate or Voucher Issuance Participation in Program Any Type of Preference	Unit Size under PHA's Subsidy Standards Rejection of Units that fail HQS or are not in accordance with Family Size Disapproval of Owner's Lease Refusal to Extend Certificate or Voucher General Policy Issues or Class Grievances Discretionary Administrative Determinations by PHA

## **CHAPTER 3: APPLYING FOR ADMISSION**

### **A. INTRODUCTION**

The policy of DHS is to ensure that all families who express an interest in the Section 8 Program are given an equal opportunity to apply and are treated in a fair and consistent manner. Chapter 3 describes the policies and procedures for opening and closing the waiting list, completing an application for assistance, placement and denial of placement on the waiting list, maintaining the waiting list, and limitations on whom may apply.

All families wishing to apply for housing assistance shall complete an application for housing. Applications will be accepted at the following locations: Department of Housing Services, 857 Calle los Mayores, Bernalillo, NM 87004. Applications may be made in person at these locations during specified dates and business hours posted in DHS's office.

Individuals who have a physical impairment which would prevent them from completing an application in person may call the Authority to make special arrangements to complete the housing application. A Telecommunication Device for the Deaf (TDD) is available for hearing impaired persons. If the applicant is visually impaired, all notices will be in a format understandable by the applicant.

### **B. OPENING AND CLOSING THE WAITING LIST**

As needed, DHS will open the waiting list by advertising through public notice in local newspapers, minority media, minority civic clubs and service agencies. DHS will communicate the status of housing availability to other service providers in the community, such as agencies serving individuals with special needs, and advise them of housing eligibility factors and guidelines in order that they can make proper referrals for housing assistance. DHS will continuously monitor and evaluate outreach activities to ensure that information reaches the widest possible audience for which applications are being accepted. The notice will contain:

- Dates, times and locations where families may apply.
- Programs for which applications will be taken.
- Brief description of the program(s).
- Limitations, if any, on whom may apply.
- DHS address, telephone number and business hours.

The notices will provide potential applicants with information regarding how to submit an application, information on eligibility requirements, and the availability of local preferences. Upon request from a person with a disability (determined on a case-by-case basis), additional

time may be given as an accommodation for submission of an application after the closing deadline.

When the waiting list is open, all interested families and persons are given the opportunity to apply.

If the Section 8 waiting list is open when a person applies for public housing, DHS must offer to place the family on both lists. If the public housing waiting list is open at the time an applicant applies for Section 8, DHS must offer to place the family on the public housing waiting list. 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. In evaluating whether to close its Section 8 waiting list, DHS will consider the expected number of Vouchers to be issued per year, the number of current applicants and the anticipated waiting time.

When the period for accepting applications is over, DHS will add the new applicants to the list by order of date, and time of application.

### **C. APPLICATION**

DHS will utilize an application form. The information is to be filled out by the applicant whenever possible. To provide specific accommodation for persons with disabilities, DHS staff may assist the applicant in completing the application over the telephone. It may also be mailed. The purpose of the application is to permit DHS to preliminarily place the applicant on the waiting list. The application will contain, but is not limited to questions designed to obtain the following information:

- Names of adult members and age of all members;
- Sex and relationship of all members;
- Street address and phone numbers;
- Mailing address (if P.O. Box or other permanent address);
- Amount(s) and source(s) of income received by household members;
- Information regarding disabilities to determine qualifications for allowances and deductions;
- Information related to qualification for preferences;
- Social Security Numbers;
- Race/ethnicity; and
- Request for specific accommodation needed to fully utilize program and services.

DHS will inform all applicants about available preferences and give each applicant an opportunity to document preference eligibility.

Duplicate applications will not be accepted.

Applications will not require an interview. The information on the application will not be verified until 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.

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

The family will be notified in writing. This written notification of preliminary eligibility will be mailed to the applicant by first class mail. The DHS will confirm receipt of application by postcard.

If the family is determined to be ineligible based on the information provided in the application, DHS will notify the family in writing, state the reason(s), and inform the family of its 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. MAINTAINING AND PURGING THE WAITING LIST**

Applicants are required to inform DHS of changes in circumstances while on the waiting list. These may include changes in address, family composition, or preference status. Applicants are required to notify the DHS in writing when their circumstances change.

Applicants are also required to respond to requests from DHS to update information on their applications and to determine their continued interest in and need for assistance. Failure to provide information or to respond to two DHS mailings that request updated information will result in the applicant being removed from the waiting list

**F. WAITING LIST SELECTION**

When funding is available, applicants will be selected from the waiting list according to date and time of application, income targeting requirements and preference category, regardless of family size.

When there is insufficient funding available for the family at the top of the list, DHS will not admit any other applicant until funding is available for the first applicant.

DHS will maintain information that permits proper selection from the waiting list. The waiting list contains, but is not limited to the following information for each applicant listed:

- Applicant Name
- Family Unit Size (number of bedrooms family qualifies for under PHA subsidy standards)
- Date and time of application
- Qualification for any local preference
- Income Information
- Racial or ethnic designation of the head of household

The application will be a permanent file. All applicants in the pool will be maintained by date and time of application.

## **G. ELIGIBILITY DETERMINATION**

### **Applicant Interview and Completion of Full Application**

All preferences claimed on the application or as a result of any updates to the pre-application will be verified after the applicant is selected from the waiting list, and prior to completing the full application. The qualification for preference must exist at the time the preference is claimed and at the time of verification, because claim of a preferences determines selection from the waiting list.

When an applicant is selected from the waiting list, DHS schedules an interview to complete or update the application, discuss the family's circumstances in greater detail, clarify information that has been provided by the family, and ensure that the information is complete. The interview, which must be attended by the head of household and spouse or co-head, is also used as a vehicle to meet the informational needs of the family by providing information about the application and verification process. During the interview, applicants will be required to update the household's application by writing in and initialing any changes to the family's circumstances and by certifying that all information is complete and accurate.

The head of household, spouse, co-head and all members over the age of 17 are required to complete an authorization for the DHS to conduct a background check.

The DHS also conducts a cross-check with other Public Housing, Section 8 Rental Assistance and Project-based Programs to determine previous evictions or outstanding rent monies owed.

If the applicant fails to show for the interview, the applicant must reschedule the interview within seven days. If the applicant does not reschedule or misses two scheduled interviews, DHS will remove the applicant from the waiting list.

Reasonable accommodations will be made for persons with a disability or elderly persons.

All adult members must sign Form HUD-9886, Authorization for the Release of Information, the declarations and consents related to citizenship or immigration status and any other documents required by the DHS. Applicants will be required to sign specific verification forms for information that is not covered by Form HUD-9886. Failure to do so will be cause for denial of assistance.

If DHS determines at or after the interview that additional information or document(s) are needed, the DHS will request the document(s) or information in writing. The family will be given 14 days to supply the information. If the information is not supplied in this time period, the DHS will remove the applicant from the waiting list.

### **Verification**

Information provided by the applicant will be verified, using the verification procedures in Chapter 8. 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 a Voucher is issued. See Chapter 8, Verification Procedures.

### **Final Determination and Notification of Eligibility**

After the verification process is completed, the DHS will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by the DHS, and the current eligibility criteria in effect. The DHS will notify the family in writing as to their eligibility for the Section 8 Program. If the family is determined to be eligible, the DHS will schedule a briefing. During the briefing, the applicant is issued a Voucher and the informational packet is provided and reviewed. If the applicant is determined to be ineligible, the applicant has the opportunity to request an informal review within 14 days of the notification.

### **H. REMOVAL FROM THE WAITING LIST**

Applicants shall be removed from the waiting list for the following reasons:

- Failure to respond to two DHS written communications regarding failure to comply with application update, applicant interview, and applicant briefing requirements. If a letter is returned by the Post Office without a forwarding address, or unclaimed, the applicant will be removed without further notice, and the envelope will be maintained in the file. If a letter is returned with a forwarding address, it will be re-mailed to the address indicated.
- Refusal to accept offer of Voucher.
- Determined ineligible at time of issuance of subsidy.

It is the sole discretion of DHS to review, on a case-by-case basis, whether an applicant will be required to re-apply for Section 8 assistance or is entitled to reinstatement with their original date of application.

**CHAPTER 4:**  
**WAITING LIST PREFERENCES**  
[24 CFR Part 5, Subpart D; 982.54(d)(1); 982.204, 982.205, 982.206]

**A. INTRODUCTION**

It is the DHS's objective to ensure that families are placed in the proper order on the waiting list and selected from the waiting list for admissions in accordance with the policies in this Administrative Plan. This Plan explains the local preferences that DHS has adopted to meet local housing needs. DHS's preferences and policies are intended to:

- Provide housing assistance to eligible family and elderly households being displaced by public action.
- Provide housing assistance to families who are working toward self-sufficiency through employment, training, and or educational initiatives.
- Ensure that DHS housing assistance provided under the Section 8 Program is reflective of the existing population in terms of housing need and economic and household diversity.
- Ensure that assistance is provided to eligible families and that receipt of such assistance is consistent with local housing needs.

**B. INCOME TARGETING**

A minimum of 75% of the families admitted to DHS's Section 8 program during each fiscal year must be extremely low-income families. An extremely low-income family is one whose annual income does not exceed 30% of the area median income.

DHS will monitor admissions to the Section 8 program at the end of each quarter throughout the fiscal year. If, at the end of any quarter, extremely low-income families make up less than 75% of admissions for the fiscal year to date, DHS will give priority to extremely low-income families in each of the established preference categories until extremely low-income admissions again make up 75%.

**C. LOCAL PREFERENCES**

The DHS will select applicants pursuant to the annual admissions and income targeting requirements noted above and based upon their eligibility, date of application and qualification for the following preferences, with first preference given to those applicants who meet Preference 1, and then sequentially thereafter, with each numerical preference being exhausted before proceeding to the next numerical preference:

**Preference 1: Working Families**

A working family is defined as an applicant:

- Whose primary source of income for the last six months has been and is employment; or
- Who for at least six months has participated and is currently participating in a DHS-approved employment, training or directly related program; or
- Elderly persons or persons with disabilities.

The working family's employment or training program participation must have been during the six month period immediately prior to the prospective receipt of Section 8 assistance.

**D. FINAL VERIFICATION OF PREFERENCES**

Preference information on applicants will be updated as applicants are selected from the waiting list. At that time, the DHS will obtain necessary verification of preferences at the interview and by third party. Public housing residents will receive a preference based on their current housing status/need.

If DHS denies a preference, DHS will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for an informal meeting. 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.

**E. TARGETED FUNDING**

When HUD awards special funding for certain family types or specific eligibility criteria, families who qualify are selected from the existing waiting list. Additionally, applicants who meet specific program criteria will be allowed to submit an application, notwithstanding if the waiting list is closed. Assistance is offered to the first (based on date of application) eligible family on the waiting list meeting the targeted funding criteria.

## **CHAPTER 5: DENIAL OF ASSISTANCE**

### **A. INTRODUCTION**

This chapter describes when DHS may deny assistance. If denial is based upon behavior resulting from a disability, the DHS will delay the denial in order to determine if there is an accommodation that would mitigate the behavior resulting from the disability.

### **B. GROUNDS FOR DENYING ASSISTANCE**

Denial of assistance for an applicant may include any or all of the following:

- Denial for placement on the DHS waiting list.
- Denying issuance of a voucher.
- Refusing to enter into a HAP contract or approve a lease.
- Refusing to process or provide assistance under portability procedures.

#### **Mandatory Denial of Assistance**

DHS will deny assistance to applicants if:

- The family's annual income exceeds the very low-income limits.
- 30% of the family's monthly adjusted income equals the Payment Standard for the family's unit size and the family is unable to use assistance.
- Any member of the family fails to sign and submit to HUD or DHS required consent forms for obtaining information.
- No member of the family is a U.S. citizen or eligible immigrant (See Chapter 15).
- Any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

DHS will deny assistance to an applicant for any of the following reasons:

- Any household member has been evicted from federally assisted housing for drug-related criminal activity.

- The family has violated any family obligation under the program as listed in 24 CFR 982.551.
- The family currently owes rent or other amounts to DHS or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.
- The family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family.
- The family breaches an agreement with DHS to pay amounts owed to DHS, or amounts paid to an owner by DHS.
- The family has engaged in or threatened abusive or violent behavior toward DHS personnel.
  - “Abusive or violent behavior towards DHS 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 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 denial of assistance.

DHS will deny participation in the program to applicants in cases where it determines that there is reasonable cause to believe that the person is illegally using a controlled substance or abuses alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. This includes cases where DHS determines that there is a *pattern* of illegal use of a controlled substance, or *pattern* of alcohol abuse.

- DHS will consider the use of a controlled substance or alcohol to be a *pattern* if there has been more than one incident during the previous 12 months.
- DHS may waive this policy if the person demonstrates to its satisfaction that s/he is no longer engaging in the illegal use of a controlled substance or abuse of alcohol, and:
  - \* Has successfully completed a supervised drug or alcohol rehabilitation program;
  - \* Has otherwise been rehabilitated successfully; or
  - \* Is participating in a supervised drug or alcohol rehabilitation program.
- Any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

### **Housing Authority Discretion**

In deciding whether to deny assistance because of action or failure to act by members of the family, DHS 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, and the length of time since the violation occurred. It may also review the family's more recent record of compliance and consider the effects of denial of assistance on other family members who were not involved in the action or failure to act.

Rehabilitation or a change in circumstances may be considered prior to denying assistance to applicants who were evicted from federally assisted housing for drug related activity or have abused alcohol or used illegal drugs.

For applicants evicted for drug related activity, the DHS may consider whether the member who was evicted has successfully completed a supervised drug rehabilitation program approved by DHS; or the circumstances leading to an eviction no longer exist (for example, the criminal household member has died or is imprisoned.)

For applicants who have abused alcohol or used illegal drugs, the PHA may consider whether the member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully.

DHS 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. DHS may permit the other members of a family to continue in the program.

### **Burden of Proof**

For denial due to drug-related, violent and other criminal activity DHS may require the household to submit sufficient evidence that the members of the household have not engaged in drug-related criminal activity during a reasonable period, before admission to the program. The DHS has sole discretion in determining what evidence is "sufficient" and what period of time prior to admission is "reasonable."

In determining whether to deny assistance due to the abuse of alcohol or illegal use of a drug by a household member, the DHS may require the applicant to submit evidence of current participation in, or successful completion of a supervised drug or alcohol rehabilitation program.

### **Access to Criminal Records**

- The proposed rule authorizes PHAs administering tenant-based Section 8 programs to obtain criminal conviction records and requires the PHA to conduct criminal history background checks to determine whether an applicant is subject to a lifetime state's sex offender registration requirement.

- The PHA may request criminal conviction records for an adult member of a household that is applying for admission to the Section 8 tenant-based program. Records may also be requested for adults applying or residing in public housing or buildings with Section 8 project-based assistance.
- The criminal conviction records received by the PHA may not be used for lease enforcement or eviction of residents receiving Section 8 tenant-based assistance.
- An adult is a person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State, or tribal law.
- The proposed rule would permit the law enforcement agency or an agency responsible for information on registered sex offenders to charge the PHA a reasonable fee for releasing criminal conviction records.
- PHAs may be asked by owners of buildings with Section 8 project-based assistance to assist with screening, lease enforcement or eviction.

#### *Explanations and Terms*

*Drug-related criminal activity* is the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use a controlled substance *on or off 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 engaged in by any family member that has as one of its elements the use, attempted use, or threatened use of physical force against a person or property.

Denial of assistance is always optional except where this Plan or the regulations state otherwise.

#### *Confidentiality of Criminal Records*

DHS 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.

#### *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 includes documentation of drug raids or arrest warrants.

DHS may pursue fact-finding efforts as needed to obtain credible evidence.

## **C. PROCEDURES FOR NON-CITIZENS**

### **Ineligibility due to Ineligible Immigrant Status**

Applicant families in which no members are U.S. citizens or eligible immigrants are ineligible for assistance. They must be given an opportunity for a hearing.

### **False or Incomplete Information**

When the DHS 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, 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 DHS may give him/her an opportunity to provide a new declaration as an eligible immigrant or to elect not to contend their status. The DHS will then verify eligible status and deny or prorate as applicable.

The DHS will deny assistance based on the submission of false information or misrepresentations.

### **Procedure for Denial**

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 DHS either after the INS appeal or in lieu of the INS appeal.

After DHS 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). Applicants determined to be ineligible due to citizenship status will be informed in writing of their right to request an informal hearing.

## **D. MISSED APPOINTMENTS AND DEADLINES**

An applicant who fails to keep two appointments or to supply information required by a deadline without notifying DHS may be sent a Notice of Denial of Assistance for failure to provide required information.

Acceptable reasons for missing appointments or failing to provide information by deadlines are:

- Medical emergency.
- Incarceration.
- Family emergency.

Official Documentation must be provided that verifies one of the three emergencies.

### **Procedure When Appointments Are Missed or Information Not Provided**

For most purposes in this Plan, the family will be given two opportunities before being issued a Notice of Denial of Assistance.

**CHAPTER 6:**  
**SUBSIDY STANDARDS**  
**[24 CFR 982.54(d)(9)]**

**A. INTRODUCTION**

HUD guidelines require that DHS establish subsidy standards for the determination of Certificate and Voucher bedroom size, and that such standards provide for a minimum commitment of subsidy while avoiding overcrowding. The standards used must be within the minimum unit size requirements of HUD's Housing Quality Standards (HQS). This chapter explains the subsidy standards used to determine the voucher size for various-sized families when they are selected from the waiting list, as well as DHS's procedures when a family's size changes, or a family selects an apartment size that is different from the family's Voucher. Subsidy standards described in this chapter apply equally to the Section 8 Certificate Program until it is fully phased out.

**B. DETERMINING CERTIFICATE OR VOUCHER SIZE**

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

For subsidy standards, an adult is a person 18 years or older.

All standards in this section relate to the number of bedrooms on the Voucher, not the family's actual living arrangements. The unit size on the Voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented.

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

- Separate bedrooms should be allocated for persons of the opposite sex (other than adults who have a spousal relationship and very young children).
- Foster children will be included in determining unit size only if they will be in the unit for more than six months.
- Space may be provided for a child who is away at school or a spouse who is away in the military.
- Single person families shall be allocated an efficiency unit or one bedroom Voucher.
- A family that consists of a pregnant woman (with no other persons) will be treated as a two-person family. [24 CFR 982.402(5)]
- Related adults and children of the same sex should share a bedroom.

- Very young children may share a bedroom with a parent.
- A live-in attendant will generally be provided a separate bedroom

#### GUIDELINES FOR DETERMINING CERTIFICATE OR VOUCHER SIZE

Certificate/Voucher Size	Persons in Household	Persons in Household
	(Minimum #)	(Maximum #)
Efficiency	1	1
1 Bedroom	1	2
2 Bedroom	2	4
3 Bedroom	3	6
4 Bedroom	4	8
5 Bedroom	5	10
6 Bedroom	8	12

### C. EXCEPTIONS TO SUBSIDY STANDARDS

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

DHS will grant an exception upon request as an accommodation for persons with disabilities. Circumstances may dictate a larger size than the subsidy standards permit when persons cannot share a bedroom because of a need, such as a verified medical or health reason.

A family may request a larger sized Voucher than indicated by DHS's subsidy standards. Such request must be made in writing within 14 days of DHS's determination of bedroom size. The request must explain the need or justification for a larger bedroom. Documentation verifying the need or justification will be required as appropriate. Requests based on health related reasons must be verified by a doctor or medical professional.

If DHS errs in the bedroom size designation, the family will be issued a Voucher of the appropriate size.

### Changes in Household Composition

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

The family obligations require the family to inform DHS of the birth, adoption or court-awarded custody of a child, except when the family has custody of a minor, and to request DHS approval to add any other family member as an occupant of the unit. The family must document custody to be allowed to add minors to the household. The family must request prior approval of

additional household members in writing. DHS may deny requests to add household members who would cause the family to be under housed and require a larger unit size.

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

Likewise, if a family member leaves the household, the family must report this change to DHS and the owner, in writing, within 30 days of the change and certify as to whether the person is temporarily or permanently absent (See Chapter 7 for definitions).

In addition, the lease may require the family to obtain prior written approval from the owner when there are changes in family composition other than birth, adoption or court awarded custody.

DHS will conduct an interim recertification for changes that affect the Total Tenant Payment in accordance with the interim recertification policy and will require verification that the family member reported to have left the household has a new address.

### **Under-Housed and Over-Housed Families**

If a unit does not meet HQS space standards due to an increase in family size, (unit has become too small), DHS will issue a new Voucher and assist the family in locating a suitable unit.

If a Certificate family is occupying a unit which has more bedrooms than allocated under DHS's subsidy standards, and the gross rent exceeds the FMR/exception rent for the family size under DHS's subsidy standards, DHS will issue the family a Voucher and assist the family in finding a suitable unit. The family will be given a minimum of 60 days to locate a suitable unit. After the term of the family's Voucher has expired, DHS may terminate the family's assistance if the family has rejected a suitable unit without good reason or failed to document best efforts to locate a unit.

DHS may grant an exception to this policy, on a case-by-case basis. Exceptions might include:

- If a family with a disabled member is under-occupied in an accessible apartment.
- If a family requires the additional bedroom because of a health problem which has been verified by the DHS.

### **D. UNIT SIZE SELECTED**

The family may select a different size unit than that listed on the Voucher within the following criteria:

- Subsidy Limitation: DHS will apply the Payment Standard for the smaller of (1) the bedroom size shown on the Voucher or (2) the size of the actual unit selected by the family.

- **Utility Allowance:** The utility allowance used to calculate the gross rent is based on the actual bedroom size of the unit the family selects, regardless of the size authorized on the family's Voucher.
- **Housing Quality Standards (HQS):** Generally, HQS allow two persons per bedroom or sleeping room and permit maximum occupancy levels as shown in the table below. HQS allow living space (other than kitchen and bathroom) to be utilized as a sleeping room, provided it meets minimum footage, lighting, and other requirements. The sleeping room will not be counted as a bedroom for purposes of determining Voucher subsidy standards.

**CHAPTER 7:**  
**FACTORS RELATED TO TOTAL TENANT PAYMENT DETERMINATION**  
**[24 CFR Part 5, Subparts E and F; 982.153, 982.317, 982.551]**

**A. INTRODUCTION**

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

This chapter defines the allowable expenses and deductions to be subtracted from Annual Income and how the presence or absence of household members may affect the Total Tenant Payment (TTP). Income and TTP are calculated in accordance with Federal Regulations 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. DHS's policies in this Chapter address those areas that allow DHS 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.

**B. INCOME**

**Definitions**

*Income* includes all amounts which are received on behalf of the family. For the purposes of calculating TTP, HUD defines what is to be included and what is to be excluded as income in the Federal Regulations. In accordance with this definition, all income that is not specifically excluded in the regulations is counted.

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

**Averaging Income**

When Annual Income cannot be anticipated for a full twelve months, DHS may:

1. Average known sources of income to compute an annual income, or
2. Annualize current income.

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

If there are bonuses or overtime pay which the employer cannot anticipate for the next 12 months, bonuses and overtime received the previous year will be used unless the employer certifies that these payments are expected to be different in the coming year.

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.

### **C. INCOME OF TEMPORARILY AND PERMANENTLY ABSENT FAMILY MEMBERS**

#### **Temporarily Versus Permanently Absent**

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

If the spouse is temporarily absent and in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

Temporarily absent is defined as away from the unit for less than 30 days.

Income of persons permanently absent will not be counted. Any member of the household will be considered permanently absent if s/he is away from the apartment for two consecutive months or sixty days except as otherwise noted in this Chapter.

It is the responsibility of the head or co-head of household or spouse to report changes in family composition. The DHS will evaluate absences from the unit using the above policy guidelines.

The family will be required to notify the DHS in writing within thirty (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.

If the family member will be permanently absent from the unit, the family must provide verification of the person's new address.

A time extension will be granted as an accommodation upon request by a person with a disability or handicap or health related reasons.

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

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

**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, DHS will terminate assistance in accordance with appropriate termination procedures contained in this Plan.

Families are required to notify both DHS and the owner before they move out of a unit and to provide information about any family absence from the unit. Families must notify DHS and the owner if they are going to be absent from the apartment for more than 30 consecutive days.

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

In order to determine if the family is absent from the apartment, DHS may: write letters to the family at the unit; telephone the family at the unit; interview neighbors and verify if utilities are in service.

A person with a disability or a verified health reason 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 requested by the family, DHS may reinstate the family as an accommodation if the following applies:

- The absence, which resulted in termination of assistance, was due to a person's disability, age or health reason;
- DHS can verify that the person was unable to notify the Authority in accordance with the family's responsibilities; and
- Funding is available.

**Absence Due to Medical Reasons**

If any family member leaves the household to enter a facility such as a hospital, nursing home, or rehabilitation center, DHS will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than 30 consecutive days, the family member will be considered temporarily 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 DHS's "Absence of Entire Family" policy.

**Absence Due to Incarceration**

If the sole member is incarcerated for more than 60 consecutive days, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for two consecutive months or 60 days.

**Absence of Children Due to Placement in Foster Care**

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

If the time period is to be greater than six 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 DHS's subsidy standards.

**Absence of Adult**

If neither parent remains in the household and the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period of time, DHS will treat the adult as a visitor until a determination of custody is made.

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.

When custody is determined, the income of the caretaker will be counted as family income for purposes of determining TTP.

**Absence Due to Full-Time Student Status**

A full-time student (other than head or co-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 that 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 a determination of Voucher size.

Minors and college students, who were part of the family but who now live away from home during the school year and are no longer on the lease, may visit for up to 180 days per year without being considered a member of the household. If the family decides that the member is temporarily absent, any income earned by the full-time student up to \$480 a year will be counted as family income.

**Visitors**

Any adult not included on the Form HUD-50058, may be considered to be living in the unit as an unauthorized household member.

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 DHS will terminate assistance since prior approval was not requested or received for the addition.

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

In a joint custody arrangement, if the minor is in the household less than 180 days per year, the minor will be considered to be an eligible visitor and not a family member.

**D. INCOME OF PERSON PERMANENTLY CONFINED TO NURSING HOME**

If a family member is permanently confined to a hospital or nursing home and there is a family member left in the household, the DHS will calculate income as follows and will use the income figure which would result in a lower payment by the family:

- 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; or
- Include the income and deductions of the member if his/her income goes to a family member.

**E. REGULAR CONTRIBUTIONS AND GIFTS**

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 every month or more frequently will be considered a “regular” contribution or gift, unless the amount is less than \$300 per year. This includes rent and utility payments made on behalf of the family and other cash or non-cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts (See Chapter 8, “Verification Procedures,” for further definition).

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

**F. ALIMONY AND CHILD SUPPORT**

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 DHS must use the amount awarded by the court unless the family can verify that they are not receiving the full amount. DHS will accept as verification that the family is receiving an amount less than the award if:

- DHS 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.

**G. ASSETS AND INCOME FROM ASSETS**

When net family assets are \$5,000 or less, the actual income earned from assets is added to annual income. When net family assets exceed \$5,000, the amount added to annual income as income from assets will be the greater of:

- Actual income from assets; or
- The amount that results from multiplying net family assets by the passbook rate established by the HUD Field Office for Bernalillo.

The value of family assets is the cash value of the asset to the family. The cash value is determined by subtracting from the current market value any expense that would be incurred to turn the asset into cash.

**Lump-Sum Receipts**

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 from Social Security or SSI are excluded from income, but may 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.

When DHS is unable to verify income due to delays in processing a change to unemployment or welfare benefits, DHS will calculate an interim rent decrease based on income sources without the unemployment or welfare payments. When the family's benefit payment has been approved, a second interim will be conducted to add the benefit income. The total income calculated in the second interim will include the family's regular periodic welfare or unemployment payment plus all of the lump-sum payment the family received as a result of the processing delay.

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

### **Contributions to Retirement Funds**

Contributions to company retirement/pension funds are handled as follows:

- While an individual is employed, DHS will count as an asset only the amount the family can withdraw without retiring or terminating employment.
- After retirement or termination of employment, DHS will count any amount the employee elects to receive as a lump-sum.

### **Assets Disposed of for Less Than Fair Market Value**

DHS must count assets disposed of for less than fair market value during the two years preceding certification or recertification. DHS 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, bankruptcy, divorce, or separation are not considered to be assets disposed of for less than fair market value.

The DHS's minimum threshold for counting assets disposed of for less than Fair Market value is \$10,000. If the total value of assets disposed of within a one-year period is less than \$10,000, they will not be considered an asset.

## **H. ADJUSTED INCOME**

*Adjusted Income* is defined as Annual Income minus any HUD allowable deductions.

HUD has five allowable deductions from Annual Income:

- *Dependent allowance*: \$480 each for family members who are minors (other than the head or spouse or co-head) and for family members who are 18 years or older and full-time students or disabled.

- *Reasonable Child Care Expenses:* Deducted for the care of children under 13 when child care is necessary to allow an adult member to work, attend school, or actively seek employment.
- *Elderly/disabled allowance:* \$400 per family for families whose head or spouse is 62 or over or disabled.
- *Allowable medical expenses:* Unreimbursed medical expenses which exceed three percent of Annual Income may be deducted for all family members of an eligible elderly/disabled family.
- *Allowable Disability Assistance Expenses:* Unreimbursed expenses exceeding three percent of Annual Income which are for attendant care or auxiliary apparatus for persons with disabilities, may be deducted when the expenditure enables the individual or an adult family member to work. If a family has both Disability Assistance and Medical Expenses, the three percent of Annual Income is applied only once and always to the Disability Assistance expense first.

### **Child Care Expenses**

Reasonable child care expenses for children under 13 years of age may be deducted from annual income if they enable an adult to work, 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 child care expenses.

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

- The abuser in a documented child abuse situation, or
- A person with disabilities or handicaps, or an older person unable to take care of a small child, as verified by reliable, knowledgeable professional, such as a doctor, social worker or case worker.

The maximum child care expense allowed is based on the following guidelines:

- **Child care to work:** Child care expenses 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.
- **Child care for school:** The number of hours claimed for child care may not exceed the number of hours the family member is attending school (including one hour travel time to and from school).

## Medical Expenses

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

Non-prescription medicines, supplies, apparatus must be doctor-recommended (written verification required) in order to be considered a medical expense. The family is required to furnish legible receipts.

### I. “MINIMUM RENT” AND MINIMUM FAMILY CONTRIBUTION

Families are required to pay a minimum TTP (rent and utilities) of \$50 a month.

DHS may grant an exception to the minimum rent requirement when a family documents that the minimum rent would create a hardship because:

- Family has lost eligibility or is awaiting an eligibility determination for a Federal or local assistance program;
- Family would be evicted as a result of imposing the minimum rent requirement;
- Family’s income has decreased because of changed circumstances including the loss of employment; or
- There has been a death in the family.

If a family requests a minimum rent hardship exception, DHS will suspend the minimum rent charge and adjust the HAP payment effective the beginning of the month following the family’s hardship request.

DHS may request documentation of the hardship and will determine promptly whether a hardship exists and whether it is temporary or long term.

If DHS determines that no hardship exists, the minimum rent will be imposed retroactively to the time of suspension.

If the hardship is determined to be temporary, the minimum rent will not be imposed for a period of 90 days from the date of the family’s request but, at the end of that period, the minimum rent will be imposed retroactively to the time of suspension. A reasonable repayment agreement to cover minimum rent charges accumulated during the suspension will be offered.

If DHS determines the hardship to be of long-term duration, the family will receive an exemption until the hardship no longer exists.

**J. REDUCTION IN BENEFITS**

If the family's benefits, such as social security, SSI or TANF, are reduced due to family error, omission, or misrepresentations, DHS will use the gross amount of the benefit. If the family's benefits are reduced through no fault of the family, DHS will use the net amount of the benefit.

If a family's welfare benefits are reduced, in whole or in part, for a family member because of fraud or because of a welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program, DHS will not reduce the rent to reflect the lost benefit. DHS will include in the family's annual income for purposes of determining rent, an imputed welfare income. Imputed welfare income is the amount of annual income not actually received by a family as a result of a welfare benefit reduction, that is included in the family's income for purposes of calculating rent.

DHS will request from the welfare agency the amount and term of any specified welfare benefit reduction for a family member and will use this information to determine the amount of the imputed welfare income for a family.

DHS will also obtain written verification that the benefit reduction was caused by non-compliance or by fraud before denying a family's request for recertification of income and rent reduction. The prohibition against reducing rent will not apply when TANF benefits are lost because the lifetime limit on receipt of benefits has expired or in a situation where the family has complied with welfare requirements but cannot obtain employment. Any family denied a rent reduction after a loss of welfare benefits will be informed of its right to an informal hearing.

DHS will not include imputed income in the annual income of a family who was on the waiting list at the time the sanction was imposed by the welfare agency.

**K. PRO-RATION OF ASSISTANCE FOR "MIXED" FAMILIES**

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.

"Mixed" families that were participants on June 19, 1995, and that do not qualify for continued assistance must be offered prorated assistance. (See Chapter 13, "Recertifications") Applicant mixed families are entitled to prorated assistance. Families that become mixed after June 19, 1995 by addition of an ineligible member are entitled to prorated assistance.

Pro-rated 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.

**L. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS**

DHS will maintain an up-to-date utility allowance schedule. The Utility Allowance is intended to help defray the cost of utilities not included in the rent and is subtracted from the Total Tenant Payment to establish the family's rent to the landlord. 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 the individual family's actual energy consumption.

DHS will review and revise the utility allowance schedule annually. Revised utility allowances will be applied in a participant family's rent calculation at its next reexamination.

The approved utility allowance schedule is given to families at each briefing. The utility allowance is based on the actual unit size selected.

Where the utility allowance exceeds the family's Total Tenant Payment, DHS will provide a utility reimbursement payment for the family each month. The check will be made out directly to the tenant.

**CHAPTER 8:**  
**VERIFICATION PROCEDURES**  
**[24 CFR Part 5, Subparts B, D, E and F; 982.108]**

**A. INTRODUCTION**

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

**B. METHODS OF VERIFICATION AND TIME LIMITS**

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

1. Third-Party Written
2. Third-Party Oral
3. Review of Documents
4. Certification/Self-Declaration

DHS will allow two weeks for return of third-party verifications and one week to obtain other types of verifications before going to the next method.

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 (faxed) directly from the source are considered third party written verification.

DHS will not accept verifications that are hand-delivered by the family, except for computerized printouts from the following agencies:

- Social Security Administration
- Veterans Administration
- Welfare Assistance

- Unemployment Compensations 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. On the form, staff must note with whom they spoke, the date and time of the conversation, and the facts provided. DHS staff will compare the information provided to any documents provided by the Family. If verification is provided by telephone, DHS staff must originate the call.

### **Review of Documents**

In the event that third-party verification is unavailable or the information has not been verified by the third party within two weeks, DHS will note the file accordingly and utilize documents provided by the family as the primary source of verification, only if the documents provide complete information.

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

The DHS will accept the following documents from the family, provided there is no evidence of tampering and that the document contains sufficient information.

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

The DHS will accept electronic (faxed) documents. DHS will not accept photocopies.

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

DHS 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 a third-party verification or review of documents, families will be required to submit a self-certification. Self-certification means a notarized statement and must be witnessed.

**C. RELEASE OF INFORMATION**

The family will be required to sign specific authorization forms when information is needed that is not covered by the Form HUD-9886, Authorization for Release of Information. Each member requested to consent to the release of information will be required to review and sign appropriate forms. Copies will be provided upon request.

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 requested by the DHS or HUD.

**D. COMPUTER MATCHING**

Where allowed, computer matching may be used to verify the accuracy of income reporting.

**E. ITEMS REQUIRING VERIFICATION**

- 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 the preceding two years.
- Child care expense when child care allows an adult family member to be employed, to seek employment, 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 that allow an adult family member to be employed.
- U.S. citizenship or eligible immigrant status.
- Social Security numbers for all family members six years of age or older who have been issued a number.
- Qualification of preferences.
- Familial/marital status when needed for head or spouse definition.
- Disability status for determination of preferences, allowances or deductions.
- Pregnancy of a woman who applies to live alone as a family.

- Documentation for need of live-in aide.
- Insurance/ownership/tax form ID of property owner.
- Any other information required to ensure program compliance.

## **F. VERIFICATION OF INCOME**

### **Employment Income**

Acceptable methods for verifying employment income include, in this order:

- Employment verification form completed by the employer or completed by DHS staff via telephone conversation with employer when staff initiates the call.
- Check stubs or earning statements indicating 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 for verification of self-employment income or income from tips and other gratuities.
- Employers must specify the following on the verification forms:
  - 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; and
  - Estimated income from overtime, tips, bonus pay expected during next 12 months.

When doubt regarding income exists, 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. Referrals to the IRS for confirmation will be made on a case-by-case basis.

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

Acceptable methods of verification include, in this order:

- Computer report electronically obtained through the Tenant Eligibility Verification System (TEVS) or a hard copy.
- Benefit verification form completed by agency providing the benefits.
- Award or benefit notification letters provided by the providing agency.
- Bank statements for direct deposits.

### **Unemployment Compensation**

- Verification form completed by the unemployment compensation agency.
- Computer printouts from unemployment office stating payment dates and amounts.

### **Welfare Payments or General Assistance**

- DHS verification form with computer printout 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.

### **Alimony or Child Support Payments**

- Copy of separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.
- Notarized letter from person paying the support.
- Copy of latest check and/or payment stub from a court trustee. DHS must record the date, amount, and number of the check.
- Family's self-certification of amount received and the likelihood of support payments being received in the future, or self-certification that support payments are not being received.
- If payments are irregular, copy of separation or settlement agreement or divorce decree stating the amount and type of support and payment schedules *and* one of the following:
  - Statement from agency responsible for enforcing payments demonstrating that the family has filed for enforcement;
  - Welfare notice of action showing amounts received by the welfare agency for child support; or

- Written statement from an attorney certifying that a collection or enforcement action has been filed.

### **Net Income from a Business**

- IRS Form 1040, including:
  - Schedule C (Small Business);
  - Schedule E (Rental Property Income); and
  - Schedule F (Farm Income).
- Documents such as manifests, appointment books, cash books, bank statements, and receipts. These documents 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.
- Credit report or loan application.

### **Child Care Business**

If an applicant/participant is operating a licensed day care business, income will be verified as with any other business.

If the applicant/participant is operating a “cash and carry” operation (which may or may not be licensed), DHS will require that the applicant/participant complete a form for each customer which indicates: 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.

### **Recurring Gifts**

- Self-certification containing the following information:
  - Name of gift-provider;
  - Value of gift;
  - Regularity (dates) of gift; and
  - Purpose of gifts.

### **Zero Income Status**

Families claiming to have no income will be required to file for assistance and execute verification forms to determine that forms of income such as unemployment benefits, AFDC, SSI, etc. are not being received by the household. DHS may require a monthly review of families financial status

DHS will request written verification from the agency that the family is not eligible for assistance, i.e., unemployment, AFDC, SSI, etc.

DHS will request information from IRS.

DHS may check records of other departments in the jurisdiction that have information about income sources of customers.

### **Full-Time Student Status**

- 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.

## **G. ACCEPTABLE METHODS FOR VERIFICATION OF INCOME FROM ASSETS**

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

- DHS verification forms completed by the financial institution.
- Account statements, passbooks, certificates of deposit.
- Broker's statements showing value of stocks or bonds and the earnings credited the family. Earnings can be obtained from current newspaper quotations or oral broker's verification.
- IRS Form 1099 from the financial institution, provided that DHS adjusts the information to project earnings expected for the next 12 months.

### **Interest Income from Mortgages or Similar Arrangements will be verified by:**

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

- 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 invoice, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.
- Lessee's written statement verifying rent payments to the family and family's self-certification as to net income realized.

#### **H. ACCEPTABLE METHODS OF VERIFICATION OF ASSETS**

DHS will require the necessary information to determine the current cash value of the asset, i.e. the net amount the family would receive if the asset were converted to cash.

##### **Family Assets**

- Verification forms, letters, or documents from a financial institution or broker.
- Passbooks, checking account 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 reduced 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 the family's home or in safe deposit boxes.

##### **Assets Disposed of for Less than Fair Market Value**

DHS 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, the verification or certification must show:

- All assets disposed of for less than fair market value;
- Date assets were disposed of;

- Amount the family received; and
- Market value of the assets at the time of disposition.

Third party verification will be obtained whenever possible.

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

### **Child Care Expenses**

- Written verification from the person who receives the payments. If the child care provider is an individual, a statement of the amount the individual is charging the family for the service. Verifications must specify the name of the child care provider, address, telephone number, Social Security number, names of children cared for, number of hours cared for, rate of pay, and typical yearly amount paid, including school and vacation periods.
- Family certification as to whether any of the child care 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 or handicap will be required to submit a certification as to whether or not any expense payments have been, or will be, reimbursed by an outside source. All expense claims will be verified by one or more of the methods listed below:

- Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, of (a) the anticipated medical costs to be incurred by the family and regular payments due on medical bills; 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 indicating the amount of Medicare premiums to be paid by the family over the next 12 months. A computer printout will be accepted.

### *Attendant Care*

- Reliable, knowledgeable professional's certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.

- Attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or paycheck stubs from the agency providing the services.
- Receipts, canceled 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. DHS 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.

DHS will use mileage at the **IRS** rate, or cab, bus fare, or other public transportation directly related to medical treatment.

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

- Written certification from a reliable, knowledgeable professional that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to permit him/her to be employed or to function sufficiently, independently to enable another family member to be employed.
- Family certification as to whether it receives reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.

#### *Attendant Care*

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

#### *Auxiliary Apparatus*

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

## **J. ACCEPTABLE METHODS OF VERIFICATION OF NON-FINANCIAL FACTORS**

### **Legal Identity of Adults**

- Current, valid Driver's License (Photo Only)
- U.S. military discharge (DD 214)
- U.S. passport
- Department of Motor Vehicles Identification Card (Photo only)
- Certificate of Birth, naturalization papers
- Church-issued baptismal certificate
- Voter's registration
- Company/agency identification card
- Hospital records
- Census data

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

### **Legal Identify of Minors**

- Certificate of Birth
- Adoption papers
- Custody agreement
- School records

### **Marital Status**

- For divorce, certified copy of the divorce decree, signed by a Court Officer.
- For separation, a copy of court-ordered maintenance or other records.
- For marriage, copy of 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 as follows:

- To verify relationship, official identification showing names or birth certificates.
- To verify guardianship:
  - Court-ordered assignment;
  - Affidavit of parent;

- Verification from social services agency; or
- School records.

Examples of a stable family relationship include joint bank accounts or other shared financial transactions, leases or other evidence of prior cohabitation, and credit reports showing relationship.

### **Permanent Absence of Adult Household Member**

- Legal papers documenting a spouse instituted a divorce action.
- Legal papers documenting a spouse instituted a legal separation.
- Order of protection/restraining order obtained by one family member against another.
- Proof of another home address, such as utility bills, canceled rent, drivers license, or lease or rental agreement, if available.
- 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 prison stating how long member will be incarcerated.

### **Change of Family Composition**

The DHS may verify changes in family composition (either reported or unreported) through letters, telephone calls, utility records, inspection, landlords, neighbors, school or Department of Motor Vehicles records, and other sources.

### **Disability**

- Receipt of SSI or SSA disability payments under Section 223 of the Social Security Act or Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 (7)).
- Verification by appropriate diagnostician such as physician, psychiatrist, psychologist, therapist, rehab specialist, or licensed social worker, using the HUD language as the verification format.

### **Citizenship/Eligible Immigrant Status**

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 his/her 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 DHS hearing is pending.

- Citizens or Nationals of the United States: Signed declaration under penalty of perjury. DHS will not require citizens to provide documentation of citizenship.
- Eligible Immigrants who were Participants and 62 or over on June 19, 1995: Signed declaration of eligible immigration status and proof of age.
- Noncitizens with eligible immigration status: Signed declaration of status and verification consent form and submission of original immigration documents to DHS, which are to be copied and returned to the family. DHS verifies the status through the INS SAVE system. If this primary verification fails to verify status, DHS 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.

Noncitizen 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.

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

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, in the case of port-in families, if the initial PHA does not supply the documents, the DHS must conduct the determination.

Extension must be given for persons who declare their eligible immigration status but need time to obtain the required documents. The length of the extension shall be based on individual circumstance. The DHS will generally allow up to 60 days to provide the document or a receipt issued by the INS for issuance of replacement documents.

Only the following documents are acceptable documents of eligible immigration, 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 a replacement of any of the above documents that shows that the 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 by DHS for five years.

### **Social Security Numbers**

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

- Driver's license (photo only)
- Identification card issued by a Federal, State, or local agency
- Identification card issued by medical insurance company or provider, including Medicare and Medicaid.
- IRS Form 1099.
- Benefit award letter from government agency.
- Retirement benefit letter.
- Verification of benefits or Social Security Number from Social Security Administration.

New family members age six or 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 DHS.

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 DHS. The applicant/participant or family member will have an additional 30 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 DHS may grant an extension for an additional 30 days to a total of 60 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 he or she has not been issued a number, the family member will be required to sign a certification to that effect.

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

- Written certification that a larger unit is necessary must be through a written certification from a reliable, knowledgeable professional.

## **K. VERIFICATION OF PREFERENCE STATUS**

One or more of the documents listed in each category below is required to verify each category of local preference.

### **Preference 1: Working Families**

For verification of working family, as defined in Chapter 4:

- Employment verification completed by employer.
- Check stubs or earnings statements, which indicate that the applicant works at least 20 hours per week.
- Letter from DHS-approved agency or institution providing education, employment training, or related programs.

**CHAPTER 9:**  
**BRIEFING AND VOUCHER ISSUANCE**  
**[24 CFR 982.301, 982.302]**

**A. INTRODUCTION**

DHS's objectives are to assure that families selected to participate in the Section 8 Program are successful in leasing a suitable apartment, and that they have sufficient knowledge to derive maximum benefit from the program and to comply with program requirements. When families are determined eligible, DHS will conduct a mandatory briefing to ensure that families know how the program works. The briefing will provide a broad description of owner and family responsibilities, DHS procedures, and how to lease a unit. The family will also receive a briefing packet, which provides more detailed information about the program, including the benefits of moving outside areas of concentration. This Chapter describes how briefings will be conducted, the information that will be provided to families, and the policies for how changes in the family composition, income, etc. will be handled.

**B. ISSUANCE OF VOUCHERS**

When funding is available, DHS will issue Vouchers to eligible applicants. Voucher issuance must be within the dollar limitations set by the Annual Contributions Contract (ACC) budget.

The number of Vouchers issued must ensure that DHS maintains maximum lease-up. DHS performs a monthly calculation to determine whether applications can be processed, the number of Vouchers that can be issued, and to what extent DHS can over-issue.

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

**C. BRIEFING TYPES AND REQUIRED ATTENDANCE**

*Initial Applicant Briefing*

A full HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefing will be conducted in group and/or individual meetings. Families who attend a group briefing but need individual assistance will be referred to a Housing Assistance Technician. Briefings will be conducted in English, but may also be conducted in Spanish.

The purpose of the briefing is to explain the documents in the Voucher Briefing Packet so that the family is 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 DHS will not issue a Voucher to a family unless the household representative (head of household, co-head or spouse) 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 two scheduled briefings without prior notification and approval of DHS, may be denied admission based on failure to supply information needed for certification. The DHS will conduct individual briefings for families with disabilities at their home, upon request by the family, if required for reasonable accommodation.

### *Briefing Packet*

The documents and information provided in the briefing packets will comply with all HUD requirements. DHS also includes other information and/or materials not required by HUD.

The family is provided with the following information and materials:

- Term of the Voucher and DHS policy for requesting extensions to the term of the Voucher or suspensions of the Voucher.
- Description of the method used to calculate the Housing Assistance Payment and information on Payment Standards and utility allowance.
- Explanation of how the maximum allowable rent is determined, including procedures for determining rent reasonableness.
- 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 to evaluate the prospective unit, such as the condition, whether the rent is reasonable, average utility expense, energy, and security.
- Explanation of the portability option.
- Sample of the HUD tenancy addendum.
- Request for Lease Approval form and a description of the procedure for requesting approval for a unit.
- DHS policy on providing information about families to prospective owners.
- Subsidy Standards, including when and how exceptions are made and how unit size listed on Voucher relates to the unit size selected.

- HUD brochure, “A Good Place to Live” on how to select an apartment that complies with HQS.
- HUD brochure on lead-based paint and information about where blood level testing is available.
- Information on Federal, State, and local equal opportunity laws, including the pamphlet “Fair Housing: It’s Your Right”. DHS will also include information on reporting suspected discrimination and the phone numbers of the Local Fair Housing Agency and the HUD enforcement office.
- A list of landlords or other parties willing to lease to assisted families or help in the housing search. In addition, a list of available housing units in all neighborhoods submitted by owners as available upon request at DHS’s front desk
- If the family includes a person with disabilities, notice that the DHS will provide assistance in locating accessible units and a list of available accessible units known to the DHS.
- Family Obligations under the program.
- Grounds for termination of assistance because of family action or failure to act.

#### *Other Information to be Provided at the Briefing*

The person conducting the briefing will also describe how the program works and the relationship between the family and the owner, the family and the DHS, and the DHS and the owner.

The briefing interview presentation emphasizes:

- Family and owner responsibilities.
- Where a family may lease a unit inside and outside its jurisdiction.
- How portability works for families eligible to exercise portability.
- Advantages to moving to area with low concentration of poor families if family is living in a high poverty census tract in the DHS jurisdiction.
- Choosing an apartment carefully.
- Family Self-Sufficiency Program.

If the family includes a person with disabilities, DHS will ensure compliance with 24 CFR 8.6 to ensure effective communication.

A written notice will be given to the family explaining that they have a right to select any unit that qualifies for the program and the choice of DHS-owned housing must be made freely.

## **Owner Briefing**

Briefings are held for owners at least once per year. All new owners receive a personal invitation and current owners are notified by mail. Prospective owners are also welcome. The purpose of the briefing is to assure successful owner participation in the program.

## **D. TERM OF VOUCHER**

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

### **Expirations**

The Voucher is valid for a period of 60 calendar days from the date of issuance. The family must submit a Request for Lease Approval within the 60 day period unless an extension has been granted by DHS.

If the Voucher expires and is not extended by the DHS, 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, it may remain as a participant in the unit if there is an assisted lease/contract in effect.

### **Suspensions**

When a Request for Lease Approval (RLA) is received, the term of the Voucher will be suspended until a lease and contract have been executed for the unit or DHS determines that leasing the unit is not feasible. If the unit cannot be leased DHS will change the expiration date on the voucher and provide the family the same number of search days which remained in the term on the date the RLA was submitted.

### **Extensions**

A family may request an extension of the Voucher time period, in two 30 day increments. All requests for extensions must be received prior to the expiration date of the Voucher. Extensions are permissible at the discretion of the DHS up to a maximum of 60 days, primarily for these reasons:

- Extenuating circumstances, such as hospitalization or family emergency, which has affected the family's ability to find a unit within the 60 day period. Verification is required.
- DHS is satisfied that the family has made a reasonable effort to locate a unit, including seeking the assistance of the DHS, throughout the initial 60 day period. A completed search record is required.

- Family was prevented from finding an apartment due to the need to locate an accessible unit to accommodate a disabled family member or to the family's need for a unit with four or more bedrooms. A completed search record is required as part of the verification.

Upon receiving satisfactory documentation of one of the above, DHS will provide extensions of 30 days.

#### **E. ASSISTANCE TO VOUCHER HOLDERS DURING SEARCH**

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

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

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, DHS 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 at issuance (listed on the initial application).
- Composition of the new family units, including 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, DHS will terminate assistance on the basis of failure to provide information necessary for a recertification.

Where the breakup of the family also results in a reduction in the number of bedrooms required for a family in the Certificate program, the family will be issued a Voucher to search for a unit of appropriate size. DHS will assist the family by providing information on available units of appropriate size. At the end of the Voucher term, if the family has rejected an opportunity to select another appropriate unit, the family's assistance under

the Certificate program will be terminated. The family will have the option of remaining in place with Voucher funding.

**G. RETENTION OF CERTIFICATE/VOUCHER FOR REMAINING MEMBER OF TENANT FAMILY**

To be considered the remaining member of the tenant family, the person must have been previously approved by DHS 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 must have awarded emancipated minor status to the minor, or DHS has to have verified that the appropriate agency has arranged for another adult to be brought into the assisted unit to care for the child(ren) for an indefinite period.

A reduction in family size may require a reduction in the Certificate or Voucher size.

## **CHAPTER 10: REQUEST FOR LEASE APPROVAL AND CONTRACT EXECUTION**

### **A. INTRODUCTION**

After families are issued a Voucher, they may search for a unit anywhere within the jurisdiction of DHS, or outside of DHS'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 (HAP) contract with DHS. This Chapter defines the types of eligible housing and DHS policy regarding initial inspections, lease requirements, owner disapproval, and the processing of Requests For Lease Approval (RLA).

### **B. REQUEST FOR LEASE APPROVAL**

The RLA and a copy of the proposed Lease must be submitted by the family during the term of the Voucher.

The RLA must be signed by both the owner and Voucher-holder.

DHS will not permit the family to submit more than one RLA at a time.

#### **Approval of RLA**

DHS will review the RLA to determine whether or not it will be approved. The request will be approved if:

- Total Tenant Payment is within 40% of the family's adjusted monthly income.
- Unit is an eligible type of housing.
- Unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan).
- Rent is reasonable (See Section G).
- Security deposit amount is approvable (Pursuant to State law).
- Proposed lease complies with HUD and DHS requirements as well as State and local law (See Section D).
- Owner is approvable, and there are no conflicts of interest (See Section J).

**Disapproval of RLA**

If DHS determines that the request cannot be approved for any reason, the landlord and the family will be notified in writing. DHS will instruct the family of the steps that are necessary to approve the Request. The family will be given five calendar days to submit an approvable RLA from the date of disapproval.

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

**C. ELIGIBLE TYPES OF HOUSING**

DHS will approve any of the following types of housing in the Voucher programs:

- All structure types can be utilized.
- Manufactured homes where the tenant leases the mobile home and/or the pad.
- Independent group residences.
- Congregate facilities (only the shelter rent is assisted).
- Single-Room Occupancy.
- Units owned (but not subsidized) by the DHS (following HUD-prescribed requirements).

A family can own a rental unit but cannot reside in it while being assisted, except in the case when the tenant owns the mobile home and leases the pad.

A family may lease and have an interest in a cooperative housing development.

Unless its 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. DHS will waive this restriction as a reasonable accommodation for a family member who is a person with a disability.

The DHS may not permit a Voucher holder to lease a unit which is receiving Project-Based Section 8 assistance or any duplicative rental subsidies.

The DHS will not approve:

- Unit occupied by the owner or by any person with a interest in the unit, other than manufactured homes described above.
- Nursing homes or other institutions that provide care.

- School dormitories and institutional housing.
- Any other types of housing prohibited by HUD.

#### **D. LEASE REVIEW**

The DHS will review the lease, particularly noting the approvability of optional charges and compliance with regulations and New Mexico law. Responsibility for utilities, appliances and optional services must correspond to those provided on the RLA.

Owners may either submit their own lease or permit DHS to furnish the lease. In cases where the owner's lease is used, the HUD tenancy addendum must be attached and executed.

DHS encourages owners to use a sample lease provided by the DHS, which includes the HUD-mandated language. House Rules of the owner may be attached to the lease as an addendum, provided they must be approved by DHS to ensure they do not violate any fair housing HUD Provisions.

#### **E. SEPARATE AGREEMENTS**

Separate agreements are not necessarily illegal side agreements. Families and owners will be advised of the prohibition of illegal side payments for additional rent, or for items normally included in the rent of unassisted families, or for items not shown on the approved lease.

Owners and families may execute separate agreements for appliances (other than HQS requirements such as utilities, range and refrigerator) and other items that are not included in the lease if the agreement is in writing and approved by the DHS.

Any appliances, services or other items 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. DHS is not liable for unpaid charges for items covered by separate agreements, and nonpayment of these agreements cannot be cause for eviction.

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 DHS. If agreements are entered into a later date, they must be approved by the DHS and attached to the lease.

DHS will approve agreements for modifications to the unit for persons with disabilities. The modifications are usually within the dwelling and are critical to the use of the dwelling. If the owner makes modifications to the unit, the costs should be recovered through the rent collected,

not by having the tenant pay for the modifications. Exception would be considered if the modifications are such that they most likely would be removed if the tenant moved out.

#### **F. INITIAL INSPECTIONS**

See Chapter 11: Housing Quality Standards and Inspections.

#### **G. RENT LIMITATIONS**

DHS 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.

In addition, even when the rent is determined to be reasonable within local rental market conditions, the family may not enter into a lease for the unit if the total tenant payment for the unit will be greater than 40% of the family's adjusted monthly income.

If the proposed Gross Rent is not reasonable or the TTP will exceed 40% of the family's adjusted monthly income, at the family's request, DHS will negotiate with the owner to reduce the rent to a reasonable rent.

If the rent can be approved by taking the above steps, DHS will continue processing the Request for Lease Approval and Lease. If the revised rent involves a change in the provision of utilities, a new Request for Lease Approval must be submitted by the owner.

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

#### **H. SECURITY DEPOSIT REQUIREMENTS**

##### **Leases Effective on or after October 2, 1995**

Security deposits charged by owners may not exceed those charged to unassisted tenants nor the maximum prescribed by New Mexico Jersey law.

##### **Leases Effective Prior to October 2, 1995**

The amount of security deposit an owner could have collected under contracts effective prior to October 2, 1995 is:

- Under the Certificate Program, an amount not to exceed Total Tenant Payment at move-in or \$50.00, whichever was greater.
- For the Voucher Program, an amount not to exceed one month's rent at move-in.

**I. INFORMATION TO OWNERS**

The DHS is required to provide prospective owners with the address of the applicant and the names and addresses of the current and previous landlords, if known. DHS will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

DHS 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, and other factors related to the family's suitability as a tenant.

Upon written request from a prospective landlord, DHS will provide any of the following information regarding a family's tenancy history during the past three years based on *documentation in its possession* relating to:

- Eviction history.
- Damage to rental units.
- Other aspects of tenancy history; including complaints from neighbors or landlords.

The information will be provided orally and/or in writing. Only supervisory staff may provide this information. DHS's policy on providing information to owners is included in the briefing packet and will apply uniformly to all families and owners.

**J. OWNER DISAPPROVAL**

For purposes of this section, "owner" includes a principal or other interested party.

DHS may disapprove the owner for any of the following reasons:

- Owner has a history or practice of failing to terminate the tenancy of residents occupying 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;
  - Threatens the health or safety of other residents, of employees of the PHA or of owner employees or other persons engaged in management of the housing;
  - Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity or the premises; or,
  - Is drug-related criminal activity or violent criminal activity.
- Owner has violated obligations under the Housing Assistance Payments contract, including but not limited to:

- Having a history or practice of non-compliance with the HQS for units leased under the Section 8 programs;
- Having a history or practice of renting units that fail to meet local housing codes; or
- Committing fraud, bribery or any other corrupt act in connection with the Section 8 program or any other federal housing program.
- Engaging in any drug-related criminal activity or any violent criminal activity.
- Not paying New Mexico real estate taxes, fines or assessments, water and sewerage bills.
- Owner has a conflict of interest as described in HUD regulation 24 CFR 982.161(a) and would therefore be unable to enter into a contract with DHS; or owner is employed by DHS as a member of the Section 8 Program staff or is a DHS Commissioner.
- When HUD has informed DHS that disapproval is required because:
  - Owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24;
  - Federal government has instituted an administrative or judicial action against the owner for violating the Fair Housing Act or other federal equal opportunity requirements and such action is pending;
  - Court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.

Before imposing any penalty against an owner, DHS 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.

If an owner commits fraud or abuse or is guilty of frequent or serious contract violations, DHS may restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. DHS may terminate some or all contracts with the owner.

If the landlord has been overpaid as a result of fraud, misrepresentation, or violation of the Contract, DHS may terminate the Contract and arrange for restitution to DHS and/or the family, as appropriate.

**K. 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, DHS need not obtain new verifications before signing the HAP Contract, even if verifications are more than 60 days old.

**L. CONTRACT EXECUTION PROCESS**

DHS prepares the Housing Assistance Payments (HAP) contract and lease for execution. The family and the owner will execute the lease agreement, and the owner and DHS will execute the HAP contract. Copies of the documents will be furnished to the parties who signed the respective documents. DHS will retain a copy of all signed documents.

For new owners, the documents are signed at a Signature Briefing attended by the owner, family, and a representative of the DHS. The briefing covers the responsibilities and roles of the three parties.

DHS 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 DHS representatives are authorized to execute a contract on behalf of the DHS: Deputy Executive Director, Assisted Housing Officer for Administration/Operations and the Assistant Housing Officer for Finance/Program Compliance.

Each owner must provide the following information to DHS:

- Current address of his/her residence (not a Post Office box);
- Business and home telephone number;
- Employer Identification Number or Social Security Number;
- Copy of Driver's License or other photo identification;
- Proof of ownership of the property, Grant Deed and Tax Bill or water and sewer bill;
- Copy of the Management Agreement, if property is managed by a management agent;
- Copy of the current insurance policy.

**M. CHANGE IN OWNERSHIP**

A change in ownership requires execution of a new contract.

DHS 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.

DHS 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.

**CHAPTER 11:**  
**HOUSING QUALITY STANDARDS AND INSPECTIONS**  
[24 CFR 982.401]

**A. INTRODUCTION**

Housing Quality Standards (HQS) are the HUD minimum quality standards for tenant-based programs. HQS standards are required both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, as well as the unit. Newly leased units must pass the HQS inspection before the beginning date of the assisted lease and HAP contract. DHS will inspect each unit under contract at least annually. DHS will also perform a quality control inspection of at least five percent of all units under contract annually to maintain DHS's required standards and to ensure consistency.

HQS standards may be enhanced by DHS, provided that by doing so, DHS does not overly restrict the number of units available for lease under the program. The use of the term "HQS" in this Administrative Plan refers to the combination of both HUD and DHS requirements. This Chapter describes DHS's procedures for performing HQS and other types of inspections and 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.

**B. GUIDELINES/TYPES OF INSPECTIONS**

DHS has adopted local requirements of acceptability in addition to those mandated by the HUD Regulations. All units must meet the minimum standards set forth in New Mexico's Property Conservation Code. In cases of inconsistency between the Code and these HQS, the stricter of the two shall prevail.

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

All utilities must be in service at the initial inspection. If the utilities are not in service at the time of inspection, the Inspector will notify the tenant or owner (whoever is responsible for the utilities according to the RLA) to have the utilities turned on. The Inspector must return to certify that the utilities are on.

The stove must be present when the unit is inspected.

There are five types of inspections the DHS will perform:

- Initial/Move-in
- Annual

- Special/Complaint
- Move-Out/Vacate
- Quality Control

### **Initial/Move-In Inspections**

The Initial/Move-In Inspection is conducted to:

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

DHS will conduct the initial inspection within a reasonable time after receiving a RLA from the family. Every effort will be made to conduct the inspection within 15 days of receiving the RLA.

If the unit fails the initial HQS inspection, the family and owner will be advised to notify DHS once repairs are completed. The owner will be given up to 30 days to correct the deficiencies identified depending on the amount and complexity of work to be done.

The owner will be allowed up to two 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.

### **Annual Inspections**

The DHS conducts HQS inspections at least annually, generally 90 days prior to the anniversary date of the contract but always at least 60 days prior to the anniversary of the previous inspection. Special inspections may be scheduled between anniversary dates.

HQS deficiencies which cause a unit to fail must be corrected by the landlord, unless the tenant is responsible for the deficiency.

The family must allow the DHS to inspect the unit at reasonable times with reasonable notice. Reasonable times to conduct an inspection are on business days only between the hours of 9:00 a.m. and 4:00 p.m. Exceptions may apply. DHS will notify the family in writing at least seven days prior to the inspection.

The family is 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 ten days.

If the family does not contact DHS to reschedule the inspection, or the family misses two inspection appointments, DHS will consider the family to have violated a Family Obligation and its assistance will be terminated in accordance with the termination procedures in the Plan.

When the inspection has been completed, the owner and the family will be informed in writing of any items which failed to meet HQS standards and must be repaired or replaced and of the date on which DHS will reinspect to certify completion of the required work. The owner must notify the DHS when the repairs have been completed

### *Reinspection*

The family is mailed a notice of the reinspection appointment. If the family is not at home for the reinspection appointment, a card will be left at the unit, and the tenant is responsible to call for another appointment.

The family is also notified that it is a Family Obligation to allow DHS to inspect the unit. If the family was responsible for a breach of HQS identified in Chapter 16 of this Plan, it will be advised of its responsibility to correct the deficiency.

If the Inspector is unable to gain access to the unit for the re-inspection, HAP payments are abated as of the first day of the month following the re-inspection. HAP payments cannot begin again until the inspector is able to enter the unit and determine that the unit meets HQS standards. If the inspector has been unable to gain access at the time of the second attempt to conduct a re-inspection, the owner will receive Notice of Contract Termination (see Chapter 15).

If the family is responsible for the HQS failure and has failed to make the required correction, the family will receive a Notice of Termination of Assistance (see Chapter 16).

### *Time Standards for Repair*

Emergency items which endanger the family's health or safety must be corrected within 24 hours of notification.

For non-emergency items, repairs must be made within 30 days.

### *Rent Increases*

DHS will conduct an inspection using HQS and other standards approved in this Administrative Plan at least annually prior to the date of the last inspection. Rent increase requests will not be approved if the unit is in a failed condition.

**Special/Complaint**

If at any time family, owner, agency, or third party requests a special inspection, DHS will conduct an inspection. DHS 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.

**Move-Out/Vacate**

A move-out inspection will be performed at the landlord's request if a claim is to be submitted for a contract effective before October 2, 1995.

**Quality Control**

Quality Control inspections will be performed by the Inspection Supervisor or his designee on at least five percent of the units inspected by each inspector. The purpose of Quality Control inspections is to ascertain that each inspector is conducting accurate and complete inspections and to ensure that there is consistency among inspectors in application of the HQS.

**C. EMERGENCY REPAIR ITEMS**

Emergency repair items must be corrected by the owner or tenant (whoever is responsible) within 24 hours of notice by the Housing Inspector. Items considered to be of an emergency nature include but are not limited to the following.

- 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 between October 15 and April 15.
- Utilities not in service.
- No running hot water.
- Broken glass where someone could be injured.
- Obstacle that prevents tenant's entrance or exit.
- Lack of functioning toilet.

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

If the emergency repair item(s) are not corrected in the time period required by DHS, and the owner is responsible, the HAP payment will be abated and the HAP contract may be terminated.

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

#### **D. DETERMINATION OF RESPONSIBILITY**

The family is responsible for breaches of HQS caused by:

- Tenant-paid utilities not in service;
- Failure to provide or maintain family-supplied appliances; and
- Damages to the unit or premises caused by a household member or guest beyond normal wear and tear, as defined in Chapter 18.

The owner is responsible for all other HQS violations.

The owner is responsible for eliminating 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. DHS may terminate the family's assistance on that basis.

The inspector will make the determination of owner or family responsibility during the inspection. The owner or tenant may appeal this determination through an informal hearing within fourteen (14) days of the inspection.

If the family is responsible but the owner carries out the repairs, the owner will be encouraged to bill the family for the cost of the repairs and the family's file will be noted.

#### **E. CONSEQUENCES IF OWNER IS RESPONSIBLE -NON-EMERGENCY ITEMS**

When it has been determined that a unit on the program fails to meet HQS, and the owner is responsible for completing the necessary repair(s), DHS will conduct a reinspection to insure repairs are completed within the time period specified by DHS. If repairs are not completed within the time period specified, the assistance payment to the owner will be abated.

##### **Abatement**

A Notice of Abatement will be sent to the owner, and the abatement will be effective on the first day of the month following the date of the failed reinspection.

The DHS will inspect abated units within seven days of the owner's notification that the work has been completed.

If the owner makes repairs during the abatement period, payment will resume on the day the unit passes inspection.

The family will be notified of the re-inspection date.

No retroactive payments will be made to the owner for the period of time while the rent was abated and the unit did not comply with HQS.

### **Termination of Contract**

If the owner is responsible for repairs, and fails to correct all the deficiencies cited prior to the reinspection, the owner will be sent a HAP Contract Proposed Termination Notice with the Notice of Abatement. The abatement will remain in effect until repairs are completed or the contract is terminated.

If repairs are completed the owner or the tenant must notify DHS and request an inspection before the effective termination date. If the unit is in compliance with HQS, the termination will be rescinded by DHS if the tenant chooses to remain in the unit. Only two HQS inspections will be conducted after the termination notice is issued.

### **Extension**

DHS may grant an extension in lieu of termination of assistance in the following cases:

- Owner has a good history of HQS compliance.
- There is an unavoidable delay in completing repairs due to difficulties in obtaining parts or contracting for services.
- 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 will be made at the discretion of DHS for a period of time not to exceed 30 days. At the end of the extension, if the work is not completed, DHS will terminate the contract and the tenant will be issued a voucher. DHS may on a case by case basis issue a longer extension.

## **F. CONSEQUENCES IF FAMILY IS RESPONSIBLE**

If non-emergency violations of HQS are determined to be the responsibility of the family, DHS will require the family make any repair(s) or corrections within 30 days. If the repair(s) or correction(s) are not made in this time period, DHS will terminate assistance to the family. Extensions are approved on a case by case basis by the Assisted Housing Officer for Administration or his or her designee. The owner's rent will not be abated for items which are the family's responsibility.

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

**CHAPTER 12:**  
**OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS**  
**[24 CFR 982.501, 982.503, 982.504]**

**A. INTRODUCTION**

DHS is responsible for ensuring that the rents charged by owners are reasonable based upon objective comparables in the rental market. DHS will not approve the lease or execute a payments contract until it has determined that the unit meets the minimum HQS and that the rent is reasonable. DHS will determine rent reasonableness at initial lease-up, before any increases in rent to owner and at other times as described in this section. DHS will provide the owner with information concerning rent adjustments.

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

**B. OWNER PAYMENT IN THE CERTIFICATE PROGRAM**

The payment to the landlord, called the Housing Assistance Payment, is the Contract Rent approved by DHS less the Tenant Rent determined by the DHS.

**C. OWNER PAYMENT IN THE VOUCHER PROGRAM**

The payment to the landlord, called the Housing Assistance Payment, is the lower of the:

1. Payment Standard minus the Total Tenant Payment, or
2. Gross rent minus the Total Tenant Payment.

However, for Voucher contracts effective prior to October 1, 1999, the second option (based on gross rent) will not be applicable until the second regular reexamination of family income and composition after October 1, 1999.

The Voucher size issued to the family is based on DHS's Subsidy Standards. The payment standard for the family is based on the lesser of the Payment Standard for the Voucher size issued and the Payment Standard for the unit selected.

The Housing Assistance Payment may never exceed the rent charged by the owner.

**D. MAKING PAYMENTS TO OWNERS**

Once the HAP Contract is executed, DHS begins processing payments to the landlord. The effective date and the amount of DHS payment is communicated in writing via the executed HAP Contract. A HAP Register will be used as a basis for monitoring the accuracy and timeliness of payments. Changes are made automatically to the HAP Register for the following

Checks may be picked up by an owner at DHS in emergency situations only. month. Checks are disbursed by DHS Finance Department to the owner each month.

Checks will only be disbursed on the first of the month. Exceptions may be made with the approval of the Deputy Director in cases of hardship.

Checks are due to owners on the first of the month. Any payment after the first payment under a contract will be considered late if it has not been postmarked by the 10<sup>th</sup> of the month. Checks that are not received will not be replaced until a stop payment has been put on the check and at least 30 days have elapsed.

## **E. RENT REASONABLENESS DETERMINATIONS**

DHS will not approve a lease until DHS determines that the initial rent to owner is a reasonable rent. DHS will re-determine rent reasonableness whenever an owner requests a regular or special contract rent adjustment for the Certificate program or any increase in the rent for a Voucher unit. DHS must also re-determine rent reasonableness 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.

DHS must also re-determine rent reasonableness if directed by HUD and based on a need identified by DHS's auditing system. DHS may elect to re-determine rent reasonableness at any other time. At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or re-determined by DHS.

DHS 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, and
- Does not exceed rents currently charged by the same owner for an equivalent assisted or unassisted unit in the same building or complex.

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

The market areas for rent reasonableness are indicated by zip code and census tract within DHS'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 unit
- Unit Type
- Utilities
- Maintenance

At least two comparables of unassisted units will be used for each rent determination. All comparables must be based on the rent that the unit would command if leased in the current market. Leased in the current market means that the unit has been leased within the last 360 days.

## **F. VOUCHER PROGRAM PAYMENT STANDARDS**

The Payment Standard is used to calculate the housing assistance payment for a family. The Payment Standard is set by DHS between 90% and 110% of the FMR/exception rent. DHS reviews the appropriateness of the Payment Standard annually when the FMR is published. In determining whether a change is needed, DHS will ensure that the Payment Standard is within the range of 90% to 110% of the new FMR.

### **Adjustments to Payment Standards**

Payment Standards may be adjusted to increase Housing Assistance Payments in order to keep families rents affordable. The DHS will not raise the Payment Standards so high that the number of families that can be assisted under available funding is substantially reduced. Nor will the DHS raise Standards if the need is solely to make “high end” units available to Voucher holders.

The DHS will review the Payment Standard annually to determine whether an adjustment should be made for some or all unit sizes. The Payment Standard will be reviewed according to HUD’s requirements and this policy and if an increase is warranted, the payment standard will be adjusted within 90% to 110% of the current Fair Market Rent. In a volatile market, it is DHS’s discretion as to whether to make the change immediately or to wait until the time of the annual review.

DHS may use some or all of the measures below in making its determination whether an adjustment should be made to the Payment Standard:

*Assisted Families’ Rent Burdens:* DHS will review reports showing the percent of income used for rent by Voucher families to determine the extent to which the rent burden is more than 45% of income.

*Availability of Suitable Vacant Units Below the Payment Standard:* DHS will review its rent reasonableness and vacancy rate data to determine whether there is an ample supply of vacant units below the Payment Standard in areas without minority- and/or poverty-concentration.

*Quality of Units Selected:* DHS will review the quality of units selected by participant families before determining any change to the Payment Standard to ensure that Payment Standard increases are only made when needed to reach the mid-range of the market.

*DHS Decision Point:* DHS will review the quality and size of units where the Rents to Owner are above the Payment Standard by more than 25%. If more than 50% of families have selected above-average units or have selected larger units than the Voucher size, DHS may elect not to increase the Payment Standard or continue the analysis.

If the analysis continues, DHS will divide those rents between contracts within the first year and after the first year. If the Rents to Owner are more than 25% above the average, in any bedroom size, the DHS will continue the analysis. If not, the DHS may elect not to increase the Payment Standard for certain bedroom sizes.

*Time to Locate Housing:* DHS may consider the average time period for families to lease up under the Voucher program. If the average for Voucher holders exceeds 90 days, the Payment Standard may be adjusted.

*Rent Reasonableness Database/ Average Contract Rents:* DHS will compare the Payment Standards to average rents in its rent reasonableness data and to the average Contract Rents by unit size. The Payment Standards should be on par with these amounts.

*Lowering of the Payment Standard:* Statistical analysis may reveal the Payment Standard should be lowered, in which case, the Payment Standard should not be less than 90% of the current FMR. If the FMR is lowered, the Payment Standard may not exceed the FMR except in those cases where families are held harmless until they move to a different dwelling unit or have a change in family composition which would affect their Voucher size.

*Financial Feasibility:* Before increasing the Payment Standard, the DHS may review the budget and the project reserve, to determine the impact projected subsidy increases would have on funding available for the program and number of families served. For this purpose, the DHS 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 DHS for at least three years to document the analysis and findings to justify whether or not the Payment Standard was changed.

## **G. EXCEPTION PAYMENT STANDARDS**

DHS may request HUD approval to establish a Payment Standard that is higher or lower for a designated area of the city. DHS will submit a request for a lower payment standard if it

determines that a lower payment standard is justifiable based on market data from that area and establishing a lower standard would enable DHS to provide housing assistance to more families.

DHS will request a higher (exception) payment standard for all units, or all units of a given size, within a designated area of the city if it determines that a higher Payment Standard is needed to help families obtain housing outside areas of high poverty.

## **H. PAYMENT STANDARDS FOR A FAMILY**

### **Regular Reexamination**

If the payment standard decreases during the HAP Contract term, the Payment Standard for the family is the higher of (1) the Payment Standard at the beginning of the lease minus any amount by which the initial rent to owner has decreased, or (2) the Payment Standard at the current or most recent annual exam. If a change in family size or composition occurs affecting the Voucher size, the ability to use the initial Payment Standard is lost.

### **Interim Examination**

If after the beginning of the term of the lease the family has a change in income, family size or composition that would require or allow for an interim adjustment based on DHS's interim policy, DHS will not apply any change in payment standard until the date of the next regular reexamination.

### **Moves**

If the family moves into a different unit prior to its next recertification and DHS 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.

## **I. RENT ADJUSTMENTS**

### **Regular Certificate Program**

Until all Certificate contracts have been merged into the Voucher program, DHS will notify owners of their right to request a rent adjustment 120 days in advance of the anniversary date. The approval or disapproval decision regarding the adjustment will be based on HUD-required calculations and a rent reasonableness determination. The adjustment may be an increase or a decrease. The maximum increase will be based on the Annual Adjustment Factor (AAF) in effect 60 days before the contract anniversary date multiplied by the pre-adjusted rent to owner. A decrease may occur either as the result of an AAF less than 1.0, or the HA's rent reasonableness determination.

Owners must request the rent increase in writing. Any increase will be effective the later of (1) the anniversary date of the Contract, or (2) at least 60 days after the owner's request is received. To be honored, requests must be received at least 60 days prior to the next anniversary date.

The change in rent does not affect the automatic renewal of the lease and does not require a new lease or contract or even an executed amendment. A notice of rent change will be sent to the owner and the family.

### **Special Adjustments**

An owner with a unit under contract in the regular Certificate program may request a special adjustment based on substantial and general increases in real property taxes, special government assessments, or costs of utilities. The rent requested must be found to be reasonable and must be approved by HUD.

### **Disapproval of Requests for Adjustment**

If DHS rejects the owner's request for rent adjustment on a unit in the Certificate program as exceeding the Annual Adjustment Factor and the owner rejects DHS's determination, the owner may offer the tenant a new lease with a 60-day notice to the tenant. DHS will issue a new Voucher to the family. If the tenant accepts the offer of a new lease, an RFLA must be submitted and the requested rent subjected to rent reasonableness. If the tenant refuses or the

Owner does not offer a new lease, the owner may institute court action to terminate tenancy for a business or economic reason in accordance with the lease. The tenant may use the Voucher to search for a new unit.

After the tenant has begun searching for a new housing unit and/or after court action has been initiated, the owner may decide to accept the current lease. If the owner and tenant agree, the lease can continue and the tenant may continue receiving assistance under the Certificate program until the assistance is converted to the Housing Choice Voucher Program.

### **Voucher Rent Adjustments**

Owners may not request rent adjustments in the Voucher program to be effective prior to the expiration of the first year of the lease. Rent adjustments therefore are effective only after a 60-day notice to the family and a copy to DHS. DHS will advise the family as to whether the rent is reasonable and shall approve or disapprove the rent increase.

**CHAPTER 13:  
RECERTIFICATIONS  
[24 CFR 982.516]**

**A. INTRODUCTION**

In accordance with HUD requirements, DHS 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 regulation. It is a HUD requirement that families report all changes in household composition, but the DHS decides what other changes must be reported and the procedures for reporting them. This Chapter defines the DHS'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.

**B. ANNUAL ACTIVITIES**

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

- Recertification of Income and Family Composition
- HQS Inspection, as described in Chapter 11.
- For Certificates only, Contract Rent Adjustments, as described in Chapter 12.

**C. ANNUAL RECERTIFICATION**

Families are required to be recertified at least annually.

When families move to another dwelling unit the anniversary date for the recertification will be changed to the new lease-up date.

Income limits are not used as a test for continued eligibility at recertification, unless the family is moving under portability and changing their form of assistance.

**Reexamination Notice to the Family**

DHS will maintain a reexamination tracking system, and the household will be notified by mail of the date and time for their interview at least 60 days in advance of the anniversary date.

If requested as an accommodation by a person with a disability, DHS, to the extent feasible, will provide notice in an accessible format. DHS will also mail the notice to a third party, if

requested as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability to the interview.

The written notification will state which family members are required to attend the interview. The family may call to request another appointment date up to 24 hours prior. If the family does not appear for the interview, and has not rescheduled or made prior arrangements with DHS, DHS will schedule a second appointment.

If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, DHS will terminate assistance to the family and offer them an informal hearing. Exceptions to this policy may be made by the Assisted Housing Officer of Administration/Operations or her designee if the family is able to document an emergency situation that prevented them from canceling or attending the appointment.

### **Completion of Annual Recertification**

DHS will complete recertifications for families 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.

For persons with disabilities who are unable to come to DHS's office, DHS will grant an accommodation by conducting the interview at the person's home or by mail, upon verification that the accommodation requested meets the need presented by the disability.

The head of household is required to attend the recertification interview. If the head of household is unable to attend, the appointment will be rescheduled, or the spouse or co-head may recertify for the family. The Housing Assistance Technician or Leasing Technician interviews the family and records the answers on the recertification forms.

DHS will instruct the family to bring the following to the interview:

- Documentation of income for all family members
- Documentation of all assets
- Documentation of any deductions/allowances
- Rent receipts
- Copies of gas and electric bills
- Security deposit receipts

DHS 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 30-day notice is mailed to the family prior to the anniversary date.

If less than thirty days are remaining before the anniversary date, the tenant rent increase will be effective on the first of the month following the 30-day notice.

If there has been a misrepresentation or a material omission by the family, or if the family caused a delay in the reexamination processing, the rent increase will be effective on the anniversary date regardless of whether the family has been given 30 days notice or the anniversary date has already passed and the increase must be imposed retroactively.

### **Tenant Rent Decrease**

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 completed by the anniversary date, a rent decrease will be effective on the first day of the month following completion of the reexamination processing by the DHS.

## **D. REPORTING INTERIM CHANGES**

The DHS requires that families report interim changes to the DHS within 30 days if the amount is to exceed \$50.00. 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. For changes that exceed \$50.00 the interim change must be made within 30 days. For those income changes that are less than \$50.00 the recertification will take place at the annual recertification.

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.

### **Changes in Income and Assets**

DHS will conduct interim reexaminations when families have a decrease in income.

Participants may report a decrease in income and other changes, which would reduce the amount of tenant rent, such as an increase in allowances or deductions. The DHS must calculate the change if a decrease in income is reported.

If DHS 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.

### **Changes in Family Composition**

HUD requires program participants to report all changes in household composition to the DHS between annual reexaminations. This includes additions due to birth, adoption and court-awarded marriage custody. All changes in family composition must be reported within 30 days of the occurrence. The family must obtain DHS's and the owner's written approval prior to all other additions to the household.

DHS will approve additions to the household in the following cases:

- Addition by marriage/or marital-type relation, if issued a zero bedroom sized subsidy;
- Addition of a minor who is a member of the nuclear family who had been living elsewhere;
- One additional bedroom for a DHS-approved live-in attendant;
- Addition due to birth, adoption or court-awarded custody.

If any new family member is added, family income must include any income of the new family member. DHS will conduct a reexamination to determine such additional income and will make the appropriate adjustments in the housing assistance payment and family unit size.

If a change requires a larger size unit due to overcrowding, DHS will issue a Voucher for the family to search for a new unit.

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 the new member moves into the unit.

DHS may 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 24CFR982.51 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 or violent criminal activity.
- Persons who have been convicted of manufacturing methamphetamine on the premises of a Section 8.
- Persons who do not meet DHS'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 DHS 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 DHS personnel.

DHS may also deny a family's request to add additional family members, if the addition will cause the family to be under housed and require a larger unit size.

Families are required to notify DHS if any family member leaves the assisted household. When the family notifies DHS, it must furnish the following information:

- The date the family member moved out;
- Documentation of the new address of the family member; or
- Court documents verifying divorce, separation or new custody arrangements.

### **Notification Procedures When Changes Reported Affect Tenant Rent**

DHS will notify the family and the owner of any change in the Housing Assistance Payment to be effective according to the following guidelines:

#### *Changes Reported in Timely Manner*

- *Increases in the Tenant Rent* are effective on the first of the month following at least a 30-day notice.
- *Decreases in the Tenant Rent* are effective the first of the month following that in which the change occurred. No rent reductions will be processed, however, until all the facts have been verified, even if a retroactive adjustment results.

#### *Changes Not Reported in a Timely Manner*

If the family does not report the change in a timely manner, 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 on a timely basis. 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.
- *Decrease in Tenant Rent* will be effective on the first of the month following completion of processing by DHS and not retroactively.

#### *Changes Not Processed by DHS 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 DHS in a timely manner.

- *Increases in Tenant Rent* will be effective after the required 30-day notice prior to the first of the month after completion of processing by the DHS.
- *Decreases in Tenant Rent.* 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.

#### **OTHER INTERIM REPORTING ISSUES**

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

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.

In instances where fraud is suspected, an interim recertification of the family may be required.

Form HUD-50058 will be completed and transmitted as required by HUD to record changes.

The Notice of Rent Change is mailed to the owner and the tenant. Signatures are not required by DHS. If the family disagrees with the rent adjustment they may request an informal hearing.

**CHAPTER 14:**  
**MOVES WITH CONTINUED ASSISTANCE/PORTABILITY**  
**[24 CFR 982.314]**

**A. INTRODUCTION**

HUD regulations permit families to move with continued assistance to another unit within the DHS's jurisdiction, or to a unit outside of the DHS's jurisdiction under portability procedures. The regulations also allow the DHS the discretion to develop policies which define any limitations or restrictions on moves. This Chapter defines the procedures for moves, both within and outside of the DHS's jurisdiction, and the policies for restriction and limitations on moves.

**B. ALLOWABLE MOVES**

A family may move to a new unit if:

- The assisted lease for the old unit has terminated because the DHS has terminated the HAP contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family.
- 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).
- The family has given proper notice of lease termination (if the family has a right to terminate the lease on notice to owner).

**C. RESTRICTIONS ON MOVES**

Families will not be permitted to move within New Mexico or outside DHS'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 (unless required to do so by DHS to meet HQS or other program standards).

DHS will deny permission to move if there is insufficient funding for continued assistance.

DHS may deny permission to move to if:

- The family has violated a Family Obligation.
- The family owes DHS money.
- The family has moved or been issued a Voucher within the last 12 months.

The Assisted Housing Officer for Administration/Operations may make exceptions to these restrictions on a case by case basis to minimize hardship to the family.

## **D. PROCEDURE FOR MOVES**

### **Issuance of Voucher**

Upon request from the family, DHS will schedule the family for a moves interview. If the family has not been recertified within the last 120 days, DHS will conduct the recertification prior to the interview and will issue the Voucher at the recertification interview.

If the family does not locate a new unit, it 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 DHS 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 (or fewer if so specified in the lease) and must give a copy of the vacate notice to DHS 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 will be responsible for any vacancy loss paid by DHS.

### **Time of Contract Change**

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move except that there will be no overlapping assistance.

In any other move, assistance stops at the old unit at the end of the month in which the tenant ceased to occupy, unless proper notice was given to end a lease mid-month. Assistance will start on the new unit on the effective date of the lease and contract.

## **E. PORTABILITY**

Portability applies to families moving into or out of DHS's jurisdiction. Under portability, families are eligible to receive assistance to lease a unit outside of DHS's jurisdiction. The unit may be located:

- In the same state as the DHS.

- In the same metropolitan statistical area (MSA) as the DHS, but in a different state.
- In a MSA adjacent to the MSA of the DHS, but in a different state.
- In the jurisdiction of a PHA anywhere within the United States that administers a tenant based program.

## **F. OUTGOING PORTABILITY**

When a family requests to move outside of the DHS's jurisdiction, the request must specify the area to which the family wants to move.

If there is more than one PHA in the area in which the family has selected a unit, DHS will choose the receiving PHA.

If the family is moving to a unit located in an area where there is no PHA, DHS will be responsible for the administration of the family's assistance. In such a situation, DHS will choose a management company, another PHA, or a private contractor to administer the assistance.

### **Restrictions on Portability**

Families will not be permitted to exercise portability under the following circumstances:

- During the initial 12 month period after admission to the program, if neither the head, spouse or co-head had a domicile (legal residence) in DHS's jurisdiction at the date of their initial application for assistance.
- If the family is in violation of a family obligation.
- If the family owes money to DHS.

### **Outgoing Portability Procedures**

DHS 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 DHS will determine if the family is within the very low-income limit of the receiving PHA.

DHS will notify the receiving PHA that the family wishes to relocate into its jurisdiction.

DHS will advise the family on how to contact and request assistance from the receiving PHA and will notify the receiving PHA that the family will be moving into its jurisdiction.

DHS will provide the following documents and information to the receiving PHA:

- Copy of the family's Voucher, with issue and expiration dates, formally acknowledging the family's ability to move under portability.
- Most recent HUD 50058 form and verifications.
- Declarations and verifications of U.S. citizenship/eligible immigrant status.
- Names of DHS staff designated for inquiries on eligibility and billing.
- Administrative fee schedule for billing purposes.

The receiving PHA must notify DHS whether:

- It will absorb the family into its program.
- Family leases up or fails to submit a RLA by the required date.
- Assistance to the portable family is terminated.
- Family requests to move to an area outside the receiving PHA's jurisdiction.

### **Payment to the Receiving PHA**

DHS will requisition funds from HUD based on the anticipated lease-ups of portable Vouchers in other 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, DHS will reimburse the receiving PHA for 100% of the Housing Assistance Payment, 100% of the Special Claims paid on HAP contracts effective prior to October 2, 1995, and 80% of the Administrative Fee (at the initial PHA's rate), and any other HUD-approved fees.

### **Claims**

DHS will be responsible for collecting amounts owed by the family for claims paid and for monitoring the repayment. DHS 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.

Receiving PHAs will be required to submit hearing determinations to DHS within 30 days.

## **G. INCOMING PORTABILITY**

### **Absorption or Administration**

DHS will accept a family with a valid Voucher from another jurisdiction and administer or absorb the Voucher based on the availability of funding. If administering, the family will be

issued a "Portability" Voucher by DHS with the same start date. DHS may grant extensions in accordance with this Administrative Plan.

When DHS does not absorb the incoming Voucher, it will administer the initial PHA's Voucher and DHS's policies will prevail.

For initial lease-up, the family must be within DHS's Very-Low Income limits.

DHS will issue a "Portability Voucher" according to its own Subsidy Standards. If the family has a change in family composition that would change the Voucher size, DHS will change to the proper size based on its own Subsidy Standards.

DHS will decide whether to extend the "Portability Voucher" and for what period of time. If the family decides not to lease-up in DHS's jurisdiction, however, the family must request an extension from the initial PHA.

### **Income and TTP of Incoming Portables**

As receiving PHA, DHS 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 DHS, 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 DHS's jurisdiction, the DHS will refuse to enter into a contract on behalf of the family at \$0 assistance.

### **Requests for Lease Approval**

A briefing will be mandatory for all portability families.

When the family submits an RLA, it will be processed using the DHS's policies. If the family does not submit an RLA or does not execute a lease, the initial PHA will be notified within 60 days by the DHS.

If the family leases up successfully, DHS will notify the initial PHA within 60 days, and the billing process will commence.

If the DHS denies assistance to the family, the DHS will notify the initial PHA within 60 days and the family will be offered a review or hearing.

DHS will notify the family of its responsibility to contact the initial PHA if the family wishes to move outside the DHS's jurisdiction under continued portability.

**Terminations**

DHS will notify the initial PHA in writing of any termination of assistance within 60 days of the termination. If an informal hearing is required and requested by the family, the hearing will be conducted by DHS, 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 DHS that the family is in arrears or the family has refused to sign a repayment agreement, DHS will terminate assistance to the family.

**Required Documents**

As receiving PHA, DHS will require the following documents from the initial PHA:

- Copy of the family's Voucher, with issue and expiration dates, formally acknowledging the family's ability to move under portability.
- Most recent HUD 50058 form and verifications.
- Declarations and verifications of U.S. citizenship/eligible immigrant status.
- Names of DHS staff designated for inquiries on eligibility and billing.
- Administrative Fee Schedule for billing purposes.

**Billing Procedures**

As receiving PHA (in cases in which DHS does not absorb a family), DHS will bill the initial PHA monthly for Housing Assistance Payments. The billing cycle for other amounts, including Administrative Fees and Special Claims will be at least quarterly unless requested otherwise by the initial PHA.

DHS will bill 100% of the Housing Assistance Payment, 100% of Special Claim and 80% of the Administrative Fee (at the initial PHA's rate) and any other HUD-approved fees, for each "Portability" Voucher leased as of the first day of the month.

DHS will notify the initial PHA of changes in subsidy amounts and will expect the initial PHA to notify DHS of changes in the administrative fee amount to be billed.

## CHAPTER 15 CONTRACT TERMINATIONS

### **A. INTRODUCTION**

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

### **B. CONTRACT TERMINATION**

The term of the HAP Contract is the same as the term of the lease. The Contract between the owner and the DHS may be terminated by the DHS, or by the owner or tenant terminating the lease.

No future subsidy payments on behalf of the family will be made by the DHS to the owner after the month in which the Contract is terminated. The owner must reimburse the DHS for any subsidies paid by the DHS 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 DHS for vacancy loss under the provisions of Certificate 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 a new unit may begin during the month in which the family moved from the old unit.

### **C. TERMINATION BY THE FAMILY: MOVES**

The lease stipulates that the family cannot move from the unit until after the first year of the lease. The notice period to the landlord is determined by the lease, but may not exceed 60 days.

### **D. TERMINATION BY THE OWNER: EVICTIONS**

If the owner wishes to terminate the lease, the owner is required to evict, using the notice procedures in the HUD regulations and New Mexico law. The owner must provide DHS with a copy of the eviction notice.

The owner must provide the tenant a written notice specifying the grounds for termination of tenancy, at or before the commencement of the eviction action. The notice may be included in, or may be combined with, any owner eviction notice to the tenant.

The owner eviction notice means a notice to vacate, or a complaint, or other initial pleading used under New Mexico law to commence an eviction action.

During the term of the lease the owner may only evict for the following reasons:

- Serious or repeated violation of the terms and conditions of the lease.
- Violation of Federal, State or local law related to occupancy of the unit or use of the premises.
- Criminal activity by the tenant, any member of the household, a guest or another person under the tenant's control that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, or persons residing in the immediate vicinity of the premises.
- Any drug-related criminal activity on or near the premises.
- Tenant history of disturbance of neighbors, destruction of property, or behavior resulting in damage to the premises.
- Other good cause, after the first year of the lease, including business or economic reason for regaining possession of the unit; owner's desire to repossess the unit for personal use; or tenant's refusal to accept offer of a new lease.

DHS requires that the owner specify the section of the lease that has been violated and cite some or all of the ways in which the tenant has violated that section as documentation for DHS termination of assistance.

Housing assistance payments are paid to the owner under the terms of the HAP Contract. If the owner has begun eviction and the family continues to reside in the unit, the DHS must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

The DHS 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 DHS, the owner certifies that the tenant is still in the unit and she/he is in compliance with the contract. If action is finalized in court, the owner must provide DHS with the documentation, including notice of the lock-out date.

If the eviction is not due to a serious or repeated violation of the lease, and if the DHS has no other grounds for termination of assistance, the DHS will issue a new Voucher so that the family can move with continued assistance.

**E. TERMINATION OF THE CONTRACT BY DHS**

The term of the HAP contract terminates when the lease terminates, when the DHS terminates program assistance for the family, and when the owner has breached the HAP contract. (See Chapter 9, Section J “Owner Disapproval”).

DHS may also terminate to contract if:

- DHS terminates assistance to the family.
- Family is required to move from a unit, which is under-occupied (Certificate Program) or overcrowded (Certificate and Voucher Programs).
- 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.

DHS will provide the owner and family with at least 30 days written notice of termination of the contract.

**F. TERMINATIONS DUE TO INELIGIBLE IMMIGRATION STATUS**

Families who were participants on June 19, 1995 but are ineligible for continued assistance 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 are eligible for temporary deferral of termination of assistance, if necessary to permit the family additional time for transition to affordable housing.

Deferrals may be granted for intervals not to exceed six months, up to an aggregate maximum of:

- Three years for deferrals granted prior to 11/29/96, or
- 18 months for deferrals granted after 11/29/96

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:

- Granting another deferral will result in an aggregate deferral period of longer than the statutory maximum (three years for deferrals granted before 11/29/96; 18 months for deferrals granted after 11/29/96), or
- A determination has been made that other affordable housing is available.

**G. TERMINATION DUE TO OWNER DISAPPROVAL**

If the DHS terminates the contract due to owner disapproval (See Chapter 10, “Request for Lease Approval and Contract Execution”), DHS will provide the owner and family with at least 30 days written notice of termination of the contract.

## **CHAPTER 16: TERMINATION OF ASSISTANCE**

### **A. INTRODUCTION**

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

If termination is based upon behavior resulting from a disability, the DHS will delay the determination in order to determine if there is an accommodation that would mitigate the behavior resulting from the disability.

### **B. GROUNDS FOR TERMINATING ASSISTANCE**

Termination of assistance may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease.
- Terminating HAP payments under an outstanding HAP contract.
- Refusing to process or provide assistance under portability procedures.

#### **Mandatory Termination of Assistance**

DHS will terminate the assistance of participants:

- If any member of the family fails to sign and submit to DHS required consent forms for obtaining information.
- If no member of the family is a U.S. citizen or eligible immigrant (See Chapter 15).
- If the family is under contract, and 180 days have elapsed since the DHS's last housing assistance payment was made.
- Any member of the family has been convicted of manufacturing or producing methamphetamine on the premises of the assisted dwelling.

#### **Grounds for Termination of Assistance**

- DHS will terminate assistance to participants in cases where it determines that there is reasonable cause to believe that the person is illegally using a controlled substance or abuses alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of

the premises by other residents. This includes cases where DHS determines that there is a *pattern* of illegal use of a controlled substance, or *pattern* of alcohol abuse.

- DHS will consider the use of a controlled substance or alcohol to be a *pattern* if there has been more than one incident during the previous 12 months.
- DHS may waive this policy if the person demonstrates to its satisfaction that the person is no longer engaging in the illegal use of a controlled substance or abuse of alcohol, and:
  - \* Has successfully completed a supervised drug or alcohol rehabilitation program;
  - \* Has otherwise been rehabilitated successfully; or
  - \* Is participating in a supervised drug or alcohol rehabilitation program.

DHS *may* at any time terminate program assistance for a participant, for any of the following reasons:

- The family violates any family obligation under the program as listed in 24 CFR 982.551.
- The family has not reimbursed DHS for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family.
- The family breaches an agreement with DHS to pay amounts owed to a DHS, or amounts paid to an owner by DHS.
- The family has engaged in or threatened abusive or violent behavior toward DHS personnel.

“Abusive or violent behavior towards DHS 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.

- DHS has reason to believe a member of the household is using a controlled substance or abuses alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.
- DHS has a reason to believe a member of the household has participated in violent criminal activity.

- Other criminal activity which may threaten the health or safety of other residents, the owner, property management staff or persons performing responsibilities on behalf of the DHS or the peaceful enjoyment of the premises by other residents.
- DHS determines that a member of the household 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 a high misdemeanor in New Mexico.
- The family fails to fulfill its obligations under the Section 8 welfare-to-work voucher program.
- DHS determines that a member of the household is violating a condition of probation or parole imposed under Federal or State law.

DHS may also deny the request of a participating family to add a household member if that person is found to be ineligible for assistance after a review against the above criteria.

### **C. FAMILY OBLIGATIONS**

- The family must supply any information that the DHS or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status, as provided by 24 CFR part 812.
- The family must supply any information requested by the DHS or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.
- The family must disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and must sign and submit consent forms for obtaining information in accordance with 24 CFR part 760 and 24 CFR part 813.
- All information supplied by the family must be true and complete.
- The family is responsible for an HQS breach caused by the family as described in 982.404(b).
- The family must allow the DHS 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 DHS before the family moves out of the unit or terminates the lease on notice to the owner.
- The family must promptly give the DHS 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 DHS. The family must promptly inform the DHS of the birth, adoption or court-awarded custody of a child. The family must request DHS approval to add any other family member as an occupant of the unit.
- The family must promptly notify the DHS if any family member no longer resides in the unit.
- If DHS has given approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or DHS 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 DHS to verify that the family is living in the unit, or relating to family absence from the unit, including any DHS-requested information or certification on the purposes of family absences. The family must cooperate with DHS for this purpose. The family must promptly notify DHS 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 the programs.
- The members of the family may not engage in drug-related criminal activity or violent criminal activity.
- An assisted family, or members of the family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) federal, State or local housing assistance program.

### **Housing Authority Discretion**

In deciding whether to terminate assistance because of action or failure to act by members of the family, DHS 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,

and the length of time since the violation occurred. It may also review the family's more recent record of compliance and consider the effects of termination of assistance on other family members who were not involved in the action or failure to act.

DHS 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. DHS 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." Termination of assistance is always optional except where this Plan or the regulations state otherwise.

*HQS Breach:* The Inspector or Inspections Supervisor will determine if an HQS breach as identified in 24 CFR 982.404 (b) is the responsibility of the family. Families may be given extensions to cure HQS breaches by the Inspector or Inspections Supervisor.

*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 DHS determines that the cause is a serious or repeated violation of the lease based on available evidence.
- If there are police reports, neighborhood complaints or other third party information, and DHS has verified the information.

*Notification of Eviction:* If the family requests assistance to move and they did not notify the DHS of an eviction within 30 days of receiving the Notice of Lease Termination, the move will be denied.

*Limitation on Profit-Making Activity in Unit:* DHS may prohibit use of a dwelling unit for profit-making activity if it determines that the use of the unit as a business is not incidental to its use as a dwelling unit, or the business activity results in the inability of the family to use any of the critical living areas, such as a bedroom, or if DHS determines the business is not legal.

*Interest in Unit:* The owner may not reside in the assisted unit regardless of whether the owner is a member of the assisted family, unless the family owns the mobile home and rents the pad under the Voucher Program.

**Drug-related or Violent Criminal Activity**

*Drug-related criminal activity* is the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use a controlled substance *on or off 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 engaged in by any family member that has as one of its elements the use, attempted use, or threatened use of physical force against a person or property.

***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 includes documentation of drug raids or arrest warrants.

DHS may pursue fact-finding efforts as needed to obtain credible evidence.

**Notice of Termination of Assistance**

In any case where the DHS decides to terminate assistance to the family, the DHS must give the family written notice which states:

- Reason(s) for the proposed termination.
- Effective date of the proposed termination.
- Family's right, if they disagree, to request an Informal Hearing to be held before termination of assistance.
- Date by which a request for an informal hearing must be received by DHS.

DHS 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.

## **D. PROCEDURES FOR NON-CITIZENS**

### **Termination due to Ineligible Immigrant Status**

Participant families in which all members are neither U.S. citizens nor eligible immigrants must have their assistance terminated. They must be given an opportunity for a hearing.

Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

### **Temporary Deferral of Termination of Assistance**

Ineligible families who were participants as of June 19, 1995, may request a temporary deferral of termination of assistance in order to allow time to locate affordable housing and thereby preserve the family.

### **False or Incomplete Information**

When the DHS 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 a 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 DHS may give him/her an opportunity to provide a new declaration as an eligible immigrant or to elect not to contend their status. The DHS will then verify eligible status and terminate or prorate as applicable.

The DHS will terminate assistance based on the submission of false information or misrepresentations.

### **Procedure for 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 DHS either after the INS appeal or in lieu of the INS appeal.

After DHS 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) or, for participants who qualify, for Temporary Deferral of Termination of Assistance.

## **E. ZERO ASSISTANCE TENANTS**

### **HAP Contracts Executed Prior to 10/2/95**

Any participant, whose Total Tenant Payment equals the gross rent for the leased unit and whose HAP contract was effective prior to 10/2/95, will be notified of the right to remain on the program

at \$0 assistance for 12 months. DHS will perform all of the functions normally required, such as reexaminations and inspections during those 12 months. If the family vacates during the allowable 12 months after the last HAP payment, DHS will be liable for unpaid rent and damages based on program rules. If the family is still in the unit after 12 months, the contract will be terminated.

### **HAP Contracts Executed On or After 10/2/95**

For contracts effective on or after 10/2/95, 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 contract will be terminated.

If, under either contract, an owner rent increase or a decrease in the Total Tenant Payment causes the family to be eligible for a housing assistance payment before the contract terminates, DHS will resume assistance payments for the family. Under either contract a family may move to another unit before the contract is terminated and receive assistance if the rent for the new unit is high enough to necessitate a housing assistance payment.

### **F. OPTION NOT TO TERMINATE FOR MISREPRESENTATION**

If the family has misrepresented any facts that caused DHS to overpay assistance, DHS 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 DHS in full.

### **G. MISREPRESENTATION IN COLLUSION WITH OWNER**

If the family is willingly and knowingly commits fraud or is involved in any other illegal scheme with the owner, the DHS may terminate assistance. In making this determination, the DHS will carefully consider the possibility of overt or implied intimidation of the family by the owner and the family's understanding of the events.

### **H. MISSED APPOINTMENTS AND DEADLINES**

It is a Family Obligation to supply information, documentation, and certification as needed for the DHS to fulfill its responsibilities. The DHS schedules appointments and sets deadlines in order to obtain the required information. The Obligations also require that the family allow the DHS to inspect the unit, and appointments are made for this purpose.

A participant who fails to keep an appointment or to supply information required by a deadline without notifying DHS may be sent a Notice of Termination of Assistance for failure to provide required information, or for failure to allow DHS 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:

- Verification Procedures.
- Certificate/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 emergency.
- Incarceration.
- Family emergency.

### **Procedure When Appointments Are Missed or Information Not Provided**

For most purposes in this Plan, the family will be given two opportunities before being issued a notice of termination for breach of a family obligation.

After issuance of a termination notice, if the family offers to correct the breach within the time allowed to request a hearing, the notice may be rescinded if the family offers to cure the breach and the family does not have a history of non-compliance.

**CHAPTER 17**  
**CLAIMS, MOVE-OUT AND CLOSE-OUT INSPECTIONS**  
**(For HAP Contracts Effective Before October 2, 1995)**

**A. INTRODUCTION**

This Chapter describes DHS's policies, procedures and standards for servicing contracts that were effective before October 2, 1995. Certificate and Voucher contracts in this category have provisions regarding DHS's liability to owners when families move out. Vouchers and Certificates have provisions for damages. In addition, Certificates have a provision for vacancy loss.

**B. OWNER CLAIMS**

Under HAP Contracts effective prior to October 2, 1995, owners may make "special claims" for damages, unpaid rent, and vacancy loss (Certificate Program only) after the tenant has vacated the unit.

Owner claims for payment for unpaid rent, damages, or vacancy loss will be reviewed for accuracy and completeness and compared with records in the file. The DHS establishes standards by which to evaluate claims, but the burden of proof rests with the owner.

If vacancy loss is claimed, the DHS will ascertain whether or not the family gave proper notice of its intent to move. The file will also be reviewed to verify owner compliance at the time the contract was terminated.

The DHS will pay properly filed claims to the owner as a function of the contract, but the tenant is ultimately responsible to reimburse the DHS for claims paid to the owner.

**C. UNPAID RENT**

Unpaid rent only applies to the tenant's portion of rent while the tenant is in residence under the assisted lease. It does not include the tenant's obligation for rent beyond the termination date of the HAP Contract.

Separate agreements are not considered a tenant obligation under the lease, and the DHS will not reimburse the owner for any claims under these agreements.

**D. VACANCY LOSS IN THE CERTIFICATE PROGRAM [24 CFR 887.105]**

Vacancy Loss is applicable to the Certificate Program only. Vacancy loss is paid if the move was in violation of the notice requirements in the lease, or the results of an eviction.

In order to claim vacancy loss, the unit must be available for lease and the landlord must:

- Notify DHS within 48 hours upon learning of the vacancy, or prospective vacancy.
- Allow DHS to conduct a move-out inspection before any repairs are made.
- Pursue all possible activities to fill the vacancy, including, but not limited to:
  - Contacting applicants on the owner's waiting list, if any.
  - Seeking eligible applicants by listing the unit with the DHS.
  - Advertising the availability of the unit.
  - Not rejecting potentially eligible applicants except for good cause.

In the event that a unit becomes vacant because of death, the DHS will permit the owner to keep the HAP for the month in which the tenant died.

If the tenant moves after the date given on their notice of intent to vacate, the landlord may claim vacancy loss by providing acceptable documentation that there was a bona fide prospective tenant to whom the unit could have been rented.

DHS will not assess the family for any monies paid to the owner for vacancy loss if the DHS was responsible for the late move-out.

To ensure valid claim processing, the DHS will conduct a thorough move-in inspection noting "conditions" as well as HQS deficiencies, take pictures of questionable items, and send a report of all items to the owner and tenant.

The owner must be present during the move-out inspection and only damages claimed by the owner are reimbursable.

All claims for damages must be supported by the actual bills for materials and labor and a copy of the canceled checks or other receipts documenting payment. Estimates are not acceptable.

Bills from individuals providing labor must include their name, Social Security Number, address and phone number. The landlord may not bill himself/herself for labor since that is not considered by DHS to be an "actual cost." However, the actual cost of the owner's employees' labor, such as the resident manager, to make repairs may be included.

Persons making repairs or replacements must be licensed to do business in the DHS's jurisdiction.

Repair costs must be determined reasonable by DHS. Reimbursement for replacement of items such as carpets, drapes, or appliances, is based on depreciation schedules in general use by DHS. DHS may require verification of purchase date, quality, and price of replaced items in order to calculate depreciation.

Damages which were caused during tenancy, were repaired and billed, but remain unpaid at move-out, can be considered “other items due under the lease” and included in the claim.

Eligible items to be included on the damage claim must have been a tenant responsibility under the lease or New Mexico State law.

Claims for unpaid utility bills cannot be approved as part of a claim.

Claims for normal wear and tear, previously existing conditions, routine turnover preparation, cleaning and cyclical interior painting are not paid.

DHS will inspect the unit to verify that repairs were made.

#### **E. MOVE-OUT AND CLOSE-OUT INSPECTIONS**

Move-out inspections are performed after the tenant has vacated the unit. These inspections are performed to assess the condition of the unit, not to evaluate the HQS. Vacate inspections will be conducted by DHS inspectors. DHS’s initial inspection of the unit will include a “conditions” report, which will be compared to the conditions found during the move-out inspection.

The owner must notify the DHS of the move-out and request an inspection within 48 hours of learning of the move-out in order to submit a claim for damages.

If the contract was terminated due to owner breach, or the owner was in violation of the contract at the time that it was terminated, there will be no entitlement to claims and therefore no inspection.

The owner and tenant will be notified of the date and time of the inspection.

A damage claim will not be approved unless the move-out inspection is requested and completed prior to any work being done.

#### **F. PROCESSING CLAIMS**

Any amount owed by the tenant to the owner for unpaid rent or damages will first be deducted from the maximum-allowable security deposit, which the owner could have collected under the program rules. If the maximum-allowable security deposit is insufficient to reimburse the owner for the unpaid tenant rent or other amounts which the family owes under the lease, the owner may request reimbursement from DHS up to the limits for each program.

If the owner claims vacancy loss, the security deposit that s/he collected or could have collected may be deducted from the vacancy loss claim.

DHS reviews claims for unpaid rent, damages, or vacancy loss and makes a preliminary determination of the amount payable. The family is informed that a claim is pending through a

notice sent to the last-known address. The notification will state the preliminary amount and the type of claim and describe the procedure for contesting the claim.

DHS will offer the family 30 days to contest the claim. If the family disputes the claim, DHS will schedule an informal meeting with the owner and tenant in order to resolve the differences.

If the owner fails to attend the meeting, the DHS will consider this prima facie evidence of the validity of the tenant's position.

If the tenant fails to attend the meeting, DHS will proceed with its original determination.

Meetings will not be rescheduled if neither party attends.

At the informal hearing, the amount and type of claim will be discussed with the family. If the family agrees with the amount and type of claim, the family will be offered a Repayment Agreement. If the family does not agree to sign a Payment Agreement, the DHS will process the account for collection.

If the family demonstrates that the claim, or parts of it, is invalid, the DHS will adjust the amount. The DHS may offer the tenant an opportunity for an Informal Hearing regarding the claim if disputes cannot be resolved.

After a determination has been made, the DHS will notify the family in writing of the decision. If it has been determined that the family owes money, DHS will pursue collection to repay either in a lump sum or through a payment agreement. The notice will warn the family that its assistance may be terminated and they may be denied future participation in the program if they do not reimburse the DHS as required.

### **Other Requirements for Claims Processing**

All notices to tenants during the processing of a claim must include proof of mailing or of personal delivery.

Costs of filing eviction to remove the tenant or any other legal fees may not be reimbursed. No claims will be paid for a unit which is vacant as the result of the landlord voluntarily moving a family to another unit owned by the same landlord.

All unpaid rent, damage, and vacancy loss claim forms must be fully complete when they are submitted, and they must be submitted within 90 days of the date the owner learned of the move-out.

## **CHAPTER 18**

### **OWNER OR FAMILY DEBTS TO DHS**

#### **A. INTRODUCTION**

This Chapter describes DHS's policies for the recovery of monies that 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 DHS'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 DHS'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 DHS, the DHS will make every effort to collect it. The DHS will use a variety of collection tools to recover debts including, but not limited to:

- Requests for lump sum payments;
- Civil suits;
- Repayment agreements;
- Collection agencies;
- Credit bureaus;
- Income Tax set-off programs; and
- Salary garnishes.

#### **B. REPAYMENT AGREEMENT FOR FAMILIES**

A repayment agreement as used in this Plan is a document entered into between DHS and a person who owes a debt to DHS. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of repayment, any special provision of the agreement, and the remedies available to DHS upon default of the agreement. All payment agreements are made at the sole discretion of the DHS.

The minimum amount of monthly payment on any payment agreement is \$10 (ten dollars) or 10% of the debt, whichever is less. However, the terms of the payment agreements must be such that the debt will be fully paid within 24 months.

There are some circumstances in which DHS will not enter into a payment agreement, such as:

- If the family already has a payment agreement in place.
- If DHS determines that the family committed program fraud.

### **Late Payments**

A payment will be considered to be in arrears if the payment has not been received by the close of business on the 15th day of the month. If the due date falls on a weekend or holiday, payment will be due at the close of the next business day.

If the family's repayment agreement is in arrears, the DHS may:

- Require the family to pay the balance in full.
- Pursue civil collection of the balance due.
- Terminate the housing assistance.
- Grant an extension of 30 days.

If the family requests a move to another unit and has a repayment agreement in place, the family will not be permitted to move.

### **C. GUIDELINES FOR REPAYMENT AGREEMENTS**

Repayment agreements will be executed between DHS and the head of household, a co-head or spouse only.

Monthly payments may be decreased in cases of hardship with the prior notice of the family, verification of the hardship, and the approval of the Assisted Housing Officer.

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:

- Family size exceeds the HQS maximum occupancy standards;
- HAP contract is terminated due to owner non-compliance or opt-out;
- Natural disaster.

If the family has a repayment agreement in place and incurs an additional debt to the DHS, DHS will not enter into more than one repayment with the family. Any new debts must be paid in full.

### **D. DEBTS DUE TO FRAUD/NON-REPORTING OF INFORMATION**

HUD's definition of program fraud and abuse is a single act or pattern of actions that:

“Constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead, 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 DHS due to program fraud or 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**

If a family owes an amount that equals or exceeds \$10,000 as a result of program fraud, the case will be referred to Inspector General. Where appropriate, the DHS will refer the case for criminal prosecution.

**E. OWNER DEBTS TO DHS**

If DHS determines that the owner has retained Housing Assistance or Claim Payments that the Owner is not entitled to, the DHS 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 DHS will:

- Require the owner to pay the amount in full within 60 days or enter into a Repayment Agreement for the amount owed.
- Pursue collections through the local court system.
- Restrict the owner from future participation.

**F. WRITING OFF DEBTS**

Debts will be written-off if:

The debtor's whereabouts are unknown and the debt is more than two years old.

A determination is made that the debtor is judgment proof.

The debtor is deceased and has no estate.

The debtor is confined to an institution indefinitely or for more than five years.

The amount is less than \$50 and the debtor cannot be located.

## **CHAPTER 19**

### **COMPLAINTS AND APPEALS**

#### **A. INTRODUCTION**

The informal hearing requirements defined in HUD regulation are applicable to participating families who disagree with an action, decision, or inaction of the DHS. This Chapter describes the policies, procedures and standards to be used when families disagree with a DHS decision. The procedures and requirements are explained for informal reviews and hearings. It is the policy of the DHS to ensure that all families have the benefit of all protections due to them under the law.

#### **B. COMPLAINTS TO THE DHS**

DHS will respond promptly to complaints from families, owners, employees, neighbors of participants and members of the public. All complaints will be documented. DHS may require that complaints other than HQS violations be put in writing. HQS complaints may be reported by telephone.

The categories of complaints are:

- Initial complaints from families when the family disagrees with an action or inaction of the DHS or owner. These complaints will be referred to the Housing Assistance Technicians or Leasing Specialists.
- Initial complaints from owners when the owner disagrees with an action or inaction of the DHS or a family. These complaints will be referred to the Housing Assistance Technicians or Leasing Specialists.
- Initial complaints or referrals from the general public or persons in the community or officials regarding DHS, a family or an owner. These complaints will be referred to the Assisted Housing Officer for Administration or his/her designee.

#### **C. INFORMAL REVIEW PROCEDURES FOR APPLICANTS**

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 DHS determines that an applicant is ineligible for the program or for a preference claimed, the family must be notified of their ineligibility in writing. The notice must contain:

- Reason(s) they are ineligible.
- Procedure for requesting a review if the applicant does not agree with the decision.

- Time limit for requesting a review.

DHS must provide applicants with the opportunity for an informal review of decisions denying the following:

- Qualification for preference.
- Issuance of a Certificate or Voucher.
- Participation in the program.

Informal reviews are not required for established policies and procedures and DHS determinations such as:

- Discretionary administrative determinations by the DHS.
- General policy issues or class grievances.
- Determination of the family unit size under the DHS subsidy standards.
- Refusal to extend or suspend a Certificate or Voucher.
- Disapproval of lease.
- Determination that unit is not in compliance with HQS.
- 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 by the close of the business day, no later than 14 days from the date of receipt of DHS's letter denying assistance. The informal review will be scheduled within a reasonable time frame (generally within two weeks) 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 occupies a supervisory position.

The applicant will be given the option of presenting oral or written objections to the decision. Both DHS and the family may present evidence and witnesses. The family may use an attorney or other representative to assist them at their own expense.

Review will generally be held in the office; however, reviews may be conducted by mail or telephone if required to provide reasonable accommodation.

A Notice of the Review findings will be provided in writing to the applicant within 14 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 review, supporting documentation, and a copy of the final decision will be retained in the family's file.

#### **D. INFORMAL HEARING PROCEDURES**

DHS will provide a copy of the hearing procedures in the family briefing packet.

When DHS makes a decision regarding a participant's eligibility and/or the amount of assistance, the participant must be notified in writing. The DHS will give the family prompt notice of such determinations, which will include:

- Proposed action or decision of the DHS.
- Date the proposed action or decision will take place.
- Family's right to an explanation of the basis for the DHS's decision.
- Procedures for requesting a hearing, if the family disputes the action or decision.
- Time limit for requesting the hearing.

DHS must provide participants with the opportunity for an Informal Hearing for decisions related to any of the following DHS determinations:

- Family's annual or adjusted income and the housing assistance payment.
- Appropriate utility allowance used from schedule.
- Family unit size under DHS subsidy standards.
- Certificate program family is overhoused in current unit and a request for exception is denied.
- Termination of assistance for any reason.
- Termination of a family's FSS Contract, withholding supportive services, or proposing forfeiture of the family's escrow account.
- Payment to an owner for damages, unpaid rent or vacancy loss claim.

DHS must always provide the opportunity for an informal hearing for termination of assistance.

Informal hearings are not required for established policies and procedures and DHS determinations such as:

- Discretionary administrative determinations by the DHS.

- General policy issues or class grievances.
- Establishment of DHS schedule of utility allowances for families in the program.
- DHS determination not to approve an extension of a Voucher term.
- Disapproval of unit or lease
- Unit is not in compliance with HQS (DHS must provide hearing for family breach of HQS because that is a family obligation determination).
- Unit is not in accordance with HQS because of the family size.
- Determination to exercise or not to exercise any right or remedy against the owner under a HAP contract.

### **Notification of Hearing**

It is DHS'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 DHS will ensure that participants will receive all of the protections and rights afforded by the law and the regulations.

When the DHS receives a request for an informal hearing, a hearing shall be scheduled within 14 days. The notification of hearing will contain:

- Date and time of the hearing.
- Location where the hearing will be held.
- Family's right to bring evidence, witnesses, legal or other representation at the family's expense.
- Right to view any documents or evidence in the possession of DHS and upon which DHS based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing. Requests for such documents or evidence must be received no later than 2 days before the hearing date.
- Notice to the family that the DHS will request a copy of any documents or evidence the family will use at the hearing.

### **Hearing Procedures**

If a family does not appear at a scheduled hearing and has not rescheduled the hearing in advance, the family must contact the DHS within 24 hours, excluding weekends and holidays. The DHS will reschedule the hearing only if the family can show good cause for the failure to appear.

Families have the right to:

- Present written or oral objections to DHS's determination.
- Examine the documents in the file, which are the basis for the DHS'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 DHS staff be available or present at the hearing to answer questions pertinent to the case.
- 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 DHS will make the copies for the family and assess a charge of five cents per copy. In no case will the family be allowed to remove the file from the DHS's office.

In addition to other rights contained in this Chapter, DHS 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.
- Have staff persons and other witnesses familiar with the case present.

The informal hearing shall be conducted by the Hearing Officer appointed by the Deputy Executive Director 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 DHS shall take effect and another hearing will not be granted.

The Hearing Officer will determine whether the action, inaction or decision of the DHS 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 DHS and the family within 14 days and shall include:

- Clear summary of the decision and reasons for the decision.
- If the decision involves money owed, the amount owed.
- Date the decision goes into effect.

DHS is not bound by hearing decisions which:

- Concern matters in which DHS is not required to provide an opportunity for a hearing.
- Conflict with or contradict to HUD regulations or requirements.
- Conflict with or contradict Federal, State or local laws.
- Exceed the authority of the person conducting the hearing.

DHS shall send a letter to the participant if it determines the DHS is not bound by the Hearing Officer's determination within 14 days. The letter shall include DHS'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" [24 CFR Part 5, Subpart E]**

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the INS appeal.

Assistance to a family may not be terminated or denied while the DHS hearing is pending but assistance to an applicant may be delayed pending the DHS hearing.

**INS Determination of Ineligibility**

If a family member claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, DHS must notify 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 DHS either in lieu of or subsequent to the INS appeal.

If the family appeals to the INS, they must give DHS a copy of the appeal and proof of mailing, or DHS may proceed to deny or terminate. The time period to request an appeal may be extended by the DHS for good cause.

The request for a DHS hearing must be made within 14 days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within 14 days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in section E 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 DHS will:

- Deny the applicant family.
- Defer termination if the family is a participant and qualifies for deferral.
- Terminate the participant if the family does not qualify for deferral.

If there are eligible members in the family, the DHS 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 describes 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** [24 CFR 982.204, 982.552(c)]

When applicants are denied assistance, or the DHS is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal review/informal hearing process.

BERNALILLO (NM) DEPARTMENT OF HOUSING SERVICES  
857 CALLE LOS MAYORES  
P.O. BOX 70  
BERNALILLO, N.M. 87004

## DISPOSITION POLICY



Adopted: September 25, 2000

**BERNALILLO (NM) DEPARTMENT  
OF HOUSING SERVICES  
DISPOSITION POLICY**

The Disposition Policy of the Bernalillo (NM) Department of Housing Services (DHS) must function within the limits set forth by the laws and regulations of the United States of America, including those relating to the U.S. Department of Housing and Urban Development (“HUD”), the Annual Contributions Contracts (ACC) entered into between the Agency and HUD, and the laws and regulations of the State of New Mexico. Any and all applicable changes in the law, regulations, contract, or judicial decisions of interpretation of constitutionality will automatically supersede or amend this policy. Such changes will be reflected in a formal policy revision as soon as possible thereafter.

Sales of excess property shall be in the following manner:

- 1) If the estimated sales value of the personal property offered for sale is less than \$500.00, the Executive Director (or his/her designee) negotiate a sale in the open market after such informal inquiry he/she deems necessary to ensure a fair return to the Department. The sale shall be documented by an appropriate bill of sale.
- 2) For sales from \$500.00 to \$2,500.00, the Executive Director (or his/her designee) shall solicit informal bids orally, by telephone or in writing, from all known prospective purchasers and a tabulation of all such bids received shall be prepared and retained as part of the permanent record. The sale shall be documented by an appropriate bill of sale.
- 3) For sales in excess of \$2,500.00, the Executive Director (or his/her designee) shall use formal advertising methods (unless otherwise permitted in applicable provisions of the law) and shall solicit bids by advertisement in at least one local newspaper of general circulation or by mailing solicitations to bid to all prospective purchasers or by posting notices in public places or by a combination of such methods. Bids shall be opened publicly at the time and place specified in the advertisement. A tabulation of all such bids received shall be prepared and retained as a part of the permanent record. The award shall be made to the highest bidder as to price, and the sale shall be documented by an appropriate bill of sale. In all events, compliance with federal, state, and local laws, if any, will be ensured.
- 4) The sale of personal property to a public body for public use may be negotiated at its fair market value subject to prior approval by the Board of Commissioners. The transfer shall be documented by an appropriate bill of sale.

Personal property shall be destroyed, abandoned, or donated without the prior approval of the Board of Commissioners. The Executive Director shall make every effort to dispose of excess personal property as outlined above. However, if the property has no scrap or

salvage value and a purchaser cannot be found, a statement shall be prepared by the Executive Director showing the advertising placed in the newspaper and listing prospective bidders solicited, if such a solicitation was made, and all other efforts to sell the property, together with a recommendation as to the manner of disposition. A resolution of the Board's approval, together with the complete documentation in support of the destruction, abandonment, or donation, shall be retained as a part of the permanent record.

BERNALILLO (NM) DEPARTMENT OF HOUSING SERVICES  
857 CALLE LOS MAYORES  
P.O. Box 70  
BERNALILLO, NM 87004

## GRIEVANCE POLICY



Adopted: September 25, 2000

## TABLE OF CONTENTS

I.	PURPOSE AND SCOPE.....	1
II.	APPLICABILITY.....	1
III.	DEFINITIONS.....	1
	A. Grievance .....	1
	B. Complainant .....	1
	C. Elements of Due Process.....	2
	D. Hearing Officer .....	2
	E. Hearing Panel.....	2
	F. Tenant .....	2
	G. Resident Organization.....	2
	H. Informal Settlement.....	2
	I. Summary of Discussion.....	2
	J. Escrow.....	3
	K. Waiver .....	3
	L. Trial de Nova.....	3
IV.	INFORMAL SETTLEMENT OF GRIEVANCE.....	3
V.	PROCEDURE TO OBTAIN A HEARING.....	3
VI.	FAILURE TO REQUEST A HEARING.....	4
VII.	HEARING INVOLVING AMOUNT OF RENT – ESCROW ACCOUNT .....	4
VIII.	SCHEDULE OF HEARINGS.....	5
IX.	FAILURE TO APPEAR AT THE HEARING.....	5
X.	PROCEDURE GOVERNING HEARING.....	5
XI.	DECISION OF HEARING OFFICER.....	6

# GRIEVANCE PROCEDURE

## I. PURPOSE AND SCOPE

This Grievance Procedure sets forth the requirements, standards, and criteria established to assure the tenants of the Bernalillo Department of Housing Services (the Agency or DHS) have an opportunity for a Hearing if he or she disputes any Agency action or failure to act involving the tenants' lease or Agency regulations which adversely affect the individual tenant's rights, duties, welfare or status.

## II. APPLICABILITY

- A. This procedure applies to all grievances between individual tenants and the Agency as defined in Section IIIA below.
- B. This Grievance Procedure does not apply to:
  - 1. Disputes between tenants in which the Agency is not involved;
  - 2. Any changes in Agency policies and procedures. This procedure is not intended as a forum for initiating or negotiating policy changes between a tenant or group of tenants and the Agency.
  - 3. Class grievances.
  - 4. Termination of tenancy or eviction that involves:
    - a. Any criminal or other activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other tenants or employees of the Agency; OR
    - b. Any drug-related criminal activity on or off the premises; OR
    - c. Non-payment of rent, except when the dispute involves the amount of rent owed to the Agency.
- C. The Escrow Account requirement (Section VII) does not apply to residents who have requested a financial hardship exemption from minimum rent requirements or who are subject to imputed welfare income because welfare benefits have been decreased because of fraud or failure to comply with requirements. The resident is not required to pay an escrow deposit for the portion of the rent attributable to the imputed welfare income.

### III. DEFINITIONS

For the purpose of this Grievance Procedure, the following definitions apply:

- A. Grievance—Any disagreement which a tenant may have with respect to Agency action or failure to act in accordance with the individual’s lease or Agency regulations which adversely affects the individual tenant’s rights, duties, welfare or status.
- B. Complainant -- Any tenant whose grievance is presented to the Agency in accordance with Sections IV and V of this procedure.
- C. Elements of Due Process – Legal proceedings carried out in accordance with established rules. Any eviction or termination proceeding requires:
  - 1. Adequate notice to the tenant of the grounds for terminating his or her lease and for eviction in accordance with the tenant’s lease and/or federal and state law as applicable.
  - 2. The right of the tenant to be represented by legal counsel.
  - 3. The opportunity for the tenant to disagree with the evidence presented by the Agency including the right to confront and cross-examine witnesses and to present any affirmative legal or fair defense which the tenant may have. The tenant may examine (and make copies of at the tenant’s own expense) all relevant documents, records, policies, and regulations of the Agency prior to the hearing for the purpose of preparing a defense.
  - 4. A decision on the merits.
  - 5. A person with disabilities shall be provided reasonable accommodation to the extent necessary to provide the person with the opportunity to participate in a grievance hearing.
- D. Hearing Officer – A person selected to hear grievances and make a decision.
- E. Hearing Panel – A panel selected to hear grievances and to make a decision.
- F. Tenant – shall mean the adult person (or persons) other than a live-in aide who:
  - 1. Resides in the unit, and who executed the lease with the Agency as lessee of the dwelling unit, or, if no such person now resides in the unit;
  - 2. Resides in the unit, and is a remaining member of the tenant family residing in the dwelling unit.
- G. Resident Organization – Includes Resident Councils, Resident Advisory Board, and Resident Management Corporations.

- H. Informal Settlement – Meeting held with complainant and the Agency in an attempt to resolve the grievance before going to a formal grievance hearing.
- I. Summary of Discussion – A detailed, written document that provides information on the major points discussed in the informal hearing and the Agency’s decision on the complaint.
- J. Escrow – Money held by a third party fiduciary as a good faith promise until a determination is made on what to do with the money. The escrow amount can be deposited into a bank account or held by an uninterested, independent third party with the equivalent security and accountability as a bank account.
- K. Waiver – The release of a right or claim.
- L. Trial De Nova – The right to a new trial.

**IV. INFORMAL SETTLEMENT OF GRIEVANCE**

- A. If a tenant chooses to resolve his/her problem through the Grievance Procedure, he/she must request an informal meeting in writing within five (5) business days from the date the problem originally arose.
- B. The DHS will schedule an informal meeting within ten (10) business days of receipt of your written request.
- C. The tenant must attend the informal meeting and personally present, either orally or in writing, the grievance so that it may be informally discussed and settled without a formal Hearing.
- D. The DHS must, within a reasonable time and not to exceed ten (10) business days after the informal discussion, provide a written Summary of Discussion of the meeting and send it to the tenant by Registered or Certified Mail or deliver it personally with a signed receipt obtained from the tenant. A copy will be retained in the tenant’s file. The summary will specify:
  - 1. Names of participants.
  - 2. Date of the discussion.
  - 3. Nature of proposed disposition of the grievance.
  - 4. Specific reason for proposed disposition of the grievance.
  - 5. Procedures by which a Hearing may be obtained if the tenant is not satisfied.
  - 6. That the tenant has five (5) business days from the date of the summary of the discussion to request a hearing.
- E. Before a tenant can request a Hearing by a Hearing Officer the grievance must be submitted first for an informal hearing.

**V. PROCEDURE TO OBTAIN A HEARING**

- A. Request for a Hearing. If the tenant is dissatisfied with the final results of the informal meeting contained in the Summary Discussion, he or she must submit a written request to the DHS within ten (10) business days after the receipt of the Summary of Discussion pursuant to Section IV. The written request for a formal hearing must specify the reason(s) for the grievance and the action or relief sought.
- B. Selection of Hearing Officer. Grievances shall be presented before a Hearing Officer. The hearing officer shall be an impartial, disinterested person appointed by the Executive Director, and must be other than the person who made or approved the DHS action under review or a subordinate of that person.
- C. Formal Hearing Prerequisite. All grievances shall utilize the procedures for an informal settlement as outlined in Section IV, Informal Settlement of Grievance, as a condition precedent to a hearing under Section V. If the tenant can show good cause why he/she failed to follow the procedure for an informal settlement to the Hearing Officer, the prerequisite informal settlement may be waived by the Hearing Officer.

**VI. FAILURE TO REQUEST A HEARING**

If the tenant does not request a Hearing within ten (10) business days following the date of the Summary of Discussion of the informal hearing:

- A. The Agency's disposition of the grievance under Section IV as stated in the Summary of Discussion, becomes final and effective at the close of business on the fifth business day following the date of the Summary of Discussion.
- B. The failure to request a hearing does not waive the tenant's right to contest the DHS's decision in an appropriate judicial proceeding.

**VII. HEARING INVOLVING AMOUNT OF RENT – ESCROW ACCOUNT**

Before a hearing can be scheduled for a grievance involving the amount of rent as defined in the lease, the tenant must:

- A. Pay the DHS the full amount of rent, calculated by the Agency, which was due on the first of the month preceding the month in which the grievance occurred; and
- B. Deposit this same amount of rent due into an escrow account every month until the complaint is resolved by the Hearing Officer's decision.

If the tenant fails to comply with A and B above, the grievance process will be terminated. Failure to follow A and B above, however, does not waive any of the tenant's rights to contest the DHS's disposition of the grievance in an appropriate judicial proceeding.

The requirements described in Section VII of this Grievance Procedure may be waived by the DHS in extenuating circumstances.

## **VIII. SCHEDULE OF HEARINGS**

If the tenant has met the informal meeting requirements, properly requested a formal hearing and made any necessary rental payments to the DHS or to an escrow account (when applicable), then the following will take place:

- A. Upon receipt of the Request for the Hearing, a hearing will be promptly scheduled by the Hearing Officer for a time and place reasonably convenient to both the complainant and the DHS. The written notification will be delivered to the tenant and appropriate Agency officials, by Registered or Certified mail, or delivered promptly with a signed receipt notice.
- B. The written notification will specify:
  - 1. The time of hearing.
  - 2. Place of hearing.
  - 3. Procedures governing the hearing.

## **IX. FAILURE TO APPEAR AT THE HEARING**

- A. If the tenant fails to appear at the hearing, the Hearing Officer may make a determination to postpone the hearing for a period not to exceed five (5) business days, or may make a determination that the non-appearing party has waived the right to a hearing.
- B. The tenant and the DHS will both be notified in writing of this determination by the Hearing Officer within a reasonable time.
- C. Failure of the tenant to appear at the hearing and a determination that he or she has waived the right to a hearing does not waive the tenant's right to argue the case in an appropriate judicial proceeding.

## **X. PROCEDURE GOVERNING HEARING**

- A. The hearing shall be held before the Hearing Officer.
- B. The tenant shall be afforded a fair hearing, which shall include:
  - 1. The opportunity to examine before the hearing, any documents, including records and regulations, that are directly relevant to the hearing. The tenant shall be allowed to copy any documents at his or her own expense. Any document requested but not made available to the tenant for examination may not be relied on by the Agency during the hearing;
  - 2. The right to be represented by counsel or other person chosen as his or her representative and to have this person make statements on the tenant's behalf;
  - 3. The right to a private hearing unless the tenant requests a public hearing;

4. The right to present evidence and arguments in support of his or her complaint, to object to irrelevant evidence and request that such evidence be excluded, and to confront and cross-examine all witnesses on whose testimony or information the DHS or project management relies; and
  5. A decision based solely and exclusively upon the facts presented at the hearing.
- C. The Hearing Officer may render a decision without holding the hearing if the Hearing Officer determines that the issue has been previously decided in another proceeding.
  - D. At the hearing, the tenant must first show that he or she is entitled to the relief sought after which the DHS must justify the action or failure to act as cited in the complaint.
  - E. The hearing shall be conducted informally by the Hearing Officer and oral or documentary evidence pertinent to the facts and issues mentioned in the complaint may be received without regard to admissibility under the rules of evidence applicable in judicial proceedings.
  - F. The Hearing Officer shall require the DHS, the tenant, tenant's counsel and other participants or spectators to conduct themselves in an orderly fashion.
  - G. Failure to comply with the Hearing Officer's call for order may result in removal of the offending person from the proceedings, termination of the hearing, or the entry of judgment by default against the offending person.
  - H. The tenant or the DHS may arrange in advance, and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested person may purchase a copy of the transcript.
  - I. Accommodation of Person with Disabilities
    1. The DHS will take steps to insure that reasonable accommodation for persons with disabilities is provided so that participation in any hearing is possible. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations or attendants.
    2. If the tenant is visually impaired any notice which is required under this Grievance Procedure, must be in an accessible format.

## **XI. DECISION OF HEARING OFFICER**

- A. The Hearing Officer will prepare a written decision, including an explanation of the reasons for the decision, within ten (10) working days after the hearing.
- B. A copy of the decision will be sent to the tenant and the DHS at the same time. The Agency shall retain a copy of the decision in the tenant's folder.

- C. A copy of the decision, with all names and identifying references deleted, will also be maintained on file by the DHS and made available for inspection by a prospective tenant, his or her representative or the Hearing Officer.
- D. The decision of the Hearing Officer will be binding on the DHS which will take all actions, or refrain from any actions, necessary to carry out the decision unless the Bernalillo Town Commission determines within a reasonable time, and promptly notifies the complainant of his/her determination, that:
  - 1. The grievance does not concern any act or failure to act on the part of the DHS involving the tenant's lease or DHS regulations which adversely affect the tenant's rights, duties, welfare or status; or
  - 2. The decision of the Hearing Officer is contrary to applicable Federal, State and/or local law, HUD regulations or requirements of the Annual Contributions Contract between the Department of Housing and Urban Development and the DHS.
- E. A decision by the Hearing Officer or Bernalillo Town Commission in favor of the DHS, or which denies the relief requested by the tenant in whole or in part, does not waive or affect any rights the tenant may have to a trial de nova or judicial review in any judicial proceedings, which may be filed in the future.

BERNALILLO (NM) DEPARTMENT OF HOUSING SERVICES  
857 CALLE LOS MAYORES  
P.O. BOX 70  
BERNALILLO, N.M. 87004

## PET POLICY



Adopted: September 25, 2000

## OVERVIEW

This policy details the requirements for a tenant to keep a pet in a Bernalillo (NM) Department of Housing Services (DHS) apartment. A tenant will not keep a pet in their apartment without prior written permission from DHS.

This policy does not apply to animals that are used to assist persons with disabilities provided that the animal has been trained to assist persons with that specific disability and the animal actually assists the person with that specific disability (See Rule 22 below). However, the pet policy does not exempt such a tenant from the requirements of the lease that prohibit any conduct which disturbs other tenants or threatens the physical or social environment.

## REQUIREMENTS

The DHS will utilize the following procedures in implementing the pet policy.

**Obtaining DHS Permission:** If an eligible tenant or prospective tenant wishes to obtain permission to keep a pet, DHS staff will meet with the prospective pet owner and explain the Agency policy and review the pet rules. If DHS finds a tenant or prospective tenant eligible to keep a pet, the tenant or prospective tenant must submit to the Housing Authority a completed Pet Permit and Agreement Form, and pay the required security deposit.

DHS reserves the right to deny permission to house pets which are or may be in the sole judgment of the Agency vicious or dangerous, or which are large in stature exceeding 30 pounds in weight.

**Failure to Obtain Written Permission:** If a tenant has not obtained written permission to keep a pet but does so anyway, the DHS will seek to evict the tenant. If DHS finds any unauthorized pet outside a tenant's apartment, as in their backyard or area in their exclusive control or a common area, DHS will have the pet removed.

**Complaints Against Pet Owners:** In the event of complaints against approved pet owners, the DHS shall work with the pet owner to resolve the complaints informally. If the complaints are not resolved and/or there has been a violation of the pet rules, DHS shall impose fines in accordance with Rule 21 below.

If there are three violations, DHS may, at its sole discretion, notify the tenant to remove the pet within ten (10) days (immediately if the animal is deemed "vicious"), terminate the pet owner's tenancy or both. Any unresolved complaints may be the subject of a grievance by the tenant under established grievance procedures. Except, animals deemed "vicious" by DHS must be removed from DHS property pending grievance.

**Amending Pet Rules:** The pet policy and rules may be changed at any time by DHS provided that tenants are given an opportunity to comment and with 30 days advance notice.

## **RULES**

- 1) Any tenant or prospective tenant who wishes to keep a pet shall request permission in writing and meet with DHS staff and submit a photo of the pet and other required documentation.
- 2) If approved by the Agency, a Pet Permit and Agreement (Amendment of Dwelling Lease) shall be signed immediately by the tenant, with original to the tenant file and a copy in a general pet file. This Dwelling Lease Amendment contains the rights and responsibilities of the tenant and management with respect to pet ownership.
- 3) **Only common household pets are permitted.** Common “household” pets shall be limited to domesticated dogs, cats, fish, birds and turtles that are traditionally kept in the home rather than for commercial or other purposes.
- 4) The tenant is required to provide a picture of the pet(s).
- 5) The number and size of the pet(s) is limited to one type of pet as follows:
  - a) Dogs and cats – limit of one dog or cat per household – Dogs cannot exceed 30 pounds; or
  - b) Birds – limit of two per household, no larger than a parakeet – Birds must be kept in a cage at all times; or
  - c) Fish – limit of one tank per household with a maximum capacity of 20 gallons, and no more than 20 small non-poisonous fish; or
  - d) Turtles – no more than two per household, small in size. Turtles must be kept in a cage or other container at all times.
- 6) All dog and cat owners must present proof that their pet is registered with the Town of Bernalillo and identification tags must be worn at all times.
- 7) The tenant must be able to maintain control over their pets.
- 8) Dogs and cats must remain within the unit and not be allowed outside, unattended, at any time.
- 9) No chaining of unattended dogs permitted at any time.

- 10) Dogs must be walked while on a leash and all droppings must be removed and disposed of by the person walking the animal. Failure to do so will result in a \$50.00 charge. Units, yards and DHS property must be kept free of odors, insect infestation and pet feces, urine, waste and litter.
- 11) Cat litter boxes are required, and must be maintained in a sanitary manner and be kept free of odors and insect infestation.
- 12) **Dogs and cats must be neutered or spayed** with proof of licensing and inoculations and the name of the veterinarian provided. Owners must provide a certification each year at the time of their annual reexamination that the pet continues to be in good health and has all required vaccinations.
- 13) Any animal that is used to threaten either people or other animals or does threaten to attack or attacks will be deemed “vicious” and barred from the development. If the tenant does not immediately remove the animal, the tenant will be in material violation of his/her lease, and may be evicted.
- 14) DHS, at its sole discretion, may randomly and periodically inspect the units of pet owners with appropriate notice to ensure compliance.
- 15) Pets must be restrained and prevented from digging, gnawing, chewing, scratching or otherwise defacing property including doors, walls, windows, screens, floor coverings, other units, common areas, buildings, landscaping or shrubs.
- 16) No pet is allowed at any time in community/recreation rooms, laundry rooms or other interior or exterior sitting areas.
- 17) Pet owners shall be liable for damage caused by their pets. DHS shall require of the tenant payment of a pet deposit as follows:
  - \$100/each dog or cat
  - \$100/fish tank or other tank with turtles
  - \$25 for small birds such as parakeets, finches, etc.

In instances where DHS approves a pet not listed above, the deposit required will generally be \$100/pet.

If the tenant’s pet deposit does not cover the damages, management and the tenant will agree on a payment plan to pay for the damage as well as replacement of the pet deposit. Existing DHS residents can pay their pet deposit in three installments. The pet deposit is separate from, and in addition to, any security deposit held on behalf of the tenant by the CHRA. The pet deposit will be returned to the pet owner within 30 days of the day the pet is removed or within 30 days of the day the tenant vacates the unit, whichever comes first, less deductions detailed in writing and reasonably related to the regulation of pets.

- 18) Tenants must board their pets (except for fish) away from the development or make other arrangements for the care of their pets when they intend to leave their unit for 24 hours or more. The Pet Permit and Agreement requires tenants to provide DHS with the name and phone number of relative or friend who has agreed to assume responsibility for the pet in the event of sudden illness or death of the tenant. The DHS reserves the right to consider the presence of an unattended pet an emergency, and will enter the unit to remove the pet.
- 19) DHS staff, including maintenance personnel, reserve the right to refuse to enter a unit to perform work where there is an unattached animal.
- 20) Pet owners are expected to exercise responsible and courteous behavior so that the presence of their pet on the property in no way violates the rights of others to peaceful enjoyment of the premises. A tenant will be fully responsible for any disturbance or injury to other tenants or DHS staff caused by its pet. Any disturbance or injury will be a violation of the pet policy and rules and the tenant's lease, and DHS may at its sole discretion require the tenant to remove the pet immediately or within ten (10) days, terminate the pet owner's tenancy or both.
- 21) The DHS may impose fines upon tenants for the violation of any pet rule contained herein. At the time a pet owner first violates any rule, the DHS will send the owner a written warning and no fine will be assessed. The second time that an owner violates the same rule, or any other, the DHS will fine the tenant \$50.00. The DHS may assess additional \$50.00 fines for subsequent violations, and may request the tenant to remove the pet or be subject to eviction after three violations.
- 22) Tenants or prospective tenants who claim that a particular animal is used to assist persons with disabilities and who want to be exempt from the provisions of these Pet Rules must provide DHS with:
  - a) A certification that the tenant or prospective tenant or a member of his or her family is a person with a disability; and
  - b) Documentation that the animal has been trained to assist persons with that specific disability and actually assists the person with that disability.
- 23) These Pet Rules are posted in the DHS management office and are incorporated by reference into the Lease.

**BERNALILLO (NM) DEPARTMENT OF HOUSING SERVICES**

**PET PERMIT AND AGREEMENT**

I acknowledge that I have read, understand and agree to comply with all aspects of DHS's Pet Policy.

I also understand that I must give to DHS the name of an individual or Agency who will be contacted should I become incapable of caring for my pet(s) because of illness, incapacitation or death. That person or Agency is:

\_\_\_\_\_

NAME

\_\_\_\_\_

ADDRESS

PHONE NO.

The pet(s) I wish to keep in my dwelling unit is:

(1)

(2)

\_\_\_\_\_

DESCRIPTION

\_\_\_\_\_

DESCRIPTION

\_\_\_\_\_

NAME

\_\_\_\_\_

NAME

\_\_\_\_\_

DATE

\_\_\_\_\_

DATE

\_\_\_\_\_

DHS REPRESENTATIVE

\_\_\_\_\_

RESIDENT

\_\_\_\_\_

RESIDENT

\_\_\_\_\_

RESIDENT

BERNALILLO (NM) DEPARTMENT OF HOUSING SERVICES  
857 CALLE LOS MAYORES  
P.O. Box 70  
BERNALILLO, NM 87004

## RENT COLLECTION POLICY



Adopted: September 25, 2000

# RENT COLLECTION POLICY

## I. POLICY STATEMENT

This policy is adopted by the Bernalillo (NM) Department of Housing Services hereinafter referred to as DHS and applies to all residents of its low income public housing. It addresses the manner in which residents must pay their monthly rent and the consequences of late payment or non-payment of rent due to DHS. This policy is consistent with the laws of the State of New Mexico, HUD regulations, and DHS's Dwelling Lease. DHS is committed to enforcing this policy in an equitable and non-discriminatory manner.

The Rent Collection Policy is designed to achieve the following goals:

- ! Reduce DHS's tenant accounts receivable to no more than 5% and uncollected rents to 2% of total rents to be collected.
- ! Clarify for both tenants and staff, DHS's position with regard to rent collection.
- ! Establish strict guidelines extending Repayment Agreements only in extenuating circumstances as defined by DHS or for retroactive rent charges.
- ! Streamline and simplify the legal process used by DHS.

## II. MONTHLY RENT

In accordance with HUD regulations, tenants can elect annually between paying an income-based rent or a flat rent. For an income-based rent, tenants are charged a rent the greater of \$50, 30% of their monthly adjusted income or 10% of gross income. Adjusted income is calculated by deducting from gross income allowable expenses, such as child care and medical (for elderly and disabled only), as well as deductions for dependents and elderly households. Eligibility for specific allowances depends upon the tenant's individual circumstances. Tenants residing in units where some or all of the utilities are paid directly by the tenant receive a utility allowance in the form of a monthly rent reduction. Tenants selecting a flat rent pay the rent applicable to the appropriate bedroom size from the schedule of flat rents available at the management office.

Tenants paying an income based rent are required to report their income annually to DHS and rent is adjusted accordingly. During the course of the year, if they suffer a loss of income or an increase in allowable expenses, and request an interim reexamination of income, tenants may be eligible for reductions in their rent. These circumstances are not, however severe hardships, and would, therefore, not qualify for a Rent Repayment Agreement.

Tenants paying a flat rent are required to have their income reexamined every three years and family circumstances annually. Families experiencing hardships may switch from paying flat rents to income based rents.

### **III. RENT PAYMENTS**

Rent shall be paid by mail or in person and is due and payable on or before the first of each month. Personal checks, cashier checks and money orders are the only acceptable forms of payment at the management offices listed on page 2. A charge of \$25.00 will be assessed for all returned personal checks. DHS will no longer accept personal checks for payment of rent from residents who have written bad checks.

Payments are accepted by mail, or in person, at the management offices listed below:

Department of Housing Services  
857 Calle los Mayores  
Bernalillo, NM 87004

The above offices are open Monday through Friday (except holidays), 9:00 AM-4:00 PM.

Partial payments of rent are not accepted by DHS.

Rent is due and payable on the first of each month. Tenants who have failed to make full payment by 5:00 pm on the fifth (5th) calendar day of the month, or before the end of the next successive calendar day if the fifth day of the month falls on a Saturday, Sunday or legal holiday, are considered delinquent and will be assessed a \$20.00 late fee. Tenants delinquent in rent are subject to eviction action for the first violation in a twelve month period. Tenants who pay their full rent but fail to pay miscellaneous charges properly due will also be subject to eviction action in accordance with their Lease Agreement.

### **IV. RENT DISPUTES**

Tenants who wish to dispute any action taken by DHS for non-payment of rent may do so through the DHS's Grievance Procedure in effect at the time the grievance or appeal arises. Copies of the Grievance Procedure are posted in each management office and management staff can assist tenants with informally settling the grievance in accordance with the Grievance Procedure and scheduling any subsequent hearing. DHS enforces the escrow requirements contained in the Grievance Procedure.

Whether or not a tenant chooses to exercise his/her rights under the Grievance Procedure, he/she may present the case in court if DHS initiates legal action.

### **V. REPAYMENT AGREEMENTS**

In extenuating circumstances involving severe hardship situations and in cases of retroactive rent charges, DHS may enter into a "Repayment Agreement" extending the time allowed residents to make full payment of money that is owed. DHS is under no obligation to approve and execute Repayment Agreements and does so only as an accommodation to residents.

Requests for Repayment Agreements must be made to the Programs Coordinator at the time that retroactive rent charge is assessed or no later than the expiration date of the Notice of Intent to Terminate Lease. Only the Executive Director has the authority to approve such requests and only if all of the following conditions are met:

1. A Repayment Agreement form (see Attachment 1) is properly completed and executed; and
2. The Agreement stipulates that the outstanding balance is due in six (6) monthly installments; and
3. The resident family is experiencing a severe hardship situation that will not qualify them for an interim reexamination and the family not been delinquent in the last twelve (12) months and has presented the documentation required by DHS OR a retroactive rent charge has been assessed; and
4. The resident family has not defaulted on a previous Repayment Agreement.

Other unforeseen circumstances and income disruptions which typically pose financial hardships (e.g., loss of job, permanent discontinuation or reduction in benefits) entitle tenants to request an interim reexamination and a rent reduction effective the first of the month following verification of the change; therefore, they are not grounds for extending rent payment agreements. Failure to report a decrease in income is not considered a hardship unless a medical reason exists which prevented the tenant from reporting the decrease in income.

Repayment Agreements will not be approved, regardless of the situation, if the request is made after the expiration of the Notice of Intent to Terminate Lease. At this point the tenant is delinquent. In the absence of full rent payment DHS will proceed with legal action. Tenants are expected, therefore, to act promptly in reporting situations which may make timely payment difficult.

Tenants who need assistance with financial problems may contact the Housing Programs Coordinator for information and referral to community agencies.

## **VI. SUMMARY PROCESS ACTION**

Non-payment of rent is a violation of the Lease Agreement between the tenant and DHS. In all cases, DHS will aggressively pursue collection of the amount due and eviction, if necessary. Following is a description of the steps taken and notices issued:

- ! Payment demand letter is mailed to each delinquent tenant by DHS on or about the 6th calendar day of the month, which provides for payment by the tenant within 3 days of tenant's receipt of letter (not including weekends and holidays) to preclude further action by DHS.
- ! If a tenant offers full payment by this date, the payment will be accepted and no further action taken. Partial payments will not be accepted.

- ! If the tenant does not pay in full by the deadline set forth in the payment demand letter, a Notice of Termination will be sent.
- ! The Notice will also indicate that if by the deadline date the tenant has not:
  - filed a Grievance,
  - paid rent in full, or
  - vacated the unit,

DHS will proceed with legal action seeking possession of the dwelling unit, all amounts due, plus expenses incurred by DHS.

- ! Once a Complaint is filed with the court commencing legal action, a Summons is hand delivered to the tenant by a Sheriff or someone appointed by the Court which requires the tenant to file an answer in court. The case is brought before a judge and a decision rendered. At the time the Complaint is filed with the court, an additional \$300 for legal expenses will be added to the total amount due from the resident.
- ! If the court rules in favor of DHS, a Judgement is awarded demanding possession of the dwelling unit and payment of amounts owed and DHS's expenses.
- ! Forcible removal will occur if resident does not vacate premises.

## **VII. DISCONTINUING EVICTION ACTION**

DHS is under no obligation to discontinue eviction once legal action has been initiated. However, it is not in the interest of either party for DHS to proceed with an eviction against a tenant who is generally a prompt rent payer, and has a positive rent-paying history, and has not violated the lease agreement, except for non-payment rent.

Tenants are considered to have a positive rent paying history when they have not been subject to eviction action at any time during the previous 12 months and their rent payments have been made in a timely manner. If eviction action commences against such a tenant, DHS may accept full payment, plus legal and court costs if incurred, at any time up to the day of the court hearing and reinstate the tenant.

Tenants are considered to have a negative rent paying history when they have been subject to eviction action one or more times and/or three or more rent payments have been paid late during the previous 12 months.

Only the Executive Director (or his/her designee) has the authority to discontinue legal action once the process is initiated.

## **VIII. TENANT EVICTION EXPENSES**

Once a legal action has been filed in Court against a tenant and the court rules in favor of the DHS, the tenant is subject to payment of service fees, court costs and attorney's fees. These costs will be assessed and the total amount due and payable presented to the Court. DHS reserves the right to

pursue collection of all amounts properly due from tenants evicted or voluntarily vacating DHS premises. The DHS will utilize all available means of collection, including referrals to credit bureaus, collection agencies and other court actions.

**IX. ENFORCEMENT OF THIS POLICY**

This Policy is enforced by the staff and legal counsel of DHS, through the administrative grievance procedure and/or the Courts.

**BERNALILLO (NM) DEPARTMENT OF HOUSING  
REPAYMENT AGREEMENT**

Account Number \_\_\_\_\_

I (We) \_\_\_\_\_  
 Tenant's Names  
 of \_\_\_\_\_  
 Address

agree that on this date, I (We) owe \$ \_\_\_\_\_ in retroactive rent, and \$ \_\_\_\_\_ in other charges which include the following: \_\_\_\_\_. My (Our) total balance on this date is \$ \_\_\_\_\_. I (We) agree to pay this total balance in a maximum of six installments according to the following schedule:

<u>AMOUNT TO BE PAID</u>	<u>DATE DUE</u>
\$ _____	_____
\$ _____	_____
\$ _____	_____
\$ _____	_____
\$ _____	_____
\$ _____	_____

I (We) agree that:

1. I (We) may make payments in advance of the date indicated above, but that each installment must be received no later than the date indicated.
2. These payments represent amounts owed, and that they are in addition to the monthly rent to become due and payable during the term of this agreement, no later than the 5th business day of the month.
3. If I (We) fail to make any of these payments, or fail to pay monthly rent also due, DHS has the right to terminate my (our) lease and commence legal action against me (us) in accordance with the terms of the lease, HUD regulations, and state law.
4. I (We) must make all payments during the term of this agreement directly to the area management office in person or by mail.

_____ Tenant's Signature	_____ Date
_____ Tenant's Signature	_____ Date

-----  
 --

I have approved this Repayment Agreement in accordance with the provision of DHS's Rent Collection Policy.

_____ Executive Director	_____ Date
-----------------------------	---------------